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APPENDIX No. 17.

Names of Municipalities and District Local Boards in which no Mahomedan member has been nominated.

Northern Division.	Central Division.	Southern Division.	Bombay Suburban Division.	Genl.
		<i>Municipalities.</i>		
Kaira Anand. Dakor. Umreth.	Sangamner. Jalgaon. Yawal. Parola. Dharangaon. Erandol. Chalisgaon. Shahada. Sindkheda. Malegaon. Igatpuri. Trimbak. Nandgaon. Sasvad. Jejuri. Baramati. Indapur Sirur. Talegaon-Dabhade. Lonavla. Alandi. Poona Suburban. Ashta. Islampur. Karnd. Mhasvad. Panchgani. Rahimatpur. Tasgaon. Vita. Wai. Sholapur. Barsi. Karmala. Pandharpur.	Nipani. Athni. Gokak. Soundatti-Yelamla. Bail-Hongal. Ilkal. Hubli. Navalgund. Nargund. Gadag-Bettigeri. Haveri. Byadgi. Ranebennur. Gudguddapur. Karwar. Kunta. Sirsi. Haliyal. Bhatkal. Gokarn. Alibag. Mahad. Matheran. Panvel. Roha-Ashtami. Uran. Chiplun. Ratnagiri. Malwan.	Bandra. Kurla. Ghatkopar. Juhu.	<i>Nil.</i>
	*	<i>District Local Boards.</i>		
Kaira. Broach. Surat.	Ahmednagar. West Khandesh. Nasik. Sholapur. Poona.	Belgaum. Bijapur.	<i>Nil.</i>	<i>Nil.</i>

APPENDIX No. 20.

*Statement showing the amount of balances of the estates of minors
in the several District Courts of the Presidency.*

District.	Amount of balance of the estates of minors.					
	Cash balance, etc.		Value of ornaments.		Total.	
	Rs.	s. p.	Rs.	s. p.	Rs.	s. p.
Ahmedabad	14,04,439	10 11	1,41,659	7 9	15,46,099	2 8
Broach	1,23,732	6 4	19,145	10 0	1,42,878	0 4
Burat	96,291	11 0	17,611	0 0	1,13,902	11 0
Tbana	16,006	7 8	4,666	14 0	20,673	5 8
Ahmednagar	6,474	10 10	1,412	14 0	7,887	8 10
Nasik	1,56,398	1 7	21,662	11 0	1,78,060	12 7
Khandesh	3,66,226	7 6	9,553	0 0	3,75,779	7 6
Poona	50,154	5 0	44,815	7 3	94,969	12 3
Satara	81,042	14 6	15,667	11 0	96,710	9 6
Sholapur	5,84,260	6 9	49,859	10 0	6,34,120	0 9
Belgaum	11,488	11 0	26,227	9 0	37,716	4 0
Bijapur	66,887	4 0	....		66,887	4 0
Dharwar	70,058	7 7	6,743	0 0	76,801	7 7
Batnagiri	142	5 3	....		142	5 3
Kanara	6,423	6 10½	3,765	7 0	10,188	13 10½
Karachi	1,43,535	13 0	* 1,976	0 0	1,45,511	13 0
Hyderabad	5,873	7 0	291	0 0	6,164	7 0
Sukkur	2,09,084	6 1	8,168	0 0	2,17,252	6 1
Larkana	6,530	6 11	150	0 0	6,680	6 11
Total	34,05,051	5 9½	3,73,375	5 0	37,78,426	10 9½
			345	0 0	345	0 0
			3,73,720	5 0	37,78,771	10 9½

* In addition to this, there are 23 sovereigns.

∴ Rs. 23 × 15 = Rs. 345.

APPENDIX No. 21.

Taluka Mirpur Bathoro, District Karachi.

Taluka 1	Deh. 2	Area available for grazing. 3	
		A	B.
Mirpur Bathoro	Jorar Forest	12,563	35
	Dhankhad .. ..	....
	Miranpur	339	21
	Khangankhadi .. ..	....
	Achh .. ..	....
	Atalshah	308	4
	Bachal Gugo	590	30
	Rail Mulchand	252	36
	Tiko	840	13
	Bano	605	35
	Rshot	951	22
	Pad	684	7
	Kotkia	888	4
	Shahpur	1,726	11
	Husseinpur	1,568	6
	Laikpur	1,201	29
	Abral	1,538	4
	Khirdahi	917	38
	Manpiladho	1,628	0
	Gul Mahomed	3,047	16
	Dachri	1,389	10
	Gadki	208	35
	Khanpur	374	29
	Daro	332	1
	Chowbandi	946	20
	Chowbandi Chanbki	946	2
	Araro	1,205	28
	Karimpur	791	16
	Parhyarki	257	24
	Jarawah	245	22
	Kando	323	21
	Mirpur Bathoro	409	31
	Khadedni	1,787	2
	Banto	789	11
	Samani	793	3
	Relo	1,069	19
	Nahati	878	3
	Fateh Mahomed Abro	1,908	34
	Jhoke	2,031	11
	Dalidal	1,701	30
Ganiro	1,383	3	
Charbati	1,472	11	
Dandi	1,223	25	
Terai	1,169	8	
Junejan	2,572	24	
Sahijki	564	2	
Kungsohi	616	7	
Sandanji	621	25	
Damri	2,435	1	
Murhadi	772	36	
Sonahri	2,683	10	
Tirayat	3,725	19	
Katoro	497	38	

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Taluka Mirpur Bathoro, District Karachi—contd.

