

*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 Tuesday, the 17th day of January 1888.

P R E S E N T :

HIS EXCELLENCY THE RIGHT HON'BLE THE GOVERNOR OF MADRAS—*presiding*.
The Hon'ble MR. MASTER, C.S.I.
The Hon'ble MR. HUTCHINS, C.S.I.
The Hon'ble MR. STOKES.
The Hon'ble the Acting ADVOCATE-GENERAL.
The Hon'ble MIR HUMAYUN JAH BAHADUR, C.I.E.
The Hon'ble the MAHARAJAH OF VIZIANAGRUM, K.C.I.E.
The Hon'ble RAI BAHADUR SUBRAHMANYA AIYAR.
The Hon'ble MR. TURNBULL.
The Hon'ble P. CHENTSAL RAO, C.I.E.

LOCAL AUTHORITIES' LOAN BILL.

The Hon'ble MR. STOKES, in presenting the Report of the Select Committee on the Bill to empower local authorities to guarantee interest on, or to create a fund for, repayment of capital expended on certain purposes, said :—

“YOUR EXCELLENCY,—I beg to present the Report of the Select Committee appointed to consider and amend the Bill to empower local authorities to guarantee interest on, or to create a fund for, repayment of capital expended on certain purposes, and to move that the Bill, as amended, be taken into consideration and passed into law.”

The Hon'ble MR. MASTER seconded this motion, which was carried.

The Bill was then considered and passed.

MADRAS VILLAGE COURTS BILL.

The Hon'ble MR. HUTCHINS, in introducing a Bill to consolidate and amend the law relating to the Courts of Village Munsifs in the Presidency of Fort St. George, said :—

“YOUR EXCELLENCY,—In introducing this Bill to consolidate and amend the law relating to the Courts of Village Munsifs, I do not know that I can explain the reasons for considering it necessary, or the general effect of its provisions, better than by reading parts of a minute which I recorded last September. I must, however, premise by stating that under a Regulation of 1816 these village headmen can try petty suits for sums not exceeding 10 rupees, that in 1882 a committee presided over by my learned and valued friend Mr. Justice Muthusami Aiyar, and of which my honorable friend Mr. Chentsal Rao was a most useful member, recommended an extension of

their jurisdiction to Rupees 20 and various amendments of the law regulating their procedure, that the jurisdiction was accordingly enhanced by our Madras Act IV of 1883, but the procedure remained unaltered.

The civil work of village munsifs under this enlarged jurisdiction was brought into prominent and somewhat unfavorable notice by the Administration Report of the High Court for 1885. In reviewing that report the Government examined the figures somewhat more critically, and arrived at the conclusion that no case had so far been made out for reconsidering the extension of village munsifs' jurisdiction from Rupees 10 to 20, and they pointed out that it would hardly be possible to reimpose the work on the paid justices. At the same time they intimated their opinion that some safeguards were probably needed over and above the very ineffectual control provided by the old Regulation, and their readiness to take up in the Legislative Department as much as might be found desirable of the Bill framed in 1882 by Mr. Justice Muthusami Aiyar's committee.

The special report which they called for has fully justified these conclusions. Indeed, all the objections raised to village courts apply to them generally and not merely to the extension of their jurisdiction. This extension was unanimously recommended by the shrewd and well-informed native gentlemen who formed the committee. It was justified by the fact that the value of money had fallen by far more than one-half since the limit of jurisdiction had been fixed at Rupees 10, and it seems tolerably evident that if village headmen could be trusted sixty years ago to deal with suits up to that limit, they can be trusted now up to double the value, while a wilfully corrupt or unjust man could pass two decrees for Rupees 10 each almost as easily as one for 20. It has been said that there is a general consensus of opinion against village courts, but this, I think, refers to the working of the Regulation generally, and not to that of the extended jurisdiction in particular. It prevailed, to my certain knowledge, before the jurisdiction was enlarged, and not the slightest ground has been put forward for supposing that the extension has made any appreciable difference except in the number of cases tried.

The village courts are not the invention of any English administrator. We found them already existing in a more or less defined form. The shape which we gave them is that which they held from the passing of the Regulation in 1816 until 1883, and which they still hold, but with an enhanced jurisdiction. It seems to me that they are eminently suited to the needs and characteristics of the rural population, but I shall not enlarge on this point as I do not suppose any one acquainted with the matter would seriously propose to abolish village courts altogether.

One hears sometimes the most sweeping condemnation of village munsifs—they are all the most ignorant and illiterate of men, they are as a body corrupt, and so forth. But it must be borne in mind that the superior Revenue and Judicial officers hear nothing of the bulk of the decrees which give satisfaction or as to which, at all events, there are no complaints. What come to their notice are the cases in which one or other of the parties thinks he has been treated unjustly, and it is upon such cases and such alone that officers must form their conclusions. The masses of the rural population are still in many districts utterly ignorant and illiterate, but everywhere the village headmen are, as a rule, better than their neighbours in this respect, and the qualities needed for the adjustment of petty village disputes are merely shrewd common sense, honesty, local knowledge and influence. There is even a certain amount of public opinion in village communities. A native disputant is not troubled with reticence. Every villager with a grievance takes care that his neighbour shall know all about it,

and this public opinion operates in some degree as a check on the headmen. The clamour against those who are habitually corrupt speedily reaches the ears of the taluk or district officers, but it is not fair to condemn the whole class because of some black sheep. I admit, however, that something ought to be done to get rid of such characters and obtain better men, and this is one of the objects of the Bill which I am now bringing forward. These village courts have no exclusive jurisdiction. Any suit of which they can take cognisance may also be instituted before the district munsif. The administration reports contain certain figures showing the number of suits brought before village courts. It is feared that these figures are not perfectly reliable; but of late years, at all events, they have attained a sufficient measure of accuracy for purposes of comparison. The committee of 1882 mentioned that the average number of suits then tried by village munsifs was 47,460, while in 1879 (the only year for which the statistics were then available) only 14,026 suits, apparently cognizable by village headmen, had been brought before district munsifs. For the last four years the corresponding figures have been in round numbers—

1883	..	..	..	..	48,000	against	17,000
1884	..	..	..	..	62,000	„	15,000
1885	..	..	..	..	58,000	„	15,000
1886	..	..	..	..	50,000	„	17,000

The figures for 1887 are not yet available. In the committee's opinion the fact that so large a proportion of suits was voluntarily instituted in village courts afforded a clear indication of their popularity and usefulness. The proportion is still fairly maintained notwithstanding the notorious fact that the district munsifs have everywhere gained increased confidence both in the quality and promptness of their work. The village courts are, of course, cheaper and, as a rule, nearer at hand, but many of the headmen dislike the work and discourage resort to them, while all are at present under the disadvantage of being unable to execute their own decrees, although this is one of the disadvantages which the Bill aims at removing. There are no figures available as to the distances of the villages from the district munsifs' courts, but it may reasonably be conjectured that in or near the court station most of the suits are carried before the more reliable tribunal, while as the distance increases the proportion of suits taken to the village court also increases. With all these disadvantages it is certainly remarkable that the proportion, so far as suits under 10 rupees are concerned, is about 3 to 1.

The jurisdiction of village courts over suits between 10 and 20 rupees came into force quite at the end of 1883. Even in 1884 they received nearly 16,000 such suits, and in 1885 nearly 23,000. In 1886, the first year for which a real comparison is available, the numbers had fallen considerably but the work was shared pretty equally between village and district munsifs, the exact numbers being 21,809 to the former and 20,489 to the latter.

I have analyzed district by district the figures supplied by the High Court, and I find that, on the whole, including suits under as well as above 10 rupees in value, at least two-thirds of the cases triable by village courts are taken before them. In the eight Tamil districts, taken alone, the percentage is 73 or nearly three-quarters, and the same high figure obtains in the two most important and advanced Telugu districts, Godavari and Kistna, combined. In one other important district, Malabar, after rising to a high figure in 1885, it has fallen to just below 40, but village courts had been quite neglected there before 1884, and it seems probable that the sudden rise was due in some degree to a prevalent idea that the jurisdiction of village courts had been made exclusive, as recommended by the committee. It must also be

remembered that the district munsifs' courts in Malabar are very numerous, in proportion to area, so that most desams or villages have one reasonably handy.

In the face of this evidence of the continued popularity of village courts it seems to Government that there can be no question either of abolishing them or of cancelling the recent enlargement of their jurisdiction. It is interesting to note the figures belonging to the particular districts where the Judges have most strongly condemned village courts. The Judge of Tanjore stigmatises village munsifs as "generally reputed inefficient and corrupt," but the percentage is 71 though the district munsifs are numerous in proportion to area and the railway connects their courts with most villages. The Judge at Rajahmundry speaks of a "widespread discontent with their high-handed proceedings," but the percentage is 75. In Coimbatore, where again there are railways, the percentage is the highest of all, 87, yet the Judge denounces the enlargement of the jurisdiction as a public calamity. I am, of course, well aware that it is the plaintiff who has the choice of concurrent tribunals and that the defendant might make a different selection, but such figures as these must be allowed some weight, especially when taken in conjunction with the comparatively few complaints. The number of these is only available for a few districts. In Coimbatore there were 19 against 5,000 cases, in Madura 48 against 11,000, in South Malabar 7 against 4,000, in Nellore 15 (including 6 against one headman) against 1,750 cases. Most of these broke down, and against the remark that the powers of village courts are often oppressively exercised in villages where factions prevail, may be set the consideration that the opposing faction is only too ready to make the most of any mistake on the part of the headman.

On the whole, the conclusion to which Government came was that the enlargement of the jurisdiction has not been a "public calamity," but rather a wise and useful measure. That the mistake was not in extending the jurisdiction, but in abandoning those safeguards and measures of control which Mr. Justice Muthusami's committee recommended at the same time.

I must now explain how this mistake came to be committed, and as I proceed I will explain some of the main difficulties in the way and how this Bill deals with them. In their first order on Mr. Justice Muthusami's report the Government dissented from the committee on four points—

First, they would not make the jurisdiction exclusive: upon this point the Bill follows the conclusion of Government and not the recommendation of the committee. The local Legislature *could not* make the jurisdiction exclusive, and even if we had the power, it seems to me that we must improve our village courts before we can venture on any such step. It has been suggested, in this connection, that the district munsif might disallow costs to a plaintiff who without good reason brings his debtor beyond the village courts, but here again the local Legislature is incompetent to enact a rule to this effect. The district munsif would of course have discretion to disallow costs for any reasonable cause, but the *mere fact* that the plaintiff distrusted the village court or preferred the concurrent tribunal would not seem to be a legally sufficient cause. •

The second point upon which the Government dissented was that they declined to deprive the village munsifs of their hereditary character. The committee, however, character of the office could no longer, in the altered circumstances of the country, be always strictly maintained. Their recommendation was that the Collector should be empowered to appoint a competent person, subject to such rules as the Government might issue from time to time, and that, in such rules, care might be taken to preserve.

hereditary rights as far as possible, a stranger being appointed only in cases of absolute necessity. Upon this point I entirely agree with the committee, and the Bill follows their draft. If a headman is corrupt or has failed to keep pace with the times and is too ignorant to discharge the duties of his office, I conceive that even under the present law he might be removed, and, if there is no competent person in his family, a stranger might be appointed. Even now all this is contained in the rules of Government rather than in the Regulation, and even now in some districts the office has, to a great extent, lost its hereditary character. The munsif must always be one of the principal inhabitants.

In the third place, the Government declined to give the district munsif any control over village courts. Here again the Bill adopts the recommendation of the committee, for we agree with the High Court in considering that the district munsifs of the present day are quite competent to act as a court of revision over the village proceedings. It would be a denial of justice to require every aggrieved party to go before the District or Subordinate Court, as at present. The district munsif has accordingly been empowered to set aside decrees "not in accordance with law or obviously perverse and unjust."

Lastly, Government objected to the provision allowing a party who distrusted the munsif to nominate an assessor to sit with him. They seem to have deemed this unnecessary because "already, as the law stands, if parties choose, they can have a village panchayat in place of the munsif." But it seems to have been forgotten that a village panchayat requires the written and mutual consent of both parties. It seems to me that the object of the committee's proposal was to safeguard the defendant, the plaintiff having already exercised his option by resorting to the village court instead of to the district munsif. They attached "great importance to the provision, observing that it will not only serve as a check against abuse of power, but will also be of immense value in the political education of the people." I am strongly disposed in its favor, and have accordingly retained the provision in the Bill for the consideration of the Select Committee which I am about to nominate.

But these differences of opinion, though they relate to important matters, were not what led to the final abandonment of a Bill on which so much care had been bestowed. This was due to various objections pointed out by the Government of India. The first was one of great importance, raising no less a question than whether, if the village courts were reconstituted, the whole Code of Civil Procedure would not become applicable to them. This, however, seems rightly to have been decided in the negative. It was found, however, that the Bill, as it stood, conflicted with some Imperial Acts relating to procedure, evidence, and other matters, and it was not found easy to alter the Bill so as to keep clear of difficulties of this kind. A careful revision of the Bill has now been made, and I hope we have managed to get rid of all the obnoxious provisions, and at the same time to maintain all such rules of procedure as are really necessary for rural courts, and to establish a simple system of revision and control by the district munsifs. Among minor matters I may mention that suits for rent payable to a landholder as defined in Act VIII of 1865, have been excluded from the jurisdiction of village courts, unless such rent is due upon a written contract signed by the defendant; that the village courts have been required to furnish any returns which may be prescribed by the High Court; that their records are to be open to inspection by district munsifs; and that, besides their power of revision, district munsifs have been authorised to transfer suits for trial, as well as decrees for execution, to other village courts, and to call up such suits to their own files upon the applicant depositing the

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necessary court fee or deficient fee, if any fees are charged in village courts. Whether or not a fee should be charged is a point which the Select Committee will probably wish to consider.

The power to appoint and remove munsifs is continued to the Collector, but as suggested by the High Court (section 23) the Collector is required to dismiss a man reported unfit by the District Judge, and the only appeal in such a case will be to the High Court.

As to limitation, the High Court has ruled that village courts are bound by the ordinary law, and this is the only reasonable view, as limitation must depend on the nature of the suit, not on the class of court. It is intended, if the Bill becomes law, to draw up a short synopsis of the provisions of the Act applicable to village courts such as any one can understand.

I now beg to move that the Bill to consolidate and amend the law relating to the courts of village munsifs be referred to a Select Committee consisting of—

Hon'ble S. SUBRAHMANYA AIYAR,
Hon'ble Mr. STOKES,
Hon'ble Mr. CHENTSAL RAO,
Hon'ble the ADVOCATE-GENERAL, and
The MOVER.

The motion, which was seconded by the Hon'ble Mr. CHENTSAL RAO, was put to the meeting and agreed to.

The Council then adjourned *sine die*.

(By order.)

FORT ST. GEORGE,
17th January 1888.

A. G. CARDEW,
Ag. Under 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 in Fort St. George on Tuesday, the 20th day of March 1888.

PRESENT :

HIS EXCELLENCY THE RIGHT HON'BLE THE GOVERNOR OF MADRAS—*presiding*.
HIS EXCELLENCY LIEUTENANT-GENERAL SIR CHARLES GEORGE ARBUTHNOT,
R.A., K.C.B.
The Hon'ble MR. MASTER, C.S.I.
The Hon'ble MR. HUTCHINS, C.S.I.
The Hon'ble MR. STOKES.
The Hon'ble RAI BAHADUR S. SUBRAHMANYA AIYAR.
The Hon'ble the Acting ADVOCATE-GENERAL.
The Hon'ble MR. TURNBULL.
The Hon'ble P. CHENTSAL RAO, C.I.E.
The Hon'ble MIR HUMAYUN JAH BAHADUR, C.I.E.

ADDITIONAL MEMBER.

The Hon'ble MIR HUMAYUN JAH BAHADUR took his seat on re-appointment as an Additional Member of Council.

ACT FORWARDED FOR THE ASSENT OF THE GOVERNOR-GENERAL.

The Acting Under Secretary reported that the Local Authorities' Loans Act, which was passed by the Council on the 17th January 1888 and received the assent of His Excellency the Governor on the 26th idem, had been forwarded for the assent of the Right Honorable the Governor-General.

MALABAR EVICTIONS AND WASTE LANDS BILL.

The Hon'ble S. SUBRAHMANYA AIYAR presented the Report of the Select Committee on the Malabar Evictions and Waste Lands Bill, and moved that the Report be taken into consideration.

The Hon'ble MR. HUTCHINS seconded the motion.

The Hon'ble P. CHENTSAL RAO said,—

“MY LORD AND GENTLEMEN,—At this stage of the Bill it is not necessary for me to discuss its details. But I wish to make one or two remarks in explanation of the note I appended to the Report of the Select Committee.

“I have alluded to the rights of Government in the waste lands in Malabar, not so much with the object of pressing them against the interests of the jemmies, as it is to show that, in the event of our abandoning that intelligible ground, we will have to proceed with very great caution in interfering with the private rights of ownership

possessed by the jennies, and that our interference should extend only to cases of proved necessity. We have also to see that any inconvenience caused by our interference falls with equal pressure on *all* the jennies. In these respects the Bill seemed to me to be defective. For instance, in addition to the points I noticed in my note, I observe the Bill makes it competent for any man to apply and obtain 15 acres of jenni lands on a permanent putta. I do not see why any and every man should have that privilege. I observe that in Malabar 843,000 acres are annually cultivated, the male population of adults above the age of 12 years being 778,000. The proportion of cultivated area to population is nearly the same as that in the similar district of South Canara. I have no doubt that there are many persons who already hold more than 15 acres, and I do not see why we should interfere in their favor at all. The other remark which I wish to make is that the idea of the incompetency of the jenni to keep out land from cultivation without satisfying the demands of Government, is not the product of my imagination, but based on my knowledge of the system prevailing on the East Coast. So long ago as 1854 a Collector of Malabar said that the very thing I have now stated was the practice in Malabar. He said that extensive and unbounded indeed as the rights of the jennies at first appear, 'a man is not allowed to keep his land waste unless he agrees to pay the Government the tax they would derive from its cultivation. Should he decline to do this, the land is delivered over to any person who will undertake to till it, a specification being made that out of the profits deductible from its cultivation a certain portion, about 15 per cent., shall be given to the proprietor as the landlord's share.' I shall not detain you, my Lord and gentlemen, with my remarks any longer at present, and I trust that the Select Committee will again have an opportunity of considering the several provisions of the Bill with the light that may be thrown by the criticisms now invited, and with the aid of any further information which we might be able to obtain."

The Honorable S. SUBRAHMANYA AIYAR then moved that the Under Secretary be directed in pursuance of the suggestion contained in the last clause of the Select Committee's report to forward the Bill for the remarks of the Honorable the Judges of the High Court, the District Judges of North and South Malabar, and the Collector of Malabar, and that the Bill be referred back to the Select Committee for consideration of the remarks received.

The motion was seconded by the Honorable Mr. HUTCHINS and was put to the Council and carried unanimously.

MADRAS CITY POLICE BILL.

The Hon'ble Mr. HUTCHINS presented the Report of the Select Committee on the Bill "to regulate the Police of the City of Madras," and moved that the Bill, as amended by the Committee, be taken into consideration, and said,—

"The Report is in the hands of all the Honorable Members, and I do not propose to go through it, nor is it necessary for me to add any further remarks by way of explanation of anything contained in the Bill as it left the Select Committee. Subsequently, however, I have received one or two petitions regarding the Bill, and some observations have come down from the Government of India. These are directed to the Bill as originally introduced, but some of the provisions remarked on have been retained in substantially the same form. These petitions and observations have led me to go through the Bill once again in order to see that nothing really objectionable is retained, and in the course of this further examination of the Bill one or two small slips have

come to notice. I have, in consequence, prepared a series of amendments, 14 in number, all of which have been approved by the honorable gentlemen who sat with me on the Select Committee.

"The first amendment is merely formal. It is, of course, necessary to preserve the powers of existing constables, but it may be doubtful if this would be effected by the section as it stood, seeing that under section 12 a policeman's powers are given by virtue of the certificate contemplated by that section. The second amendment is taken from the General Clauses Act. The object is simply to shorten the Act by saying "imprisonment" instead of "imprisonment of either description" in numerous places. Along with this amendment I take the 14th, which is complimentary to it and results from it. The third amendment is necessary because our object is, of course, to save such privileges from being defeated by this Act, but the section as it stands might prevent their being forfeited by misconduct or the like. By the fourth amendment certain words are omitted in section 23, the case being fully provided for by section 3, Act III of 1888. That section was probably intended also to cover the case provided for by section 16, viz., that of mofussil policemen coming within the limits of the Presidency town, but it seems somewhat doubtful if their case is covered; so I have retained section 16 *pro majori cautela*. The fifth amendment in section 24 is one of those suggested by the Government of India. The power to arrest is given by this section not with a view to detain offenders in custody, but to enable the police to compel their appearance at the station-house, where their names are ascertained and registered, and where they enter into recognizances to appear before the Magistrate. I do not myself see why the police should not be allowed to take this course even when the offence is against a bye-law: but that would be a new power and, in deference to the Government of India's suggestion, it may be abandoned. The police will still be able to proceed under section 57 of the Criminal Procedure Code in such cases, and we do not expect to have to make new offences by bye-laws. The sixth amendment is also one suggested by the Government of India, who referred us to the Indian Marine Act of 1887, from which I have taken most of the new wording. The seventh amendment remedies a defect in the Bill as it stands. The Bill requires the police to take charge of all unclaimed property (section 23), and I thought it had provided for its disposal; but somehow this seems to have been omitted. The new section is not by any means new in principle and seems absolutely necessary. The eighth amendment is merely formal. The intention was to define a series of offences, but, owing to the omission of the disjunctive particle, the section might be construed as defining five elements of one collective offence. The ninth amendment is necessary because, as the section stands, the consent of the owner would be a defence only where the property is bought, but there is no reason why it should not be made just as effective where there is only a loan on pledge: I have therefore recast it. I will take the tenth and eleventh amendments together. Section 66 prohibits the introduction of liquor, &c., into barracks, and there is no reason why the introducer should not be punishable under this Act, notwithstanding the fact that he may also be amenable under the Articles of War. Similarly, with regard to section 69, harbouring a deserter from a ship should be punishable generally, although, if the desertion has been from one of Her Majesty's ships of war, the offence may be punishable under another statute. I will ask your Excellency to refer to the last section, which says that nothing in the Act shall prevent any person from being liable to punishment under any other law, provided that no person shall be punished twice for the same offence. It may be more convenient for the prosecuting authorities to allow the matter to be dealt with by the Magistrates under these simple provisions,—the option will be with them. By the twelfth

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amendment certain words are omitted in consequence of the Government of India pointing out that owing to a peculiar change in the definitions of the Penal Code, the local legislature is no longer competent to award rigorous imprisonment in default of payment of a fine. With this, I may refer to the thirteenth amendment, which is proposed on the very same ground; but in none of the cases provided for by sections 72 and 73 does it seem necessary that rigorous imprisonment should be awardable, so that I have struck out the whole clause, and not merely the words 'in default of payment.'

The Hon'ble MR. HUTCHINS, then moved the following amendments which were seconded by the Hon'ble S. SUBRAHMANYA AIYAR, and were adopted unanimously, viz. :—

(1) Section 2, clause 2, line 4, after the words "forms prescribed" add "certificates granted," and in the penultimate line after the word "prescribed" add the word "granted."

(2) Section 3, after definition of "conviction," insert the following :—
"Imprisonment" means imprisonment of either description as defined in the Indian Penal Code.

(3) Section 4, in line 1 strike out the first word "No." and read—
"Nothing in this Act contained shall operate to deprive any."

and in line 6 strike out the words—"shall be deprived."

(4) Section 23, line 4 and following lines, strike out the words—
"and shall also have all the powers of a Police officer throughout the General Police District as defined by Act XXIV of 1859."

(5) Section 24, last two lines, strike out the words—
"or by any bye-law framed under section 75."

(6) Section 30, line 9, after the word "without," strike out to the end of the section, and read—

"requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title and upon such terms as he may think fit, to any person who may appear to him to be entitled thereto; and such delivery shall be a full discharge to the Commissioner, and to the Secretary of State for India, from all liability in respect of such property."

(7) Section 30, last line, here insert a new section as follows and re-number succeeding sections :—

Section 31. "The provisions of sections 523, 524 and 525 of the Code of Criminal Procedure, 1882, shall, as nearly as may be practicable, apply to all property seized or taken charge of by the Police."

(8) Section 63, at the end of each of the clauses (1) to (4) insert the word "or."

(9) Section 65, for first 9 lines read—
"Whoever, without the knowledge and consent of the owner, buys any article from any child apparently under the age of 14 years, or takes any article from any such child as a pawn, pledge or security for any sum of money lent or advanced to such child, shall be liable" &c.