Taluka. 1	Deh. 2	Area available for grazing. 3
Mirpur Bathoro—contd.		A. g.
	Amra	551 21
	Kukrat	1,721 3
	Babri	2,766 37
	Chelhiroom	787 34
	Dachri	688 34
	Amro	467 16
	Lurcharo	1,247 0
	Layari	911 15
West Laikpur	1,187 25	
East Laikpur	2,542 9	

APPENDIX No. 22.

Inams and Jagirs.

Communication to inamdars of
Government orders affecting
their interests.

GOVERNMENT OF BOMBAY.

REVENUE DEPARTMENT.

Resolution No. L. C.—1225.

Bombay Castle, 31st July 1924.

Question No. 4 put by Sardar G. N. Mujumdar, M.L.C., at the first session of the Legislative Council of 1924 :—

“ Will Government be pleased to state what steps have been taken to publish Government orders affecting inamdars' interests in pursuance of Government Order, Revenue Department, No. 4067 dated 3rd April 1918 ?”

Government memorandum No. L. C.—1225-F—24 dated 29th February 1924 to the Commissioners, N. C. and S. Divisions.

Letter from the Commissioner, S. D., No. W.T.N.—183 dated 26th April 1924.

Letter from the Commissioner, C. D., No. 370 dated 8th May 1924.

Memorandum from the Commissioner, C. D., No. 402 dated 16th May 1924.

Letter from the Commissioner, N. D., No. W.T.N.—460 dated 11th June 1924.

Reply to Council Question No. 4 given by Government at the second session of the Legislative Council of 1924 :—

“ In almost all the districts in the Presidency Government orders affecting inamdars' interests are communicated to them by the officers concerned. The necessity of complying with the orders of Government in the matter is being impressed upon the officers concerned.”

RESOLUTION.—It appears from the reports from the Commissioners, Northern, Central and Southern Divisions, called for in Government memorandum No. L.C.—1225-F—24 dated 29th February 1924, that the instructions of Government regarding communication to inamdars of Government orders affecting their interests issued in Government Order No. 12598 dated 19th October 1917, with regard to the Central Division, and in Government Order No. 4067 dated 3rd April 1918, in respect of the Northern and Southern Divisions, are not carried out in some districts.

APPENDIX No. 22—*contd.*

The officers concerned are requested to comply with the orders of Government in the above Orders strictly in future.

By order of the Governor in Council,

H. K. KIRPALANI,

Deputy Secretary to Government.

To

The Commissioner, N. D.,

The Commissioner, C. D.,

The Commissioner, S. D.,

*The Commissioner, Bombay Suburban Division,

*The Collector, Bombay Suburban District,

All other Collectors in the Presidency proper.

* With a copy of Government Order No. 4067 dated 3rd April 1918.

APPENDIX No. 27.

Memorandum showing the action taken or intended to be taken on the taxation proposals contained in section 2, Chapter VI of the Report of the Compulsory Primary Education Committee.

Item (3) has already been adopted. Item (1) has been considered and Government have decided to await the proposals of the Indian Taxation Enquiry Committee on the subject. Item (2) and (6) have been considered but Government have not yet reached any definite decision thereon. Items (4), (5) and (7) have not been considered. Item (8) is being considered by the Indian Taxation Enquiry Committee whose report will be awaited. Items (9) and (10) are for local bodies and not for Government to deal with. It should be noted that immediate action on all the taxation proposals was not necessary and has therefore not been taken. Action will be taken as and when necessary. For the present Government await the report of the Indian Taxation Enquiry Committee.

APPENDIX No. 28.

No. C.R.

Bombay Collector's Office,
Old Custom House,

192 .

From

THE COLLECTOR OF BOMBAY,
Bombay.

To

MR.

Sir,

I have the honour to bring to your notice that the Government land at Colaba described in the margin is at present held by you on a yearly tenancy. I am therefore directed by Government to offer you a lease of the land on the following terms and conditions.

Situates
Area
C.N. No.
N.S. No.
C.S. No. of Colaba
Present assessment.

(1) The term of the lease will be 99 years on renewable at revised rents.

(2) The rent payable during the first term of the lease will be charged as under:—

For the first ten years at 1 per cent.

For the next ten years at 2 per cent.

For the next ten years at 3 per cent.

For the remaining 69 years at 4 per cent. on the present value of the land.

(3) The lease will be in a simple form without any onerous conditions.

(4) The lease and its counterpart will be prepared by the Solicitor to Government at the cost of the lessee in every respect including stamp and registration fees.

(5) The offer is subject to the final sanction of Government.