(10) Section 66, for first 13½ lines read—

"Whoever introduces, or attempts to introduce, into Fort St. George or into any Military barracks, guard-room, or encampment, or on board any vessel of war belonging to Her Majesty, any spirituous or" &c.

(11) Section 69, lines 4 and 5, strike out the words—"other than a vessel of the navy of the Queen."

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(12) Section 70, line 7, strike out the words—"in default of payment."

(13) Sections 72 and 73, strike out the words—"or in default of payment to imprisonment of either description which may extend to one month."

(14) In the following sections, strike out the words—"of either description," following the word "imprisonment," wherever they occur, viz. :—

Sections 13, 14, 15, 39, 44, 45, 52, 63, 64, 66, 67, 70, 71, 74 and 77.

The Hon'ble MR. HUTCHINS then said—

"Of the fourteen amendments now passed, nine (Nos. 1, 2, 3, 6, 7, 8, 9, 10 and 13) are merely verbal changes: while two others, 4 and 5, omit provisions which have appeared in the published Bill. No. 7 is new but not new in principle; and merely enables the Commissioner to dispose of property which the published Act authorized the police to seize. The two others merely remove the authority to award rigorous imprisonment in default of payment of a fine, as this Council cannot confer such power. I therefore submit that there is no substantial amendment of the Bill calling for its republication, and I ask Your Excellency to exercise the power vested in Your Excellency by Rule 51, and to suspend the standing orders and enable me to move that the Bill be at once taken into consideration and passed as amended."

HIS EXCELLENCY THE PRESIDENT then directed that the standing orders be suspended.

The Hon'ble MR. HUTCHINS then moved that the Bill, as amended, be taken into consideration and passed into law.

The Hon'ble the ADVOCATE-GENERAL seconded the motion, which was put and carried and the Bill passed by the Council.

PUBLIC RESORTS BILL.

The Hon'ble MR. HUTCHINS next presented the Report of the Select Committee on the Bill "to provide for the inspection and licensing of places of public resort and entertainment," and moved that the Bill, as amended by the Committee, be taken into consideration. He said,—

"With reference to this Bill I shall not detain the Council more than a minute or two. The Report is in the hands of the Honorable Members and explains what was done by the Select Committee. On going over the Bill finally I found that we had omitted to provide for cases in which an application for a license might have been disposed of by a Sub-divisional Magistrate or by the Magistrate of the district in the first instance. The principle which the Committee adopted was that the District Magistrate should be the final controlling authority. It is obvious, therefore, that there should be no appeal against his order, and where the original order is made by a Sub-divisional Magistrate the appeal can only be to the Magistrate of the district. I therefore propose the amendments."

The Hon'ble MR. HUTCHINS then moved the following amendments :—

(1) In section 10, clause (1), last line, omit the word "thereof" and add—
"unless such order has been made by Magistrate of the district."

(2) In section 10, clause (3), at the end add—

"or if the original order was made by a Sub-divisional Magistrate, to the Magistrate of the district."

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(3) In section 10, clause 4, last line, for "he" read "it."

The Hon'ble the ADVOCATE-GENERAL seconded the motion.

The amendments were then put one by one and agreed to.

The Hon'ble MR. HUTCHINS then said :—

"These amendments make no substantial change in the Bill, and I therefore ask Your Excellency again to suspend the standing orders to enable me to propose that the Bill, as amended, be taken into consideration and passed."

His Excellency the PRESIDENT accordingly directed that the Standing Orders be suspended.

The Hon'ble MR. HUTCHINS then moved that the Bill, as amended, be taken into consideration and passed into law.

The Hon'ble the ADVOCATE-GENERAL seconded the motion, which was put and carried unanimously and the Bill passed by the Council.

MADRAS VILLAGE KURNAMS' BILL.

HIS EXCELLENCY THE PRESIDENT announced that under Rule 51A of the Council Rules he had directed that the Madras Kurnams' Bill, No. 6 of 1883, be removed from the list of business.

The Council then adjourned *sine die*.

(By order.)

FORT ST. GEORGE,
20th March 1888.

A. G. CARDEW,
Ag. Under Secy. to Govt., Legislative Dept.

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 Tuesday, the 30th day of October 1888.

PRESENT:

The Hon'ble MR. HUTCHINS, C.S.I., Senior Member of Council—*presiding*.
The Hon'ble MR. STOKES.
The Hon'ble the ADVOCATE-GENERAL.
The Hon'ble P. CHENTSAL RAO, C.I.E.
The Hon'ble MIR HUMAYUN JAH BAHADUR, C.I.E.
The Hon'ble the RAJA OF VENKATAGIRI, K.C.I.E.
The Hon'ble MR. PRICE.
The Hon'ble MR. GROSE.
The Hon'ble V. BHASHYAM AIYANGAR, Rai Bahadur.
The Hon'ble MR. BOYSON.

NEW MEMBERS.

The undermentioned gentlemen took their seats as Additional Members of Council :—

The Hon'ble MR. PRICE.
The Hon'ble MR. GROSE.
The Hon'ble V. BHASHYAM AIYANGAR.
The Hon'ble the RAJA OF VENKATAGIRI.
The Hon'ble MR. BOYSON.

ACTS ASSENTED TO BY THE GOVERNOR-GENERAL.

The Hon'ble the PRESIDENT announced the assent of His Excellency the Governor-General to the undermentioned Acts :—

Madras Act I of 1888—Local Authorities Loan Act.
Do. II of „ —Places of Public Resort Act.
Do. III of „ —Madras City Police Act.

MADRAS VILLAGE COURTS BILL.

The Hon'ble MR. HUTCHINS said,—

"I have the honor to present the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Courts of Village Munsifs in the Presidency of Fort St. George, and I move that it be now taken into consideration by the Council. I think the most convenient course will be to take up the Bill chapter by chapter, dealing with the amendments to be proposed in the order of the sections to which they relate, and I will therefore call on Mr. BHASHYAM AIYANGAR to move his first amendment, which relates to Chapter I of the Bill."

The Hon'ble V. BHASHYAM AIYANGAR said,—

"The first amendment which I have to propose relates to clause 1, section 1, in line 5 of which, after the word 'that' I propose to insert the words 'clauses 2 to 8, both inclusive of,' and in line 7 of which, for the last three words 'therein provided for' I propose to read 'provided for in clause 1 of that section.' As the Bill at present stands section 9 can only come into force by an order of Government under that section, and as the section is not yet in operation it might be contended that no such order could be made. The object of the amendment is to bring clause 1 of section 9 into force at once, allowing clauses 2 to 8 to be brought into force later by an order of Government."

The Hon'ble MR. STOKES seconded the amendment, which was then put to the Council and carried.

The Hon'ble V. BHASHYAM AIYANGAR then said,—

"In clause 2 of section 1 I propose to omit the words 'as defined in section 2, clause 2, of Madras Act I of 1867.' Madras Act I of 1867 is the Madras General Clauses Act, and it provides that, as it is expedient to enact once for all certain definitions of terms usually employed in Acts, the words 'Town of Madras' shall have a certain meaning. This definition having been given once for all, it is unnecessary to refer to the Act here, and the words were probably inserted at a time when it was proposed to introduce the Bill into the Council of the Governor-General."

The Hon'ble the ADVOCATE-GENERAL having seconded the amendment, it was put to the Council and carried.

The Hon'ble MR. HUTCHINS said,—

"The next amendment stands in my name, and is in line 9, section 4 of the Bill. It is to delete after the words 'Civil Court' to the end and read 'which, if the suit were about to be instituted, would have jurisdiction to try it.' This amendment is taken from clause 1, section 35, of Act IX of 1887, and was suggested by the Government of India to meet the contingency of the Civil Court having jurisdiction being also abolished after the institution of the suit. Even the withdrawal of a Village Court from the operation of this Act is an unlikely contingency, and it is hardly possible that two improbable things will happen together; but it is just possible, and the new wording is certainly better than that of the Bill at present."

The Hon'ble MR. STOKES then seconded the amendment and it was put to the Council and carried.

The Hon'ble V. BHASHYAM AIYANGAR next said,—

"I now propose to add to section 4, as amended by the Hon'ble MR. HUTCHINS, the following words: 'such suits shall be tried and such decrees shall be executed as suits instituted in, and decrees passed by, such Civil Court.' In some cases, when a suit is transferred from one court to another, the court to which it is transferred has to adopt the procedure of the court from which the transfer is made. So in the case of a criminal case transferred from the mofussil to the sessions of the High Court, the mofussil procedure is followed. But in the present case it is desirable that the procedure adopted should be that of the Civil Court hearing the suit. The matter may be important in connection with the question of limitation, as to which a different rule in some cases will exist in the Courts of Village Munsifs from that obtaining under the general Limitation law, and in the case of decrees there may be similar differences. I therefore propose this amendment,"

The amendment having been seconded by the Hon'ble P. CHENTSAL RAO, was put to the Council and carried. This concluded the consideration of Chapter I of the Bill.

In Chapter II of the Bill, the Hon'ble V. BHASHYAM AIYANGAR first moved to insert in section 9, clause 1, line 4, after the word 'that' the words 'the following clauses of,' and in section 9, clause 2, line 2, for the words 'this section' to read the words 'such an order.' He said that these amendments were formal ones only, consequent upon his amendment of section 1, clause 1, and they having been seconded by the Hon'ble MR. STOKES were put to the Meeting and carried. The Hon'ble V. BHASHYAM AIYANGAR then withdrew the next two amendments in clause 2 of section 9, of which he had given notice.

The Hon'ble the RAJA OF VENKATAGIRI said,—

"The amendment which I propose is to add at the end of section 10 the words 'Provided that nothing herein contained affects the Zamindari kurnams appointed under Regulation XXIX of 1802.' As a representative of the Zamindari class, I feel it my duty to represent how greatly this Bill affects their interests. It often happens that the village kurnam appointed by Government under Regulation IV of 1816 is a different person from him appointed by the Zamindar. If this section remains unaltered, kurnams in Zamindari estates may be under two masters. Again Zamindari kurnams are not paid well enough to do the double work and they will become despondent and depressed. At present they have many duties to perform, and if this extra work is thrown upon them, they will not be able to do their revenue duties properly."

The Hon'ble MIR HUMAYUN JAH BAHADUR having seconded the amendment, the Hon'ble MR. HUTCHINS said that the duty which the Bill proposed to throw on the kurnam was one which already attaches by custom of the country to all kurnams in the Presidency, both in Zamindari and in ain villages, and, therefore, he was opposed to the amendment of the Hon'ble the RAJA OF VENKATAGIRI. The Hon'ble P. CHENTSAL RAO said that at present all kurnams serve two masters, and, indeed, as much might be said of almost every servant of Government. The amendment was then put to the Council and lost.

The Hon'ble the RAJA OF VENKATAGIRI observed that the same reasons applied to his second amendment as to his first. His proposal was at the end of section 11 to add the words "Provided that nothing herein contained affects the Zamindari servants in estates permanently settled." This amendment not being seconded, was also lost, and the consideration of Chapter II of the Bill was thus concluded.

The Hon'ble MR. HUTCHINS then said,—

"I gave notice that I should propose to insert the words '*an express*' before contract in section 13, but on further consideration I have decided to abandon this point. The object was to meet certain remarks made by the Legislative Department of the Government of India. It was pointed out that the words of this section follow section 6 of the Mufassal Small Cause Courts Act, 1865, and that the overwhelming mass of conflicting case law by which that section had become beset had led the Legislature to repeal the Act of 1865 and substitute the Small Cause Courts Act of 1887. But the conflicting decisions alluded to arose out of the fact that at the time the Act of 1865 was passed no definition had been given by the Indian Legislature of the term, and consequently it was held by some courts, though not by all, that the English definition must be followed to its full extent, and that what are designated *quasi* contracts must

be included. The conflict was with regard to actions *quasi ex contractu* only and not with regard to what are called implied contracts. Now things have been entirely changed by the enactment of the Indian Contract Act, IX of 1872. It does not seem open to question that in any legislation subsequent to the passing of that Act, the courts would agree in holding that the term 'contract' must be construed with reference to the careful definition there given. That definition includes implied as well as express agreements, section 9 providing that in so far as the proposal or acceptance of any promise is made in words the promise is said to be express: in so far as it is made otherwise than in words the promise is said to be implied. *Quasi* contracts are not within the definition at all, but treated of in a separate chapter headed 'Of certain relations resembling those created by contract.' It seems certain, therefore, that the difficulty apprehended cannot now arise, and it is clearly desirable that the Village Courts should be able to deal with implied as well as express contracts. Take the very common case of a customer obtaining goods from the village shop without any express stipulation regarding the price, but on the understanding that he would pay the market rate. I abandon this amendment, being quite satisfied with the wording of the Select Committee.

As regards the amendment of section 20, of which notice has been given under my signature, it is due to a misapprehension of something that I wrote. It might have been safer to introduce the words in the amendment if sections 32 and 33 were not to be amended, but as they are to be brought into accordance with the Limitation Act, the exception cannot be required. I do not move any amendment here."

The Hon'ble V. BHASHYAM AIYANGAR moved—in section 19, lines 8, 15 and 19 to read the words 'legal character' for the word 'status.' He said that the phrase 'legal character' was that used in section 42 of the Specific Relief Act and in section 41 of the Indian Evidence Act, and that it was, therefore, desirable to adopt the same phrase here.

The Hon'ble the ADVOCATE-GENERAL, in seconding the amendment, observed that he thought it would be more intelligible to those who would have to administer the Act. The amendment was put to the Council and carried.

The Hon'ble V. BHASHYAM AIYANGAR then moved—in section 21, line 5, after the word 'himself' to add the words 'as if it had been instituted in his Court.' He said that this amendment was of the same character as that already adopted in section 4. The suits transferred would generally be of the nature of small causes, and the effect of the amendment would be to apply to such suits the procedure of the District Munsif's Court.

The amendment was seconded by the Hon'ble MR. STOKES, was put to the Council and carried. This concluded the consideration of Chapter III of the Bill.

In section 32, line 5, the Hon'ble V. BHASHYAM AIYANGAR moved to substitute '30' for '15.' He explained that the object was to bring the provisions of the Bill into accordance with those of the Limitation Act.

The Hon'ble P. CHENTSAL RAO seconded the amendment, which was carried.

The Hon'ble MR. HUTCHINS then moved a similar amendment in line 3 of section 33, viz., to substitute '30' for '15' in order to bring the period fixed into accord with that prescribed in Article 164 of the Limitation Act. The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment which was carried. This disposed of Chapter IV of the Bill.

The Hon'ble the RAJA OF VENKATAGIRI said,—

"There are very strong objections to verbal summons. To invest Village Munsifs with power to summon people by a verbal message is both retrograde in tendency and will enable him to wreak his vengeance on any enemy against whom he may nourish ill-will. In line 4 of section 40 I therefore move that the words 'verbally or' be omitted."

The Hon'ble MIR HUMAYUN JAH BAHADUR seconded the amendment.

The Hon'ble MR. HUTCHINS said,—

"The point now raised by the Hon'ble the RAJA OF VENKATAGIRI was fully considered by the Select Committee, and the reason why we introduced the provision now objected to is thus stated at paragraph 5 of our report:—'The object of this amendment is to shorten and simplify the procedure, so far as practicable, and with the same object we have provided that witnesses in the village may be summoned verbally.'"

The Hon'ble P. CHENTSAL RAO said that, under the Bill as it stood, Village Munsifs would have power to summon persons either verbally or in writing. Written summonses were generally unnecessary where the people could not read; and it was of great importance to reduce the work to be thrown on Village Munsifs. He was therefore opposed to the amendment.

The Hon'ble the ADVOCATE-GENERAL pointed out that a written summons would be of no value without an endorsement in proof of service, which again required writing.

The amendment was then put to the Council and lost.

The Hon'ble the RAJA OF VENKATAGIRI then moved, after the word 'exempted' in line 5 of section 42 to insert the words 'by the Local Government and notified in the official Gazette.' He said that the section referred to persons 'exempted,' but did not say by whom they could be exempted, and there might be doubt on this point.

The Hon'ble MR. HUTCHINS said,—

"The addition proposed by the Hon'ble the RAJA OF VENKATAGIRI seems to me quite unnecessary. A person exempted can only mean a person legally exempted. The Government can grant a legal exemption by notification in the official Gazette, but it is needless to state that here. It is also needless to consider whether a legal exemption can be effected in any other way. If it can, the words, as they stand, will cover such other exemption, and it ought to be provided for. If it cannot, the addition proposed is mere surplusage."

The Hon'ble V. BHASHYAM AIYANGAR also opposed the amendment, which was not seconded and was lost. This concluded Chapter V of the Bill.

The Hon'ble MR. HUTCHINS next moved—in section 50, at the end, after the words 'by this section' to add the words 'or in the Court of the District Munsif.' He said this addition was necessary because the District Munsif can execute, under sections 48, 66, and 67, and in such cases there would be no 'record' as provided by the present section.

MADRAS VILLAGE COURTS BILL.

The Hon'ble the ADVOCATE-GENERAL seconded the amendment, which was put to the Council and carried.

In section 52, line 5, after the words 'movable property' the Hon'ble MR. HUTCHINS moved to insert the words 'within its jurisdiction.' He pointed out that this was obviously the intention of the section as it stood, but that the point ought to be expressed.

The amendment being seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble MR. HUTCHINS then moved three amendments in section 52. The first was to add after the word 'apparel' the words 'and bedding' in clause (a), line 1. The second was to insert the words 'and seed-grain' after the word 'cattle' in line 4 of clause (b). The third was, after clause (b), to add the following:—

- '(c) books of account;
- '(d) stipends and gratuities payable to military and civil pensioners of Government, and Political pensions;
- '(e) the salary due to a public officer or to any servant of a railway company or local authority, unless such salary exceeds twenty rupees monthly, in which case a moiety of it may be attached;
- '(f) the pay and allowances of persons to whom the Native Articles of War apply;
- '(g) the wages of laborers and domestic servants.'

The Hon'ble MR. HUTCHINS explained that these amendments were taken from section 28 of Act VII of 1888, and were necessary, as otherwise Village Munsifs would be able to attach what a District Munsif could not. The first of the three amendments was seconded by the Hon'ble the ADVOCATE-GENERAL; the last two by the Hon'ble MR. PRICE; on being put separately to the Council, they were carried.

The Hon'ble V. BHASHYAM AIYANGAR moved—in section 56, at the end, to add the words 'as against all claims enforceable under the attachment.' The section as it at present stood, he said, was copied from the old Code of Civil Procedure, and his amendment was adopted from section 276 of the new Civil Procedure Code.

The Hon'ble the ADVOCATE-GENERAL seconded the amendment. It was put to the Council and carried. This concluded the consideration of Chapter VI of the Bill; and the Hon'ble V. BHASHYAM AIYANGAR having withdrawn the tenth and last amendment of which he had given notice, the consideration of the Bill was thus concluded.

The Hon'ble MR. STOKES said,—

"SIR,—I believe that the Standing Orders prevent us from proceeding further with this Bill unless those orders are suspended. I now therefore ask you to suspend the Standing Orders in view to the Bill, as amended, being at once passed into law."

The Hon'ble the PRESIDENT having accordingly suspended the Standing Orders, moved that the Bill, as now amended, be approved and passed into law. The Hon'ble MR. STOKES seconded the motion, which was put and carried *nemine contradicente*.

THE MADRAS SALT BILL.

THE MADRAS SALT BILL.

The Hon'ble MR. STOKES said,—

"SIR,—I have now to introduce the Bill to consolidate and amend the laws relating to the Salt revenue in this Presidency, which has been duly published under Rule XXV of the rules for the conduct of business in the Council. It is not so formidable a measure as its title would lead you to suppose. It is in the main a consolidating Bill, the alterations and new provisions being comparatively few and of small importance. The Bill proposes to repeal five Acts now in force (Regulation I of 1805, Act VI of 1871, Act VI of 1878, Act I of 1882, and Act IV of 1882), re-enacting their main provisions. Of these, Regulation I of 1805, of which very little is left, and Act VI of 1871, are the laws under which manufacture under monopoly and excise are respectively carried on. Act VI of 1878 made provision for the appointment of a Commissioner of Salt Revenue, an office then newly constituted. Act I of 1882 is the most important of the existing Acts relating to Salt revenue. It deals chiefly with the preventive system and the protection of the revenue, whether obtained under monopoly or excise. The last of the five Acts—Act IV of 1882—made some small amendments of Act I of the same year. All these laws will disappear from the Statute Book if the Bill passes into law.

"It is not necessary that I should go much into detail on this occasion, or do more than describe generally the structure of the present Bill. The principal difficulty in legislation on this subject is the framing of definitions, especially of 'salt,' 'saline substances,' 'manufacture' and 'contraband salt,' and on these the working of the law mainly depends. The problem is to find modes of expression which shall be wide enough for the protection of the revenue, and yet not such as to cause interference with practices or dealings with salt which are not dangerous and with which, of course, we do not desire to meddle. The definitions which find place in the Bill are the result of prolonged discussion and consideration by experienced officers, but I am not sanguine that they will escape modification by the Select Committee.

"Chapter II deals with the organization of the Salt Department, and Chapter III contains the provisions proposed for regulating the manufacture; those which are general, those which refer to monopoly factories, and those which refer to excise, forming separate parts. All manufacture will be under license, the conditions of which will be prescribed by Government subject to the positive provisions of the Bill. In regard to excise manufacture the Bill enacts most of the conditions and rules which have been framed under Act I of 1882 and are now in force. The new matters contained in this chapter are—the scale of compensation to be granted in monopoly factories which may be closed, none being now claimable unless the factory closed existed before 1805; the powers given to Government in regard to converting factories from monopoly to excise or *vice versa*; and the provisions for ensuring the proper execution and maintenance of the works connected with the factories. The last is a matter in which much difficulty has been experienced in getting the licensees to co-operate for the common good. Chapter IV relates to the manufacture of saltpetre, in which edible salt is produced, and enacts substantially the rules now in force; while in Chapter V (purchase, removal and possession of salt) there is nothing new except section 56, relating to 'protected areas.' This section is taken from the Bombay Salt Law, and requires that in local areas specially declared by notification, the storage of salt without license, and the possession or transport of more than a quarter of a maund of it, shall be prohibited. This section, it will be observed, is permissive only, and will not be

THE MADRAS JAILS ACT AMENDMENT BILL.

forced except in places where smuggling is very rife and cannot be controlled by ordinary preventive means. Chapter VI enables Government to control import of opium, a matter in which, as regards import by land, the law is at present in a rather satisfactory state.

"The preventive powers conferred on Salt officers and the penalties imposed on offenders by Act I of 1882 are reproduced in Chapters VII and VIII with some slight modifications as to powers of summons which are necessary to bring the procedure in all cases into accord with that prescribed by the Abkari Act, 1886.

"The system of prevention established by Act I of 1882 has now been tested by six years' working; and I think it may be said that under the close supervision which is now applied to the operations and since the departmental officers have become familiar with the law, the system of prevention is as little irksome as any such can be, and much less so than was feared. We have now very few complaints of harshness or illegal proceedings by preventive officers. My opinion is, that in parts of the country where illicit practices are prevalent and where prevention is really necessary, the powers conferred on Salt officers by the present law are not too great. To reduce them would merely render preventive operations futile without materially diminishing the annoyance caused to the population concerned. It is probable that there are many parts of the country from which preventive establishments might now be withdrawn without danger to the revenue, but this is a matter with which we cannot deal.

"With these remarks as to the nature and scope of the Bill which I now introduce, I beg to move that it be referred to a Select Committee to consist of—

Hon'ble the ADVOCATE-GENERAL,
Hon'ble Mr. GROSE,
Hon'ble P. CHENTSAL RAO,
Hon'ble Mr. BOYSON,
Hon'ble V. BHASHYAM AIYANGAR,
and myself."

The Hon'ble Mr. GROSE having seconded the motion, it was put to the Council and carried.

THE MADRAS JAILS ACT AMENDMENT BILL.

The Hon'ble Mr. STOKES said,—

"Sir,—The Bill which I now introduce is intended to confer on jail warders the same powers of arrest as are now possessed by police constables. The necessity for the Bill is explained in the Statement of Objects and Reasons appended thereto, which you, Sir, prepared with the Bill and have now handed over to me. I have now only to move that the Bill be referred to a Select Committee consisting of—

The Hon'ble the ADVOCATE-GENERAL,
The Hon'ble Mr. PRICE,
The Hon'ble V. BHASHYAM AIYANGAR,
and myself."

The Hon'ble the ADVOCATE-GENERAL seconded this motion, which was put and carried.

THE MALABAR EVICTIONS AND WASTE LANDS BILL. 21

THE CITY OF MADRAS MUNICIPAL ACT AMENDMENT BILL.