2. The form of the lease can be seen at the Collector's office in the Old Custom House, on any day during office hours.

3. I have further to add that in view of the long occupation of the lands at a low assessment, specially favourable terms commencing with a rent of 1 per cent. only, have been offered, and that if these terms are not accepted, you will be losing the opportunity of securing a better tenure for your land.

4. Please send an early reply.

I have the honour to be,

Sir,

Your most obedient servant,

Collector.

APPENDIX No. 28—*contd.*

No. C.R.

Bombay Collector's Office,
Old Custom House,
192 .

MEMORANDUM

Lease of Government land at Colaba bearing C.S. No. 227.

The attention of $\frac{\text{Mr.}}{\text{Bai}}$ is invited
to this office letter No. C.R. dated
and the subsequent reminders and $\frac{\text{he}}{\text{she}}$ is informed that if $\frac{\text{he}}{\text{she}}$ does not
accept the terms of the lease offered to $\frac{\text{him}}{\text{her}}$ within 15 days from the
date of receipt hereof Government will assess the land under section 8 of
Bombay Act II of 1876 and then $\frac{\text{he}}{\text{she}}$ will have to go to Court to
set aside the assessment so fixed.

for Collector.

Lands : Bombay.

Colaba.

Petition from the Lower Colaba
Landowners' Association in
the matter of their holdings
in Colewady.

GOVERNMENT OF BOMBAY.

REVENUE DEPARTMENT.

Resolution No. 2273/24.

Bombay Castle, 9th July 1925.

Petition dated 24th October 1924 from the Lower Colaba Landowners Association—Stating that the signatories to the petition hold certain lands in the old village of Colewady, Lower Colaba, on quit and ground rent tenure, but that in the year 1919 the rent bill form was changed as if the land were held on a yearly tenancy, and in 1923 they were offered by the Collector of Bombay a 99 years' lease on certain terms; observing that in accordance with the terms offered the rent would be raised from 6 pies per square yard to nearly 38 to 48 pies for the first decade and would come to 152 to 192 pies from the fourth decade onwards, thereby causing serious hardship; representing that the rent was definitely fixed at

APPENDIX No. 28—*contd.*

6 pies per square yard in 1838 as a permanent measure, that the tenure of the lands had all along been recognised as quit and ground rent in the official registers, that sales and transfers were effected on that basis, and that Government are consequently estopped either from enhancing the rent or from changing the nature of the tenure; adding that owing to their refusal to accept the offer of 99 years' leases the Collector of Bombay has threatened to assess the lands under section 8 of Bombay Act II of 1876; and praying that either the Collector may be instructed to restore their holdings to the original quit and ground rent tenure, or that an opportunity may be given to them to redeem their holdings on payment of an amount equal to 30 times the present assessment in the same way as other holders were allowed.

RESOLUTION.—The petitioners request that their holdings may be restored to the quit and ground rent tenure. In support of this request they rely upon the fact that the rent has remained unaltered since the year 1838-39. They also maintain that from the year 1878 their holdings had been entered in the "rent rolls of quit and ground rent lands", that when transfers were registered with the Collector he certified that "they had been duly registered in the register book of the quit and ground rent properties" and that purchases were consequently made on the understanding that the land was of quit and ground rent tenure. They also lay emphasis on the fact that notices issued under Act II of 1876 for payment of rent expressly stated that it was "ground rent for quit and ground rent land".

2. Government have given careful consideration to the petitioner's representation but cannot admit their contention that the tenure of land is quit and ground rent. The rent was raised more than once prior to the year 1838 and the mere fact of its having remained unaltered since then does not debar Government from enhancing it now. The land is the property of Government and its erroneous entry in the quit and ground rent rolls cannot raise an estoppel against Government. As regards the certificates endorsed by the Collector on deeds of transfer they too do not create an estoppel. Such endorsements were made prior to the present Land Revenue Act and generally had for some years contained a statement to the effect that the rights of Government were not to be affected by reason of the registration of deeds of transfer, the sole object of the register being to enable the Collector to apply to the proper person for payment of rent. Section 35 of Act II of 1876 is also clear on the point.

3. For the reasons given above Government are unable to grant the petitioners' request that their land should be regarded to have been held on the quit and ground rent tenure or that they should be allowed to redeem it on payment of 30 times the present assessment. The orders issued in Government Order No. 2929, dated 25th March 1918, will therefore remain in operation. Government, however, recognise that some concession is due to the petitioners in consideration of the fact

APPENDIX No. 28—*contd.*

that for nearly 40 years the land was entered in quit and ground rent land registers. They are accordingly pleased to direct that the landholders in question should be allowed the option of commutation, during the first decade of the lease period, at the rate of one per cent. on the value of the land. This is a valuable concession and will enable the redemption of land at a rate considerably short of that leviable under the orders of 1918. The concession will not be admissible to those who fail to avail themselves of it within the prescribed period.

4. The petitioners should be informed of the issue of these orders.

By order of the Governor in Council,

H. K. KIRPALANI,

Deputy Secretary to Government.