The Hon'ble MIR HUMAYUN JAH BAHADUR said,—

"In 1886 Mr. Barlow, who was then a Member of this Council, introduced a Bill to amend the City of Madras Municipal Act, 1884. That Bill was referred to a Select Committee consisting of the Hon'ble Mr. Master, Mr. O'Sullivan (Advocate-General), Mr. Barlow, and myself. Much as I regret the absence of my honorable friend Mr. Barlow from this Council, it is now my duty to move that the Select Committee on the Bill to amend the City of Madras Municipal Act, 1884, be reconstituted and consist of—

The Hon'ble Mr. GROSE,
The Hon'ble Mr. BOYSON,
The Hon'ble V. BHASHYAM AIYANGAR,
The Hon'ble the ADVOCATE-GENERAL,
and myself."

This motion was seconded by the Hon'ble Mr. PRICE. It was put to the Council and carried.

THE MALABAR EVICTIONS AND WASTE LANDS BILL.

The Hon'ble the ADVOCATE-GENERAL said,—

"Of the members of the Select Committee to whom the Malabar Evictions and Waste Lands Bill was referred back for consideration at the last meeting, the Hon'ble Mr. HUTCHINS will not be able to sit again on the Select Committee, Mr. SUBRAHMANYA AIYAR has already ceased to be a member of the Council, and it is possible that the Hon'ble Mr. MASTER may not be able to attend. That reduces the strength of the Select Committee to the Hon'ble P. CHENTSAL RAO and myself, and I therefore move that the names of the Hon'ble Mr. STOKES and the Hon'ble Mr. GROSE be added to the Select Committee."

The motion was seconded by the Hon'ble P. CHENTSAL RAO and was put to the Council and carried.

The Council then adjourned *sine die*.

(By order.)

FORT ST. GEORGE,
30th October 1888.

A. G. CARDEW,
Ag. Under Secy. to Govt., Legislative Dept.

*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 Tuesday, the 19th day of March 1889.

P R E S E N T :

HIS EXCELLENCY THE RIGHT HON'BLE THE GOVERNOR OF MADRAS—*presiding*.
The Hon'ble MR. STOKES.
The Hon'ble MR. GARSTIN, C.S.I.
The Hon'ble MR. PRICE.
The Hon'ble MR. GROSE.
The Hon'ble V. BHASHYAM AYYANGAR, Rai Bahadur.
The Hon'ble the ADVOCATE-GENERAL.
The Hon'ble P. CHENTSAL RAO, C.I.E.
The Hon'ble MIR HUMAYUN JAH BAHADUR, C.I.E.
The Hon'ble MR. BOYSON.

NEW MEMBER.

The Hon'ble MR. SPRING BRANSON, Acting Advocate-General, took his seat on re-appointment as an Additional Member of Council.

ACT ASSENTED TO BY THE GOVERNOR-GENERAL.

His Excellency the PRESIDENT announced the assent of His Excellency the Governor-General to Madras Act I of 1889 (*The Madras Village Courts Act*).

MADRAS JAILS ACT AMENDMENT BILL.

The Hon'ble MR. STOKES said,—

“YOUR EXCELLENCY,—I present the Report of the Select Committee on the Bill to amend the Madras Jails Act. We have not found it necessary to make any material alteration in the Bill, though the wording has been somewhat changed. It is merely a Bill for conferring on the new Jail warder-guard certain powers of arrest which the Police officers formerly employed to guard the convicts possessed as such. I move that the Bill and Report be now taken into consideration and that the former be passed into law.”

The Hon'ble MR. PRICE seconded the motion, which was put to the meeting and carried.

MADRAS TOWNS NUISANCES BILL.

MADRAS TOWNS NUISANCES BILL.

The Hon'ble Mr. Stokes said,—

“YOUR EXCELLENCY,—I have now to introduce the Madras Towns Nuisances Bill, notice of which has been given in the usual course by publication in the Gazette. As its name implies, the principal object of the Bill is to give power to prevent street nuisances, offences against sanitation and the like. This power is at present exercised under section 48 of the General Police Act XXIV of 1859, which was passed thirty years ago, and which it has already been necessary to amend twice. The defect which has led the Government to propose the entire repeal of this section and the substitution of a fresh law is the absence of any provision for applying the section temporarily. In March 1887 the Advocate-General pointed out that Act XXIV of 1859 gave no power to the Government to apply any part of it to a local area conditionally or for a time, or to withdraw it when once applied. It often happens that on the occasion of a festival or fair some remote village is for a few days in each year crowded with thousands of visitors, for whose safety the exercise of some sanitary control is imperative. During the festival a Magistrate is usually present and can deal with offences, but he leaves as soon as the temporary occasion has passed, and if section 48 remains in force the villagers are exposed throughout the rest of the year to the liability of being dragged miles to his court. In these cases what is wanted is power to apply the punitive provisions only during the continuance of the festival and to withdraw them when it ceases, and it is primarily with the object of enabling this to be done that the present Bill has been prepared. Clause (3) of section (1) provides for the whole Act or any part of it being extended permanently, or for a time, or for specified occasions only, to any local area outside the Presidency town. The Bill will also get rid of the awkward reference in the existing law to a “town,” a phrase which, not being defined, may be interpreted differently by every court having to decide whether or not the Act is in force in any particular locality.

“2. In re-enacting the provisions of section 48 of Act XXIV of 1859 attention has been paid to the Madras City Police Act III of 1888, which was passed by the Council last year, and the arrangement adopted in that Act has been followed. It has also been considered desirable to incorporate some of the provisions of section 71 of that Act relating to street nuisances, such as those prohibiting gaming and cock-fighting in places of public resort, and certain other of the provisions of the Act referring to the keeping of gaming-houses and presence in a common gaming-house for the purpose of gaming have been introduced. The want of power to control gambling-houses in the mofussil has often been felt, and laws on the subject exist in other provinces. The penalties to be attached to offences under the Act—a point to which the Government of India have called attention—will be a matter to be dealt with in the Select Committee to which I propose that the Bill be referred for consideration and report. With these remarks, I introduce the Bill and now move that it be referred to a Select Committee consisting of—

The Hon'ble Mr. PRICE,
The Hon'ble V. BHASHYAM AIYANGAR,
The Hon'ble MIR HUMAYUN JAH BAHADUR,
The Hon'ble the ADVOCATE-GENERAL,
and myself.”

The Hon'ble the ADVOCATE-GENERAL seconded this motion, which was put to the Council and carried.

MADRAS IRRIGATION AND NAVIGATION BILL.

MADRAS IRRIGATION AND NAVIGATION BILL.

HIS EXCELLENCY THE PRESIDENT announced that under Rule 51A of the Council Rules he had directed that the Madras Irrigation and Navigation Bill, No. I of 1884, be removed from the list of business.

The Council then adjourned *sine die*.

(By order.)

FORT ST. GEORGE,
19th March 1889.

A. G. CARDEW,
Under Secy. to Govt., Legislative Dept.

*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 Tuesday, the
5th November 1889.

P R E S E N T :

His Excellency the Right Hon'ble the GOVERNOR of Madras—*Presiding*.
The Hon'ble MR. STOKES, C.S.I.
The Hon'ble MR. GARSTIN, C.S.I.
The Hon'ble MR. PRICE.
The Hon'ble MR. GROSE.
The Hon'ble V. BHASHYAM AIYANGAR, Rai Bahadur.
The Hon'ble the ADVOCATE-GENERAL.
The Hon'ble the RAJA OF VENKATAGIRI, K.C.I.E.
The Hon'ble MR. BOYSON.
The Hon'ble C. SANKARA NAYAR.

NEW MEMBER.

The Hon'ble C. SANKARA NAYAR took his seat as an Additional Member of
Council.

ACT ASSENTED TO BY THE GOVERNOR-GENERAL.

His Excellency the PRESIDENT announced the assent of His Excellency the
Governor-General to Madras Act II of 1889 :—An Act to amend the Madras Jails Act,
1869.

PETITIONS TO THE COUNCIL.

The Assistant Secretary submitted the following petitions for the consideration
of the Council :—

(a) From certain legal practitioners of Madura, praying for a revision of the
Municipal assessment imposed upon them, dated 17th September 1889.

The petition was ordered to be returned to the petitioners under Rule XVI of
the Council Rules, with the endorsement that petitions to the Council must relate to
some Bill actually under its consideration.

(b) From J. L. POLE, Esq., and other inhabitants of Madura Town, dated 16th
October 1889, relating to the Towns Nuisances Bill.

The petition was ordered to be recorded.

(c) From A. VARADACHARI and other inhabitants of Athur village, Chingleput
taluk and district, dated 28th August 1889, relating to the Tobacco Duties Bill.

The petition was ordered to be communicated to the Select Committee on the
Tobacco Duties Bill.

THE SALT BILL.

THE SALT BILL.

The Hon'ble MR. STOKES said :—

YOUR EXCELLENCY,—“ I present the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Salt Revenue in the Presidency, and beg to move that the Bill, as amended by the Select Committee, be taken into consideration.

“ The Committee met a great number of times during last cold weather and expended great labor in the revision of the Bill, which has been almost completely re-drawn and very much improved. I have put upon the paper a list of amendments, which may appear a long one. As will be seen, however, there are few involving any question of principle and many of them are consequential, dealing in groups with single points. I have had the advantage of receiving some suggestions from Mr. Bliss and also from the present Acting Commissioner of Salt Revenue, and from the Deputy Commissioners of the Salt Department, past and present. A letter has also been addressed to the Government by the Government of India in reference to the Bill. The result is my list of amendments. When I come to move them, I shall explain them in detail: here I wish merely to say a few words on the two main questions which give rise to difference of opinion, viz., that relating to the grant of compensation in case of closure of factories or of change of system, and that regarding the use of salt-earth.

“ On the first there exists in some quarters an opinion that it is not necessary to provide for the grant of compensation at all, the fiscal interest in the manufacture of salt being so preponderant that the industry must be held to be created and carried on by the mere license and at the discretion of Government; and therefore that no vested interest in it should be recognized. This is the extreme view, which can hardly, I think, be supported by argument, but which, at any rate, is completely negatived by the history of the manufacture. Salt was manufactured, and a tax imposed on it in various ways, long before the Government monopoly was established. When this was done by Regulation I of 1805, the right to compensation was expressly conceded by section 5 of the Regulation, not only to those manufacturers who possessed mirasi or proprietary right, but also to those who were classed as laborers for hire, and not only in the case of suspension of manufacture, but also in that of limitation of production. The compensation was to be based on the manufacturer's share or earnings during the five years prior to the Regulation. Compensation for limitation of production soon became obsolete because never capable of being claimed, but the right to it for closure has always admittedly existed in all pans which date from 1805 or earlier. This was the view of the Salt Commission of 1876, who specially investigated the question. The great majority of the factories now working have existed since 1805. Most of the others are nearly as ancient, and everywhere pans have become so assured and valuable a property as to change hands at high prices; and in such cases prescription furnishes nearly as strong a claim as express enactment. The Salt Excise Act of 1871 recognises the right in case of closure of excise factories as allowed by the Bill. Mr. Bliss, whom no one will accuse of a prodigal admission of claims on the revenue, in submitting his draft Bill, wrote as follows (*vide* para. 10 of his letter printed in G.O., 7th March 1888, No. 20, Legislative):—

“ ‘ The Salt Commission held generally in 1876 (*vide* paragraph 140 of their report) that the right to compensation, in the event of their pans being closed by Government, could accrue only to those manufacturers whose pans were in existence

in 1805 and had since been continuously kept open and at work. Legally, perhaps, they were right, but I think their finding was a hard one. A man whose pans have been worked for thirty or forty years by himself and his predecessors in title may not have a legal, but he certainly has a moral, right to compensation, if they are closed by orders of Government because their existence causes what happens now to be considered undue expense or seems to stand in the way of some administrative improvement; and even the manufacturer of five or six years' standing may claim some consideration for capital sunk and expectations disappointed.’