To

The Collector of Bombay,	The Executive Engineer, Presi-
The Superintendent, Bombay City	dency Division,
Survey and Land Records Office,	The Finance Department,
The Solicitor to Government,	The Public Works Department,
The Accountant General,	The Petitioners (by letter).
The Superintending Engineer,	
Northern Circle,	

APPENDIX No. 32.

Subject.—Pathan money lenders.

No. C.R.S.R.—97.

From

V. B. Mardhekar, Esq., M.A.,
District Magistrate, Ratnagiri;

To

The Deputy Secretary to Government,
Home Department, Bombay.

Ratnagiri, 3rd September 1925.

Sir,

With reference to Government memorandum No. L.C.—711-D (H. D.), dated 16th July 1925, I have the honour to submit the following information in reply to Question No. 13 put by Mr. S. K. Bole, M.L.C.

2. In fact the Pathans in this District are not a terror to the public like those in Bombay and other places. There are about 31 Pathans in the whole district. They are money lenders and carry on their business chiefly among the low classes. It is a fact that they advance money to their debtors at a high rate of interest varying from six pies to two annas and in some cases even at four annas per month per rupee. The borrowers who are generally men with very low credit or with no credit and who cannot get loans elsewhere agree to pay the exorbitant rates of interest demanded by the Pathans. To recover the money the Pathans never go to the Civil Courts. In order to recover their arrears they frequently visit the houses of their borrowers, sit at their doors and at times threaten their debtors with rough treatment, i.e., abuse, illegal restraint, etc. But on enquiry it appears that these Pathans do not give any kind of trouble to the people who are not their debtors.

3. There is no doubt that the Pathans cause some annoyance to their debtors, while recovering their arrears, by threats, abuse or rough handling but it appears that the borrowers who are generally poor and belong to low classes do not dare to come forward and complain openly for want of sufficient means or for fear of further harassment or high-handed treatment at the hands of these Pathans. Unless complaints about their violence or other offensive acts are received or unless there is reliable independent evidence for prosecution under section 110, Criminal Procedure Code, they cannot be dragged into Criminal Courts. Recently proceedings against two Pathans were taken under section 110, Criminal Procedure Code, but they were discharged by the trying Magistrate as there was no reliable and independent evidence to show that the Pathans habitually committed offences specified in the said section 110, Criminal Procedure Code. I think that, in order to remove

the nuisance, the Police should keep a systematic watch over the movements and doings of these Pathans and after securing sufficient evidence against them take necessary proceedings against them in Criminal Courts. The Police are being instructed to take necessary action accordingly. My District Superintendent of Police suggests that it would be very desirable to deport one or two of these men to their native place as undesirable Foreigners under section 3 of the Foreigners Act (II of 1864) which measure would act as a deterrent one in inducing the others to behave themselves properly and the Pathan menace would disappear. There is no doubt that they terrorise the poor people who happen to be their debtors and I generally agree with the District Superintendent of Police in his proposal. It is difficult to procure independent evidence against them except of those who are their debtors.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) V. B. MARDHEKAR,

District Magistrate.

APPENDIX No. 38.

A copy of the orders passed by Government in Government Resolution No. 5131, dated 20th July 1923.

“Government accept the opinion of the Remembrancer of Legal Affairs in the last sentence of his memorandum. In view of that opinion, in the case of a village held on terms similar to Sukene or Gangaware in which it appears that the Inam Commissioner in his decision did not record that *chilhar* should be administered by Government, nor do the accounts of the village, prior to its grant, show that the allowance for *chilhar* was deducted, the Inamdar's claim to administer it should be admitted. In other cases Government are entitled to administer it.

2. In cases in which inamdars are declared entitled to administer *chilhar*, the amount should be paid to them by the village officers while handing over the revenue of the village in accordance with the policy laid down in Government Resolution No. 4168 dated 3rd June 1897. The orders in that Resolution are modified to this extent.”

APPENDIX No. 46.

Statement showing the number of buildings built for Local Board schools in the Karnatak during the last ten years.

Name of District.	Part (a).		Part (b).	
	Number of buildings built for Local Board Schools during the last ten years.	Total cost incurred on the buildings in column 2.	Number of buildings for Urdu Schools.	Number of buildings for non-Urdu Schools.
1	2		4	5
		Ra.		
Dharwar	15	1,04,486	..	15
Belgaum	16	1,19,709	2	14
Bijapur	10	75,979	1	9
Kanara	4*	10,197	..	4*

* Besides these, 9 school houses were built by the villagers for non-Urdu schools the cost of which is not known.

APPENDIX No. 51.

Statement showing the gross realisations, cost of collection, and the net revenue derived from Cotton Import Duty from 1st January 1921 to 31st March 1925.

Year.	Gross collection..	Cost of collection.	Net collection.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
1920-21 (Jan '21 to Mar. '21) ..	8,96,326 1 7	16,426 9 8	8,79,899 7 11
1921-22 ..	35,88,610 5 2	1,07,658 4 11	34,80,952 0 3
1922-23 ..	38,94,832 10 8	1,07,088 11 0	37,87,743 15 8
1923-24 ..	37,07,051 0 0	1,14,389 13 8	35,92,661 2 4
1924-25 ..	31,67,487 13 9	1,12,065 12 6	30,55,422 1 3
Total ..	1,52,54,307 15 2	4,57,629 3 9	1,47,96,678 11 5

APPENDIX No. 52.

*Accompaniment to Government Order, Educational Department,
No. 1273, dated the 3rd March 1921.*

NOTIFICATION.

EDUCATIONAL DEPARTMENT.

Secretariat, Fort, Bombay.

Dated the 3rd March 1921.

No. 1273-A.—In supersession of the rules published in Government Notification No. 1944, dated the 12th November 1907, Government are pleased to prescribe the following revised rules for regulating the admission of candidates into the lower grades of the Public Service :—

I. *To whom applicable.*—Except as hereafter mentioned, these rules apply to all appointments of a clerical nature in the Revenue and Judicial Branches of the Public Service or Departments subordinate thereto and to appointments in the Income Tax Office in Bombay City (provided that these rules may be departed from at the discretion of the Collector of Income Tax, Bombay, in the case of appointments to the out-door and cashier's establishments in his office), as well as any other branches of the service to which His Excellency the Governor in Council may from time to time declare them to be applicable by notification in the *Bombay Government Gazette*. They do not apply to persons already in permanent Government service or to graduates and others who have passed any specially prescribed tests, or to persons seeking employment in the Executive Police.

II. *Qualifying examinations.*—Hereafter no one, save as aforesaid, will be eligible for employment in any appointment to which these rules apply except—

(a) Those who have passed the Bombay University School Final Examination, or the Departmental School Final Examination, or the Matriculation Examination of the University of Bombay before the year 1919, or who have obtained from the Joint Examination Board the School-leaving Examination Certificate which is given to those who have qualified for Government service, or who have passed the European High School Examination, or the Senior Commercial Education Certificate (*vide* Educational Department Government Resolution, 1996 dated 14th November 1922), Examination of the London Chamber of Commerce, or the Cambridge Senior Local Examination, or the Second Grade Public Service Certificate Examination under the old rules, or the Third Grade Public Service Certificate Examination, or the Examination for the Public Service Certificate in vernacular, or the Vernacular Final Examination ;

(b) (For appointments in the Judicial Department) Barristers or Solicitors or persons who have passed the High Court Pleaders' Examination or the Examination formerly prescribed for candidates for pleaderships of the district and subordinate courts; or

(c) (For appointments in the Educational Department) holders of Vernacular Training College or School Certificates, Secondary Teachers' Training College Diplomas, Drawing Teachers' Certificates, and Gymnastic Certificates.

(d) In Sind only—

(i) For appointments in the Revenue Department passed pupils of the Agricultural School at Hyderabad or the Tapedars' Training School at Hyderabad.

(ii) For appointments in the Judicial Department Pleaders holding sanads from the Sadar Court in Sind.

III. *Vernacular and English offices.*—A candidate who has passed the Third Grade Public Service Certificate Examination or the Examination for the Public Service Certificate in vernacular or the Vernacular Final Examination will be eligible for admission to a Vernacular office; a candidate who has passed the European High School Examination or the full Senior Commercial Examination of the London Chamber of Commerce (with foreign languages) or the Cambridge Senior Local Examination will be eligible for admission to an English office, and other candidates qualified under rule II (a) and those who have passed the full Senior Commercial Examination of the London Chamber of Commerce (with vernacular) will be eligible for admission to a Vernacular or an English office.

IV. *Arrangements for holding examinations.*—Arrangements for holding the European High School Examination, the Vernacular Final Examination, the Vernacular Training College or School Examinations, the Secondary Teachers' Training College Diploma Examination and the Drawing Teachers' Certificate Examination will be made by the Educational Department: the School-leaving Examination of the Joint Examination Board will be conducted by the Board: arrangements for holding the Senior Commercial Examination of the London Chamber of Commerce and the Cambridge Senior Local Examination will also be made by the Educational Department on receipt of due notice.

V. *Age restriction.*—Holders of certificates of the examinations described in rule II will not be admitted to the Superior Public Service until they have completed their 18th year. This condition will not, however, apply to holders of the Vernacular Final Examination Certificate who may be appointed as assistant teachers in primary schools.

VI. *Special Departmental Examinations.*—Every person appointed to the Public Service, in virtue of his eligibility thereto under these rules, will enter it subject to the condition of passing any special examination required in the Department to which he is appointed.

VII. *Acting vacancies.*—Acting vacancies in offices to which these rules apply shall, as far as possible, be filled by candidates who have passed the prescribed tests.

By order of the Government of Bombay,

J. C. KER,

Secretary to the Government of Bombay,
Educational Department.

APPENDIX No. 53.

*Private and Personal
and Confidential.*

* * *

19th April 1925.

To

Dear Sir,

I hope you will kindly excuse me for addressing this letter to you though I have not the pleasure of your acquaintance personally. The important questions which arise in connection with the administration of the Forest Department of this Presidency is my justification in addressing this letter to you.