“ Mr. Bliss' Bill, as I understand it, provided for the closure at will of any factory or portion of a factory, and for the grant of compensation in all cases of closure of a monopoly factory or of an excise factory producing more than 25,000 maunds a year. His scale of compensation ranged from four to ten years' purchase of the assumed profits, according to length of occupation. The Select Committee simplified the scale by adopting five years' purchase in all cases. I have now proposed a further amendment which will meet the views expressed by certain dissentient members of the Committee and by the Government of India in a letter recently received as to the excess amount allowed in the Bill to excise licensees. Under my amendment the rate will be the same in all cases. There was another point on which there was some difference of opinion in the Committee, viz., whether compensation should be given when licenses are cancelled on non-acceptance of new conditions inserted in the licenses or of a change of system. It was thought that compensation in these cases involves unnecessary demands upon the revenue, and my Hon'ble friend Mr. Boyson has recorded his opinion that changes of so slight a character should not be held to warrant a man in refusing the new license or to found a claim for compensation. But the majority of the Committee, with whom I agree, were of opinion that even a change in the conditions of a license and certainly a change in the system of manufacture might so revolutionize the circumstances of the industry that the relinquishment of the license in either case ought to be considered to be a forced one, and therefore that the regulated compensation should be paid. The scale is based on a very low valuation of profit and the grant of compensation will involve little, if any, loss to Government, because the Commissioner will always be able to realize, on the sale of the works placed at his disposal, more than he will have to pay as compensation to the outgoing licensees. Personally, I am partial to the compensation clauses, as I think changes of the kind in question very undesirable and I am glad of anything which will force the Government to think twice before resolving to introduce them. But subject to the grant of compensation, I think it is essential that Government should have power to close factories at discretion, and this includes, as the greater does the less, the power to change the system of manufacture at will.

“ I now turn to the treatment of the salt-earth question, which is dealt with in paragraph 2 of the Select Committee's report. We have positive instructions from the Secretary of State to relax the stringency of the law in regard to the use of salt-earth for innocent purposes. Such relaxation is naturally regarded with distrust and apprehension by officers of the Salt Department; but I do not share those feelings, and I am entirely in favor of the policy prescribed to us. I believe that a preventive system, such as now exists for the protection of the Salt revenue, is quite unnecessary and unremunerative in a large portion of the country, and I consider that even were it shown to do more than pay its cost, and even though it be administered, as I am satisfied it now is, in such a way as to reduce the evil of it to a minimum, still revenue is not everything, and any that may accrue from the employment of a preventive force may be too dearly purchased. The fact that salt-earth is now everywhere contraband is the

base of the present system of occupying the whole country with a preventive force. Under the Bill salt-earth is to be contraband only in specially declared areas, and the first thing the department will have to do if the Bill passes will be to satisfy the Government as to the necessity of continuing to treat salt-earth as contraband in all the circles now occupied. I fully admit the necessity of special prevention in many parts of the country, especially along the coast, and my view is that in such parts the stronger and more certain the law is the better. We have endeavoured to improve the certainty of the law by making the definitions clear and comprehensive and by getting rid of abstract terms which have been found to create difficulty with the courts; but we have felt constrained even where salt-earth is to be contraband to provide for its legitimate use, under the special exception in section 74, clause (b). Under section 105 of the Evidence Act, the burden of proving this special exception will rest with the accused. We have been assured, on the high legal authority of some of the members of the Select Committee, that this point is perfectly clear and that the burden cannot be shifted to the prosecution. This entirely meets objections based on the difficulty of proving intent and we can hardly go further than to provide as we have done, that the mere possession of salt-earth shall be an offence unless the possessor proves that it is for an innocent purpose. With these observations, my Lord, I move that the Bill, as amended by the Select Committee, be taken into consideration."

The Hon'ble MR. STOKES then moved the first amendment—in section 3, clause (b), line 4, to insert after the word "made" the words "or produced." He said that this amendment had been suggested by an officer of the Salt Department to meet the case of brine formed in a salt swamp after a shower of rain.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble MR. STOKES moved the second amendment, which was in section 3, clause (c), line 2, to omit the words "naturally impregnated with or." He observed that these words were redundant and that a difficulty might arise as to the meaning of "impregnated." The words "naturally containing" were, he thought, sufficient.

The Hon'ble V. BHASHYAM AIYANGAR seconded this amendment, which was put to the Council and carried.

The Hon'ble MR. STOKES moved the third amendment, viz., in section 3, clause (f), line 2, after the word "collection" to insert "removal," and in line 6, after "or" to insert "from." He remarked that the insertion of the word "removal" was necessary to meet the case of a person carrying off salt-earth already collected or excavated. The amendment in line 6 was merely a verbal one.

These amendments were seconded by the Hon'ble V. BHASHYAM AIYANGAR, were put to the Council and carried.

The Hon'ble MR. STOKES then moved the fourth amendment, viz., in section 3, to insert after clause (g) the following words:—

"(h) 'Inspector' means an officer in charge of a circle, and includes any officer who may be specially invested by Government with the powers of an Inspector under this Act;" and to re-letter the following clauses of the section.

He said:—"In many cases of late the senior and best qualified of the Assistant Inspectors who have passed the full tests in law have been vested with the powers of Inspectors and allowed to deal with Salt cases under Act I of 1882, and the measure has

been found of great benefit both to the people and to the administration in expediting the disposal of those cases. The Select Committee altered the wording of several sections in chapter VI to meet the case of an Assistant Inspector in charge of a circle, but the advisability of so framing the law as to admit of selected Assistants exercising the powers, even though the Inspector be present in the circle, has been suggested to me by Mr. Bliss. Assistant Inspectors are a well-paid and superior class of men, and many of them may safely have these powers. Hence I have adopted Mr. Bliss' suggestion and propose to insert this definition. It will entail no less than fourteen verbal amendments in subsequent clauses."

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble MR. STOKES moved the fifth amendment, viz., in section 3, clause (h), to add at the end the following words "as defined from time to time by the Governor in Council, but does not include a warehouse appointed or licensed under the Sea Customs Act, 1878." He thought it would be well to provide for a mode of definition of factory limits. The clause excluding Customs warehouses was suggested by the Government of India; such warehouses would be regulated by the Customs law.

The amendment, which was seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble MR. STOKES, in moving the sixth amendment, said:—

"The term 'monopoly' has sinister associations connected with it and is a complete misnomer as applied to manufacture of salt on account of Government as now existing. The term 'excise' is becoming exclusively appropriated to the revenue from spirits and intoxicants. The desirability of getting rid of these terms was felt by the Select Committee, but no substitutes other than cumbrous phrases suggested themselves. The expressions 'sale on account of Government' and 'general sale' have been proposed by the Government of India, and on going through the Bill it seemed to me that they would answer very well. Hence I propose to strike out the definitions of the monopoly and excise systems. The changes entail subsequent amendments."

The Hon'ble MR. STOKES then moved, in section 3, to strike out clauses (m) and (n) and re-letter the remaining clauses of the section.

The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble MR. STOKES moved the seventh amendment,—in section 5, line 9, to omit the word "fine" and to add at the end of the section:—"The Governor in Council may delegate any of his powers under this section to the Commissioner." He said that the first part of this amendment was proposed in deference to Mr. Bliss, who thought it derogatory to such high officers as were named in the section to provide by law for fining them. The delegation provided for in the second part was necessary because all transfers of Inspectors were ordered by the Commissioner though these officers were appointed by Government.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble MR. STOKES then moved the eighth and ninth amendments, viz.—

In section 10, for "under the monopoly system," to read "for sale to Government," and for "under the excise system" to read "for general sale;" and

in section 11, for "under the monopoly system" to read "for sale of salt to Government," and for "under the excise system" to read "for general sale of salt."

He explained that these amendments were consequent on the sixth amendment.

The amendments, being seconded by the Hon'ble V. BHASHYAM AIYANGAR, were put to the Council and carried.

The Hon'ble MR. STOKES moved the tenth amendment, viz., in section 10, line 5, for "July" to read "June," and in line 10 of the same section, to read for "January" "December," and observed:

"The dates in the Bill were fixed because it was thought that nowhere would manufacture begin before 1st January. Mr. Bliss, however, points out that sometimes in the northern factories, under stress of heavy demand, it begins in December. I therefore propose to put the dates back a month."

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, and on being put to the Council was carried.

The Hon'ble MR. STOKES then moved the eleventh amendment, viz.—

In section 16 for "previous licensee," wherever it occurs in this section, to read "late licensee;"

in clause (a), line 14, for "such value," to read "value thereof;" and

in the proviso, for "no such compensation," to read "no compensation under late this section."

He observed that the first two were merely verbal amendments, and that the third was intended to make it clear that the proviso referred to the whole section.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, and, being put to the Council, was carried.

The Hon'ble MR. STOKES moved the twelfth amendment, viz., for section 18, to substitute the following:—

"The compensation payable under section 16 to a licensee shall be at the rate of 4 annas for every maund of salt in the average quantity annually stored in the salt works to which the license cancelled or relinquished relates. In the case of a license to manufacture salt to Government, such average quantity shall be calculated on the number of years in which the salt works have been worked during the five years last preceding. In the case of a license to manufacture salt for general sale, such average quantity shall be calculated on the period not exceeding five years last preceding during which the license has been in force."

He said:—"This amendment is an important one. I have already in my general remarks referred to it as equalizing the rate of compensation in excise and monopoly factories—if I may still use the old terms—as contended for by the Hon'ble Messrs. CHENTSAL RAO and BOYSON. The Government of India have also expressed a wish that the provisions of the Bill upon this point may be reconsidered. The average scale suggested by the Hon'ble Mr. BOYSON involved ascertaining the productive powers of the pans, and, proceeding by jumps, allotted the same amounts to pans of widely differing fertility. Instead of it, I think, it is simpler and more equitable to fix a rate per maund of the actual produce stored. The Select Committee considered the five years' purchase of half the *kudivaram* or monopoly ryot's share to be a fair amount. Now this average *kudivaram* on the East Coast in the time of the Salt Commission of 1876 was just under 1½ annas per maund. Half of this multiplied by 5 gives 45 pies, and as *kudivaram* might have slightly increased up to, and but for, the

change to excise which has been almost universal, I proposed to take a round rate of 48 pies or 4 annas per maund in the average produced, calculated as settled by the Select Committee."

The Hon'ble MR. BOYSON said he had no remarks to offer on this amendment. The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble MR. STOKES then moved, in Chapter III, Part II, Heading, for "under the monopoly system" to read "for sale to Government," and in section 21, line 3, for "worked under the monopoly system," to read "or portions of factories worked for sale of salt to Government." He said that these amendments, the thirteenth and the fourteenth, were consequent on the sixth, and that the reason for inserting "portions" was to provide for certain existing cases. The amendments, having been seconded by the Hon'ble V. BHASHYAM AIYANGAR, they were severally put to the Council and carried.

The Hon'ble MR. STOKES moved the fifteenth amendment, which was, in section 22, line 5, to strike out the words "at each factory," which, he said, were unnecessary.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council, and carried.

The Hon'ble MR. STOKES then moved the sixteenth amendment, viz., in section 23, line 9, for "within the limits of the factory" to read "for the factory or for the salt-works of the licensee;" and in line 10 of the same section to omit the words "and to keep the fences round the factory in repair to the satisfaction of the Commissioner." He said:—

"It is represented that the words proposed to be left out might cause difficulty when the conditions require that the salt shall be stored at a distant place. Hence the amendment, and I have settled the amended words so as to enable the Commissioner to require salt from particular works to be taken to particular platforms. The omission of the clause relating to fences is because monopoly licensees are not, I am informed, now required to keep them in repair."

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, and, on being put to the Council, was carried.

The Hon'ble MR. STOKES then moved,—in Chapter III, Part III, heading, for "under the excise system" to read "for general sale," and in section 26, line 3, for "worked under the excise system" to read "or portions of factories worked for general sale of salt." He said that these amendments, the 17th and 18th, were consequent on the 6th, and were for the same reason as the fourteenth.

The amendments were seconded by the Hon'ble V. BHASHYAM AIYANGAR, and on being severally put to the Council were carried.

The Hon'ble MR. STOKES then referred to the nineteenth amendment, viz.,—in section 29, line 6, for the words "set apart for the storage or keeping of salt within the limits of the salt factory" to read "appointed by the Commissioner for the storage or keeping of salt for the factory or for the salt works of the licensee," and at the end of the section to add "or may sell or destroy salt so left unprotected or unstored." He said that this amendment was similar to the 6th and proposed for similar reasons. It had been represented by the Department that the Commissioner should have not less power in regard to salt not re-heaped than he had under the following section in regard to sifted or refuse salt, that the power to deal with the

salt was much more wanted in the former case, and that power to sell was especially needed. His amendment was therefore prepared, but he thought that the words added should come after the word "required" instead of at the end of the section, and, with permission, he would so propose it. The power would then be substantially the same as that in section 30.

Permission was given, and the amendment as altered was seconded by the Hon'ble V. BHASHYAM AIYANGAR, and on being put to the Council was carried.

The Hon'ble MR. STOKES moved the twentieth amendment, viz., in section 30, line 6, to omit the words "within the limits of the salt factory." He said that the reason for this amendment was the same as that for the 16th and the 19th.