I may mention that, according to the rules of the Bombay Council Swaraj Party of which I am a member, the subject of Forest Department has been assigned to me for special study and consideration. Though a layman, I have been endeavouring to study the question according to the facilities available to me. Of course as an outsider it is not possible for me for some time to obtain from Indian Officers working in connection with the Department as much help as I possibly can with the view of discovering how that department should be managed economically and with benefit to the Presidency. It is my earnest resolve to bring up questions and fight for the rights of Indians employed in the Forest Department. I need hardly add that my hands in carrying on this endeavour would be strengthened in proportion as I am helped by the Indian members of the Department and supplied from time to time with such information and other material as I may require. I am endeavouring to place at the disposal of the Indian Officers and subordinates of the Forest Department my services as a member of the Bombay Legislative Council, and I would be very grateful if I am helped in this matter with such information from time to time as I may want in connection with the Forest Department.

The chief aim of the members of the Bombay Council Swaraj Party in entering the Legislative Council is to be of use to the public including the officers of Government who from time to time may desire to have their help and co-operation in amending the administration in its several aspects and departments. I will be highly obliged if you will be so good as to let me know in detail your views and the way of enforcing them regarding the following points, which in my opinion are of great importance :—

(1) What steps should be taken to Indianize the Forest Department? Please state in detail your views on this point, illustrating the same with examples and instances if any are available.

(2) Please let me know in detail the cases in which the rights of Indian Officers have been overlooked in favour of non-Indians in the Forest Department.

(3) How many posts have unnecessarily been created in order to find employment for non-Indians ?

(4) What steps should be taken to stop the recruiting of non-Indians employed in the Forest Department Service, Imperial as well as Provincial ?

(5) What steps should be taken to decrease the costliness and the extravagance of this Department if any ?

(6) What steps should be taken to raise the scale of pay of the officers like the Range Forest Officers ?

(7) What industries is it possible to start out of the produce of Forests in this Presidency and what steps should be taken for their development under Indian control ?

(8) Do you think that the abolition of the post of Chief Conservator of Forests and his establishment is likely to decrease the revenue of this Department and cause any and what inconvenience to the Forest Department ?

(9) Do you think that Indians of engineering qualifications are capable of carrying out the engineering work arising in connection with this Department and that there is any necessity of having a Superintending Engineer and other Engineers of European or non-Indian origin ?

(10) Do you think that the Forest Department can do without a Saw Doctor or a Superintendent of Saw Mills ?

(11) Please forward to me or suggest if you have any plan or scheme by which the Forest Department can be managed more economically under Indian control and be made more beneficial to the ryot and the poor people of this Presidency ?

These are some of the questions I have ventured to put to you. My motives in doing so are, as I have said above, merely to strengthen my hands by obtaining the necessary knowledge and prevent the maladministration of the Department. Very often I feel that the rights of Indians in this Department are ignored in favour of non-Indian favourites. You are aware of the great political awakening which has taken place in the country. Under its influence we are all anxious to be of the greatest service to our countrymen. I am anxious that advancement and preferment in office should go on the strictest merits without any regard for the complexion or nationality of Government servants. I am aware of the stupendous nature of this enterprise but I am hopeful that with the help and co-operation of Indian friends in this Department I may be able to be of great use and service in the cause of the country. I know of several instances where men of intelligence, ability and capacity have, owing to various causes including their Indian origin, been pushed back in favour of non-Indian rivals who do not possess their qualifications. I realize that the self-respect and dignity of Indian Officers has to be protected and therefore I am anxious that I should place my services, entirely at the disposal of my Indian friends in this Department. I

need hardly add that every correspondence will be treated as strictly confidential. If, in spite of this warning, however, any member of the Forest Department to whom this letter is addressed is still afraid of his name being exposed, they might send me their requests through channels which will avoid publicity. I should be grateful if I get a chance of seeing them personally under circumstances of the strictest confidence. My sole desire is to become acquainted with the inner working of this Department in order that out of my knowledge greater strength can spring leading to greater usefulness to my country.

Yours faithfully,

Statement giving information regarding deaths caused by Europeans in

S. No. and name of the accused,	His designation and profession, if any.	Name of the person killed.	Date of death.	Date of Judgment.
1 Thomas Wilkinson ..	Asstt. in Messrs Marcks & Co.	Mr. Farrow ..	6 Aug. 1915 ..	....
2 Capt. D. Marson ..	Capt., R. A. M. C.	Shaik Abdul Hasan Chand Khan.	14 June 1917 ..	19 July 1917 ..
3 Mrs. M. Baird ..	Married woman ..	Rustomji Jamsetji Panthaki.	22 Sept. 1917 ..	....
4 Capt. Dillow, H. T. "Chenau" ..	Master Mariner ..	Ling Hockchin ..	26 Apr. 1918 ..	21 May 1918 ..
5 Rimel ..	British Soldier ..	Kerba Girja ..	7 July 1919 ..	9 Dec. 1919 ..
6 A. C. I. G. H. Taylor ..	Royal Air Force ..	Devji Deva ..	17 Jan. 1920 ..	....
7 Accused alleged to be a European.	.....	Kaisam Khan Taher Khan (a child aged about 4 months).	22 May 1920 ..	....
8 E. F. Gordon ..	Sgt., S. & T. ..	Musmat Lachmidevi, daughter of Sondi, Sweeper woman.	18 Nov. 1920 ..	17 Feb. 1921 ..
9 James Simpeon Tait ..	Chartered Accountant. Ac-	Khudadad, son of Mahomed.	22 Mar. 1921 ..	11 April 1921 ..
10 G. A. Coales ..	Sergeant ..	Deva Ananta Ghadge of Upalwate, Tal. Karmala.	27 Mar. 1921 ..	16 June 1921 ..
11 Elias George Elipolis.	Asstt. Agent to Ralli Bros., Hubli	Raghunath Krishnapa Watawe.	4 May 1921 ..	26 May 1921 ..
12 Samuel Thomas Stearns.	Sgt., R. F. A. ..	Sgt. Jones, R. F. A.	1 Aug. 1921 ..	8 Sept. 1921 Do. ..
13 H. H. Speare ..	Do. ..			
14 C. I. B. Shrubsole ..	Lieut. No. 4 M.&T. Coy.	Shriharak, son of Ramphal.	26 Aug. 1921 ..	20 Dec. 1921 ..
15 T. Little ..	British Soldier ..	Sgt.-Maj: Basto, D.L.I.	14 Oct. 1921 ..	2 Nov. 1922 ..
16 F. W. Stecker ..	Merchant ..	Deo Fadoo ..	30 June 1922 ..	13 July 1923 ..
17 Lidstone Adams ..	Capt. S. S. Kloto ..	Mohmed, son of Haji Mullah.	8 April 1923 ..	5 April 1923 ..
18 Sapper M. Dempsey ..	Royal Engineer, Manora.	Corp. W. Andrews, Royal Engineer, Manora.	5 Aug. 1923 ..	21 Dec. 1923 ..
19 Pearson ..	Sgt., R. F. A. ..	Miss Ingham ..	17 Aug. 1923 ..	30 Nov. 1923 ..
20 Angilos Boucos ..	Greek Merchant ..	Joseph Baker ..	27 Aug. 1923 ..	14 Dec. 1923 ..
21 J. Walker ..	British Soldier ..	Aruna Lakman Khandva.	19 Dec. 1923 ..	30 April 1924 ..
22 W. C. Petri ..	Asstt. Manager, Mackinnon Mackenzie.	Shambo, son of Adim, hand-car driver.	30 May 1924 ..	20 June 1924 ..
23 R. W. H. Davis ..	Asstt. Collector, Bundar Dn.	Jamri Gadi. w/o	20 Aug. 1924 ..	....

No. 54.

the Bombay Presidency during the last ten years.

Sentences inflicted.	If the accused was released, the date of his release.	The District in which the offence took place.	Remarks.
....	Bombay ..	Accused committed suicide by shooting himself with the same weapon with which he killed Mr. Farrow.
Fined Rs. 450 in default 2 mths' S. I. Rs. 400 to be paid out of the fine to the deceased's wife.	Poona ..	Case under section 304-A, I. P. C. and Section 6 of Motor Vehicles Act.
....	Bombay ..	Accident by motor car. Classified as mistake of fact.
....	Karachi ..	Case under section 302, I. P. C. Acquitted on ground of insanity and detained under section 471, C. P. C.
Fined Rs. 50 in default 1 mth's R. I.	Poona ..	Case under section 5 of the Motor Vehicles Act.
....	Karachi ..	Accident by motor car. Classified as mistake of fact.
....	Bombay ..	Assault at night on Persian refugees by 2 unknown Europeans.
....	Karachi ..	Accident by motor car. Discharged. Section 253, C. P. C.
....	Do. ..	Do.
....	Sholapur ..	Case under section 304-A, I. P. C. Discharged under section 253, C. P. C.
Imprisonment till the rising of the Court and fine of Rs. 500 and in default S. I. for 2 months.	Dharwar ..	Case under section 16, Motor Vehicles Act and 304-A, I. P. C.
3 months' R. I. and Rs. 500 fine.	Nasik ..	Case under section 304-A, I. P. C. Convicted under section 323, I. P. C.
..	Do. ..	Case withdrawn under section 404, C. P. C.
....	Karachi ..	Accident by motor car. Acquitted. Section 253, C. P. C.
....	Ahmednagar ..	Case under section 302, I. P. C. Acquitted on ground of insanity by High Court.
....	Bombay ..	Accident by motor car. Discharged. Section 253, C. P. C.
....	Karachi ..	Accident at wharf. Discharged. Section 253, C. P. C.
7 Yrs' R. I. by Sessions Court, Karachi.	Do. ..	Case under section 304, I. P. C.
Death	Poona ..	Case under section 302, I. P. C.
7 Yrs' R. I.	Bombay ..	Case under section 304, I. P. C.
....	Poona ..	Accident. Outshooting. Acquitted by the High Court.
....	Karachi ..	Accident by motor car. Discharged. Section 253, C. P. C.
....	Do. ..	Accident by motor car. Classified as mistake of fact.

APPENDIX No. 55.