The amendment, being seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble MR. STOKES then moved the twenty-first amendment, viz., in section 31, line 9, to insert after "used" the words "or intended to be used," and to add at the end of the section "or for the supply of brine." He explained that the first portion of the amendment was necessary, because new works were to be constructed as well as old ones maintained. The addition at the end was, he said, evidently important and proper and had been suggested by Mr. Willock.

The amendment, being seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble MR. STOKES then moved the twenty-second amendment, viz., in section 33, line 1, for "licensee and every purchaser of salt" to read "person." He said this amendment was made at Mr. Bliss' suggestion, so as to include the servants or agents of parties. Joint application for permits could, he said, be provided for in the rules made under sections 43 and 85.

The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble MR. STOKES then moved the twenty-third amendment, viz., in section 33, line 7, for "by the licensee and bought by the purchaser" to read "and the full consideration given therefor." In explanation of this amendment, he alluded to a practice which was stated to be growing up of purchasers and licensees understating the price and making it up by alleged contribution for public or other objects. He said that the section lost much of its importance by the amendment of section 16 whereby compensation no longer depended on the price of the salt. It was also weakened against understatement of the price which was no longer against the interest of the licensee: the amendment might, however, still be useful.

The Hon'ble V. BHASHYAM AIYANGAR desired to modify this amendment by inserting after the word "given" the words "or agreed to be given." This was accepted by the Hon'ble the Mover, and the amendment as altered having been seconded by the Hon'ble V. BHASHYAM AIYANGAR, it was put to the Council and carried.

The Hon'ble MR. STOKES then moved the twenty-fourth amendment, viz., in section 43, clause A, for "under the monopoly system" to read "on account of Government," and in the same section, clause B, for "under the excise system" to read "by or on account of a licensee under section 10 (ii)." He said that this amendment was consequent on the 6th.

The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble MR. STOKES moved the twenty-fifth amendment, viz., in section 47, line 25, to omit the words "and may then summon in writing the officer in charge of the Police station within whose jurisdiction the place to be searched is situate to attend him," and in line 30 to omit the words "in the presence of such officer." He said he proposed this amendment at Mr. Bliss' suggestion, who had said with truth that Inspectors and Assistant Inspectors of the Salt Department drew many times the salary of a head constable and were of a status far higher and ought not to be compelled to call in and wait for a station officer. They were not compelled to do so in similar cases under the Abkari Act. The consequent delay was also often prejudicial to discovery.

The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble MR. STOKES then moved the following amendments numbered respectively 26, 27, 28, 29, 30, 31, 32 and 33:—

In section 47, last line, for "officer in charge of the circle" read "Inspector."

In section 53, line 7, for "officer of the Salt Department in charge" read "Inspector," and in line 9 for "officer" read "Inspector."

In section 54, line 6, for "officer of the Salt Department in charge" read "Inspector."

In section 55, line 5, for "officer of the Salt Department in charge of a circle" read "Inspector," and in line 7 for "officer" read "Inspector."

In section 56, line 10, for "officer of the Salt Department in charge of a circle" read "Inspector."

In section 57, line 4, for "officer of the Salt Department in charge of a circle" read "Inspector," and in line 6, for "officer" read "Inspector."

In section 58, line 1, for "officer in charge of a circle" read "Inspector," and in line 8 for "officer," read "Inspector."

In section 64, line 1, for "officer of the Salt Department in charge of a circle" read "Inspector," and in line 8 for "officer" read "Inspector."

The Hon'ble MR. STOKES said that these amendments were all consequent on the fourth. They were seconded by the Hon'ble V. BHASHYAM AIYANGAR, and on being severally put to the Council were carried.

The Hon'ble MR. STOKES moved the thirty-fourth amendment, viz., in section 64, line 15, after "article" to insert "or samples." He observed that it was unnecessary to forward the whole of, for example, a cart-load of salt-earth: samples were referred to in section 67.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble MR. STOKES then moved the thirty-fifth amendment—in section 65, line 1, for "officer" to read "Inspector." He remarked that this amendment was also consequent on the fourth.

The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble MR. STOKES moved the thirty-sixth amendment, which was,—in section 66, line 4, after "detained" to insert "in custody;" in line 9 for "any" to read "a;" and in line 12 for "officer of the Salt Department in charge of the circle"

to read "Inspector." The first portion of this amendment was, he said, proposed for greater clearness only, and the second portion was consequent on the fourth amendment.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council and carried.

The Hon'ble Mr. STOKES then moved the thirty-seventh and thirty-eighth amendments, viz., in section 67, line 6, and in section 69, line 9, for "officer of the Salt Department in charge of a circle," to read "Inspector." He said that these amendments were consequent on the fourth. They were seconded by the Hon. V. BHASHYAM AIYANGAR, and on being severally put to the Council were carried.

The Hon'ble Mr. STOKES, in moving the 39th amendment, said: "The vagueness of the words 'or similar purpose' in section 74 (b) has been objected to and fears have been expressed lest they might be held to include the use of salt-earth in fish-curing and thus endanger the great industry which has been created and fostered by the issue of salt duty free for that purpose. I think the latter apprehension is unfounded, but I admit the vagueness of the words in this Bill, and as I am not aware of any innocent purpose which it is necessary to safeguard and which is not included in the terms 'agricultural and building purposes,'—none were suggested in the discussion in the Select Committee.—I have proposed the amendment on the paper."

The Hon'ble Mr. STOKES then moved, in section 74 (b), line 1, for "building or similar purpose" to read "or building purposes."

The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble Mr. GARSTIN intimated that he proposed to withdraw the amendment standing in his name in favor of that of which notice had been given by the Hon'ble Mr. BOYSON, who said that it had been pointed out to him by those whose experience and practical knowledge of the Salt Administration rendered them competent judges that this section if passed in its present form would lead to results which he thought should be obviated if possible. It had been pointed out that the difficulties of the Salt executive in detecting and punishing illicit manufacture would be seriously increased when this Bill became law owing to the alleged facilities it would afford for illicit operations, and that unless some facilities were given to the executive for checking these operations, greater stringency in all precautionary measures, and especially in that most objectionable of all forms of oppression, domiciliary visits, would be inevitable. It was with the view to diminish these difficulties and mitigate this form of oppression that he brought forward this amendment. Having served on the Select Committee, he was well aware of the careful and exhaustive consideration the Bill had received, and on the question of salt-earth he was in accord with the conclusions of the Hon'ble Member in charge of the Bill. It would probably be said that the amendment was opposed to the principle of the Bill. This might be so to a slight extent, but the circumstances justified the slight violation of principle. The ruling motive was to modify the unfortunately necessarily oppressive character of the Bill and to render the life of the people subject to it as free as possible from unnecessary interference and oppression. Imposing the slight restriction that notice of intention to excavate should be given and permission obtained from the head of a village would not inflict an unreasonable hardship on the *bona fide* excavator, while it would relieve him from petty annoyance, inconvenience and oppression to which without it he would probably be subjected. Of course, any form of restriction was objectionable, but the Bill bristled with restrictions. Being a measure for the collection of

revenue, very drastic powers were conferred for the purpose. They might be wisely administered and so do no harm, but the reverse was possible, and then the only hope was that cases of oppression would become so frequent as to attract the notice of the public and of Government and so lead to amendment. On the grounds that it would impose no very harmful or onerous burden on honest people, whom on the other hand it would relieve from more serious evils and inconveniences, that it would deter the dishonest and lessen the risk of people being allowed to dig for salt earth ostensibly for agricultural or building purposes but really for illicit purposes, and that it would facilitate the work of the Salt executive and enable it to carry out with the minimum of severity the precautions and duties the law laid down for the protection of the revenue, he moved the amendment, of which he had given notice, namely:—

"In section 74 (b), as amended, for 'or building purposes,' read 'building or similar purposes under a permit granted by the Head of a village.'"

The Hon'ble Mr. GARSTIN said:—

"I beg to second the amendment. I consider the amendment of the Honorable Mr. BOYSON a good and reasonable one, and not opposed to the policy of the Bill. I am entirely in favour of that policy, as laid down by the Secretary of State, of protecting persons in the use of salt-earth for purposes which the Government have no real intention of preventing. I think the clause, as amended by the Select Committee, is rather too widely worded because it includes an exemption in favour of persons using salt-earth for building purposes. In all my experience I have never met a case of any one using salt-earth for building purposes, and though I am informed that it is used in the Bellary district to put on the roofs of houses, I do not think that is a sufficient reason for sanctioning its use for building purposes throughout the whole of the rest of the Presidency where the practice does not prevail. It is almost tantamount to suggesting to persons inclined to defraud the revenue an excuse for gathering salt-earth with impunity, which is really only required by them in order to make contraband salt from it. Personally, I should have preferred to see the words "or building" omitted from the clause altogether. The Government could then have met the case of the Bellary practice by declaring the whole or certain portions of that district exempt from the operations of the clause, or by an executive order have forbidden Salt officers from interfering with the gathering of salt-earth for buildings in that district. The amendment of my honorable friend will, however, do very much the same by putting a check on the improper collection of salt-earth ostensibly for agricultural or building purposes, but in reality for the purpose of defrauding the revenue, and it will have this good effect that whenever a man can produce the permit of the head of his village for the possession of salt-earth, the Police will desist from searching his house, and this will prove a great boon to the people and a relief to the Police."

The Hon'ble Mr. STOKES said:—

"I regret that I am unable to accept the amendment which the Honorable Mr. BOYSON has moved and my honorable colleague seconded, because I think that it will unduly restrict the relaxation of the stringency of the law, and the protection to the innocent use of salt-earth, which it is incumbent on us to secure in accordance with the wishes of the Secretary of State. Both Honorable Members put forward their amendment ostensibly on the ground that it will reduce the oppressive character of the law and relieve the ryot from the surveillance of the Salt Police. But it is evident that the amendment will in fact have an opposite effect. Anything which restricts the scope of the special exception in the clause must have such effect, and so far

from reducing searches or domiciliary visits, it will necessitate still more careful watch over the use of salt-earth for agricultural or building purposes. As regards the remarks of the Hon'ble Mr. GARSTIN as to the use of salt-earth for building, it is unquestionable that salt-earth, if not of the kind most dangerous to the revenue, at any rate salt-earth within the meaning of the definitions in the Bill, is used for building purposes in the Bellary district and possibly elsewhere: and the use of it is as innocent and as much entitled to protection as that for agricultural purposes. If the Salt Department is, or is to be, restrained by executive order from interfering with the use of such salt-earth for these purposes, the conversion of the executive order into a direction of law cannot be objected to. Nor do I think that a use admittedly innocent should be trammelled by the necessity of obtaining permission from any public officer. Is it intended that the head of the village before granting the permit is to satisfy himself by inquiry as to the innocent intention of the applicant? If so, I object to the tribunal. I don't think a village munsif ought to exercise this function, for though, no doubt, likely to possess special knowledge in the matter, he is also likely to dispose of applications rather with reference to departmental orders than to the merits of the case. Or is it to be the rule that the permit is to be given without inquiry and merely for the asking, in order to provide a means of giving notice to the department so that the applicant may be watched? I don't think it is either necessary or expedient that a person using salt-earth for these purposes should be subjected to such watch. Nine-tenths or more of the persons who may take earth for these purposes will be ignorant of this requirement of the law, and if prosecuted the fact that they have not complied with it will ensure their conviction, by depriving them altogether of the benefit of the special exception. On the other hand, to those who want to defraud the revenue by making salt, nothing would be a greater protection than a permit so easily obtained. There is a further objection which, I think, may fairly be urged against the proposal, viz., that it would practically enable the Executive Government to regulate the use of salt-earth; because the Government has power under the Bill to prescribe the conditions to be inserted in permits granted under it, and would be able to put upon the use of salt-earth any regulations or restrictions they please in this roundabout way. But I hold that whatever rules or restrictions are to be imposed in this matter should be carefully fixed and settled in the law itself, and should not be left directly or indirectly to the discretion of the executive. I could cite some conspicuous examples of the evil of leaving matters to be settled under a power to make rules, which are apt to be ill-drawn, to go beyond the power given, and to make law as well as define procedure. I therefore oppose the motion and shall vote against it."

The Hon'ble Mr. BHASHYAM AIYANGAR said:—

"I too am entirely opposed to the amendment. The exception contained in the clause of the section under consideration was specially proposed in order to save the cases of poor persons ignorant of the law who use salt-earth for building and other similar purposes. In the protection of the revenue, the legislature must run the risk of bearing hardly on the ignorant, but the Select Committee came to the conclusion that where salt-earth is used for agricultural or building purposes, its use need not be made penal. If a further exception is to be grafted on this exception, the practical result will be that ignorant persons who use salt-earth will not know the law and will render themselves liable to punishment, merely by omitting a formality. There is also the possibility that the amendment will open the door to exaction. The village head, whether any fee is fixed for the grant of this license or not, will require one, and the payment of this fee will become customary. But there is another objec-

tion which must be urged in the interests of the revenue. The effect of the special exception which is created by the clause as it now stands is to throw on the accused the burden of proving that he comes within it. If, however, the amendment proposed is adopted, the case will be altered. Directly a permit from the head of a village is produced by an accused, nothing more will be needed, or at least the onus will be shifted to the prosecution of proving that the salt-earth was not used for the purposes for which the permit was granted. The law will practically then stand—'Whoever without a permit excavates, collects or possesses,' &c. The introduction of such an amendment will necessitate further changes in the Bill and it will need to be generally reconsidered. I am therefore opposed to the amendment."

The amendment of the Hon'ble Mr. BOYSON was then put to the Council and lost, two voting for it and seven against it.

The Hon'ble Mr. STOKES then moved the fortieth amendment, viz., in section 76, line 6, after "enters" to insert "for purposes of search." He said that these words seemed necessary and as such had been suggested by Mr. Merriman.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR and on being put to the Council was carried.

The Hon'ble Mr. STOKES moved the forty-first amendment, viz., in section 77, line 6, for "officer in charge of the circle" to read "Inspector." He said this was also consequent on the fourth amendment.

The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble Mr. STOKES moved the forty-second amendment, viz., in section 84, line 5, to omit the words "retained and," which, he said, were redundant.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, was put to the Council, and carried.

The Hon'ble Mr. STOKES then moved the forty-third amendment, viz., in section 84, line 10, after "control" to insert "or may be recovered by the Commissioner by attachment and sale of salt belonging to such person and remaining within the limits of a factory." He said that the section had been drawn chiefly with reference to manufacture for sale to Government, under which system the Commissioner usually had *kudivaram* to pay, from which demands against the ryot could be stopped. But though such demands had frequently to be recovered in general sale factories, there was no such source from which they could be recovered and a summary process against the salt of the licensee which was in the possession of the Commissioner seemed proper to be granted.

The Hon'ble V. BHASHYAM AIYANGAR seconded the amendment, which was put to the Council and carried.

The Hon'ble Mr. STOKES then moved the forty-fourth and last amendment of which he had given notice, viz., in section 85, clause (f), line 4, for "officer of the Salt Department in charge of a circle" to read "Inspector." This, he said, was consequent on the fourth amendment.

The amendment was seconded by the Hon'ble V. BHASHYAM AIYANGAR, and on being put to the Council was carried.

The Hon'ble Mr. STOKES then said:—

"I have now to ask Your Excellency to take what, though it is on the face of the rules an exceptional course, has yet become almost the customary one, viz., to suspend

the Standing Orders to enable me to move that the Bill as amended may be passed into law. I submit that the amendments which have been made to it at this sitting, though numerous, are none of them of principle, and no opposed amendment has been passed. The Select Committee's Report and the Bill as revised have been before the Council and the public for six months and ample time has been allowed for the preparation and consideration of amendments to it. There seems no reason to defer its final passing, and I hope Your Excellency will see fit to allow the last stage of it to be now taken."

His Excellency the PRESIDENT then directed that the Standing Orders be suspended.

The Hon'ble MR. STOKES then moved that the Bill, as amended, be taken into consideration and passed into law.

The Hon'ble V. BHASHYAM AIYANGAR seconded the motion, which was put and carried, and the Bill passed by the Council.

THE TOWNS NUISANCES BILL.

The Hon'ble MR. STOKES said:—

YOUR EXCELLENCY,—“I present the report of the Committee on the Towns Nuisances Bill, and move that the Bill be now taken into consideration.

“The chief amendment which I propose has suggested itself in connection with a ruling of the High Court passed since the Committee reported. Section 261 of the Code of Criminal Procedure enables the Local Government to empower Benches of Magistrates with second and third class powers to try summarily certain offences, and among them offences under conservancy clauses of Police Acts. It has been held that the whole of section 48, Act XXIV of 1859, comes within this description, and it is important that the summary jurisdiction in these cases should be preserved. We are now proposing to replace section 48 by clauses dealing with the same or similar offences; and unless these clauses are connected with and made part of Act XXIV of 1859, Bench Magistrates cannot be empowered to try them summarily. I therefore propose to recite that this is an Act to amend Act XXIV of 1859 and to declare by a new section that sections 3 and 4, which correspond with section 48, shall be read with and form part of that Act. Section 48 is repealed absolutely in order that all the notifications extending it from time to time may be swept away and replaced, if needful, by notifications under section 1 of the Bill.

“I propose to transpose the words added by the Select Committee in clause 8, section 3, so that it may be clear that they apply to the whole section.

“The section in the Madras Cantonments Act provides for the extension of section 48 of the Police Act, and was overlooked until it was pointed out by my Honorable friend, MR. BHASHYAM AIYANGAR. The clauses of this Act can, of course, be extended to such areas under section 1.

“I wish now to refer to the petition regarding this Bill which has been just read by the Assistant Secretary. The petition deals with two matters,—(1) diseased and maimed animals wandering about a town which ought to be destroyed or medically treated, and (2) cattle let loose at night to wander about and pick up food by the wayside, many of which are said to be dangerous. I have not thought it advisable to deal with either of these matters in the Towns Nuisances Bill. The first would obviously require that a skilled agency for the examination and treatment of the animals

ould be provided and infirmaries set up; but this cannot possibly be done at present. to the second, I doubt whether it is a nuisance or a source of danger to any one. hat really prompts this petition is, I suspect, the grievance of persons who have t gardens or plants in inefficiently fenced compounds and who suffer from the tress of stray animals. These persons had better try other remedies before invoking gislation.”

The Hon'ble MR. STOKES then moved the following amendments, which were condoned by the Hon'ble V. BHASHYAM AIYANGAR, and were adopted unanimously, z.—

- (1) Preamble, line 1, after the word “to” insert “amend Act XXIV of 1859 and to.” Line 2, for “amend” read “improve.”
- (2) In section 3, clause (8), transpose the words “so as to cause annoyance” so that they may follow the word “whoever.”
- (3) After section 10, add the following:—
11. “Sections 3 and 4 of this Act shall be read with, and form part of, Act XXIV of 1859.”
- (4) In the schedule, insert the following:—

Number and year.	Subject.	Extent of repeal.
* Madras Act I of 1866 *	* Cantonments *	* Section 13. *

The Hon'ble V. BHASHYAM AIYANGAR proposed that in section 9, line 1, of the Bill, after “Magistrate” the words “other than the head of a village” should be inserted.

The Hon'ble MR. STOKES seconded the amendment, which was put to the Council and carried.

The Hon'ble the RAJAH OF VENKATAGIRI said:—

“I think an amendment is needed in clause 10, section 3, of the Bill, which makes it an offence to be a spectator of cock-fighting in a public street. It is hard that an innocent passer-by who merely stops out of curiosity to join a crowd that has gathered round a cock-fight should be punished with a heavy fine. I move, therefore, that in line 6, clause 10, of section 3, for the words ‘present as spectator’ the words ‘taking part in’ be substituted.”

The Hon'ble MR. BOYSON seconded the amendment.

The Hon'ble MR. STOKES said that he had no other objection to the proposed amendment than that clause (10), as it stood, was already the law in Madras town, and that people who were present at brutal pursuits of this kind must, by so doing, be taken to encourage them.

The Hon'ble V. BHASHYAM AIYANGAR thought that the same advanced ideas could not be expected to prevail up-country as might be presumed in the Presidency town, and he therefore thought the amendment a not unreasonable one.

The Hon'ble MR. STOKES then withdrew his objection to the amendment, which was thereupon put to the Council and carried.

THE TOBACCO DUTIES BILL.

The Hon'ble the RAJAH OF VENKATAGIRI said :—

"I wish to propose another amendment in connection with section 3 of the Bill. Clause (11) of that section imposes a penalty on whoever, having the care or custody of any child under seven years of age, omits to prevent such child from committing a nuisance in a public street, &c. I think the measure is unduly severe upon poor people having the care of young children, who may find it difficult to look after them. A child going to play, for instance, in the street, and easing itself there, may do so without any wilful negligence on the part of its guardians; nevertheless, under the law as at present enacted, the latter would be liable to a penalty. I therefore move to provide for such cases, that the word 'wilfully' be inserted before 'omits' in line 7, clause (11), of section 3."

The amendment was seconded by the Hon'ble MR. BOYSON.

The Hon'ble MR. STOKES remarked that the objection he had first expressed in regard to the amendment in clause 10 would also apply here, namely, that the clause which it was proposed to amend was already the law in Madras town.

The Hon'ble V. BHASHYAM AIYANGAR opposed the amendment on the ground that the existing provision would put a wholesome pressure on the guardians of children, and that the object of the enactment would thereby be better secured than if the amendment were adopted. The amendment was thereupon put to the Council and was lost.

The Hon'ble the RAJAH OF VENKATAGIRI said that there was another point to which he wished to draw attention, viz., that referred to in the letter* to Government, No. 771, dated 23rd February 1889, of Mr. Wynne, Collector of South Canara. For the reasons there given by Mr. Wynne, he thought that the provisions of clause 1, section 4, of the Bill should be limited to wells, &c., adjoining public thoroughfares, and he moved to insert those words.

The Hon'ble MR. STOKES said that Mr. Wynne's letter had been carefully considered by the Select Committee and that he could not accept the amendment.

The amendment, not being seconded, was lost.

The Hon'ble MR. STOKES then applied for the suspension of the Standing Orders with a view to the Bill, as amended, being considered and passed at once by the Council.

His Excellency the PRESIDENT then directed that the Standing Orders be suspended.

The Hon'ble MR. STOKES then moved that the Bill, as amended, be taken into consideration and passed into law.

The Hon'ble V. BHASHYAM AIYANGAR seconded the motion, which was put and carried, and the Bill passed by the Council.

THE TOBACCO DUTIES BILL.

The Hon'ble MR. STOKES said :—

"MY LORD,—I now introduce the Bill to make provision for the levy of tobacco duties in the City of Madras. The Statement of Objects and Reasons sufficiently explains the purpose and scope of the Bill. The statistics put before Government

* Vide G.O., 15th March 1889, No. 7, Legislative.

THE TOBACCO DUTIES BILL.

showed that the tax is likely to produce a sufficient revenue even if levied at less than the maximum rate, and the special taxation of what most people call a luxury and some a vicious luxury—though to some of us it is a necessary—is not likely to be objected to. I propose that the Bill be referred to a Select Committee to consist of—

Hon'ble MR. GROSE,
 " MR. BHASHYAM AIYANGAR,
 " MR. BOYSON,
 " MR. SANKARA NAYAR,
 and the Mover."

The Hon'ble the ADVOCATE-GENERAL having seconded the motion, it was put to the Council and carried.

The Council then adjourned *sine die*.

(By order.)

FORT ST. GEORGE,
 5th November 1889.

A. G. CARDEW,
 Under Secy. to Govt., Legislative Dept.

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" " (moves amendments in the,)	"		ib.
" " (applies for suspension of Standing Orders)	"		ib.
" " (moves that the, be passed)	"		21
Tobacco Duties Bill introduced	"		21
" " (moves that the, be referred to Select Committee.)	"		
SURRAHMANYA AIYAR, THE HON'BLE S.—			
Malabar Evictions Bill (presents Select Committee's report) ..	1888.		7
" " (moves that the, be referred back to the Select Committee)	"		8
City Police Bill (debate on amendments)	"		10
V.			
VENKATAGIRI, THE HON'BLE THE RAJAH OF—			
Takes his seat as an Additional Member	1888.		13
Madras Village Courts Bill (proposes amendments)	"	15, 17	18
Towns Nuisances Bill (proposes amendments)	1889.		19, 20
VILLAGE COURTS BILL—			
Introduced	1888.		1
Referred to the Select Committee for report	"		6
Select Committee's report presented	"		14
Debate on amendments	"	14, 15, 16	17, 18
Bill passed	"		18
Governor-General's assent communicated to the Council	1889.		1
VILLAGE KARNAMS BILL—			
Removed from list of business under Rule 51A of Council Rules ..	1888.		12
W.			
WASTE LANDS—			
See "Malabar Evictions and Waste Lands Bill."			