ए. सु. स. नं. १३.

मामलेदार साहेब तालुके

अजतर्फ सी. एम्. बेकर साहेब, कलेक्टर,

जि० नाशिक सलाम, दिगर.

बिल्होळी, ता. नाशिक येथील दुमालदाराची यादी खार्णीतून दगड काढण्याचे बाबतीत काय फी घेणेची म्हणून वगैरे आल्यावरून शराकती दुमाले गांवांत किरकोळ उत्पन्नाचे हुकूम कोणाकडून दिले जावेत म्हणून प्रश्न निघाल्यावरून हुकूम करण्यांत येत आहे की, किरकोळ उत्पन्नाचे हुकूम दुमालदार यांनीं न देतां ते सर्व सरकारांतूनच देत जाण्याची वहिवाट रहावी; व त्याप्रमाणें अंमल होणेंसाठीं तालुक्याचे दतरी दाखला राहून गांवांसही देणेची तजवीज व्हावी.

कळावें, ता. ७ माहे मे सन १९१९ इ.

(Sd.) C. M. BAKER,

कलेक्टर.

APPENDIX No. 55—contd.

Circular.

In modification of this office circular No. 13 dated 7th May 1915, it is hereby ordered that in cases of miscellaneous revenue in which Government get no share orders should not be issued by Government Officers but by the Dumaldars as before. The Mamlatdars should however make sure in such cases that Government are not entitled to get any share in the revenue. In cases of doubt, orders of the Prant officer should be obtained.

(Signed) H. L. PAINTER,

Collector of Nasik.

No. of 1917.

Nasik, 15th April 1917.

Copy forwarded to —

All Prant Officers,
Mamlatdars, who should inform the Dumaldars concerned
accordingly.

Chitnis Branch.

By Order,

(Signed) J. MATHIAS,

Head Clerk to the Collector of Nasik.

True copy.

.....

Chitnis to the Collector of Nasik.

APPENDIX No. 56.

Statement.

Name of village.	Land taken up.		Compensation paid			Remarks
	Survey No.	Area.	In land.		In cash.	
			Survey No.	Area.		
		A. g.		A. g.		
Adagal	30	13 30		The land being Sanadi inam, the cash remuneration of Sanadis was increased according to scale in lieu of compensation.
	32	10 21	..	..
Badami	102	10 14	310	17 22		Voluntarily given to the Forest Department in exchange for Oblapur Survey No. 205, by the owner.
	103	15 24	358	15 29		
Chola ch gud	138	23 12	120B	23 12		
Halgeri	92	14 29	102B	13 25		
Nagaral S Badami.	69	12 19	205	8 39		
			of Oblapur.			

APPENDIX No. 60.

Statement showing the approximate cost of the important Committees appointed by Government since January 1922.

No.	Name of the Committee.	Approximate Cost in.
		Rs.
1	The Bombay Retrenchment Committee	94,200
2	The University Reform Committee	49,700
3	The Stock Exchange Enquiry Committee	44,900
4	The Excise Committee	35,000
5	The Free and Compulsory Primary Education Committee ..	28,000
6	The Technical and Industrial Education Committee and Sub-Committee	24,000
7	The Country Craft Registration and Measurement Rules Committee	15,470
8	The Cattle Breeding Committee	6,460
9	The Committee for the Protection of Crops from Wild Animals	5,920
10	The Election Petition Committee	5,450
11	Select Committee : Affiliation of the Sind National College, Hyderabad	1,320
12	Local Self-Government Re-Organization Committee, Salsette	750
13	The Gujarat Taluqdari Committee	540
14	Organising Committee for the British Empire Exhibition ..	410
15	Special Committee for the re-distribution of the East and West Khandesh Districts	380
	Total ..	3,12,500

(Sd). S. J. SAYANI.

No. 3914-D,
Finance Department,
29th July 1925.

For G. WILES,
Secretary to Government.

APPENDIX No. 58.

Statement for the year ending 31st December 1924.

District.	Civil Appeals		Criminal Appeals	
	Received.	Disposed of.	Received.	Disposed of.
Belgaum	315	167	33	33
Bijapur	126	124	57	56
Dharwar	319	388	87	82

APPENDIX No. 59.

Statement showing the cost incurred for advertising the residential schemes of the Development Department and the names of persons to whom the advertisements have been given, together with the amounts.

Serial No.	Newspapers.	Amount.		
		Rs.	a.	p.
1	Times of India	6,710	8	0
2	Indian Daily Mail	2,966	8	0
3	Bombay Chronicle	1,305	0	0
4	Jam-e-Jamshed	1,025	0	0
5	Praja Mitra and Parsi	400	0	0
6	Bombay Samachar	1,020	0	0
7	Satya Mitra	437	8	0
8	Kaisar-I-Hind	120	0	0
9	Hindusthan	180	0	0
10	G. I. P. Magazine	225	0	0
11	B. B. & C. I. Magazine	225	0	0
Total ..		14,614	8	0

APPENDIX A.

BILL NO. XIII OF 1925.

(A Bill to impose a tax on totalisator betting).

REPORT OF THE SELECT COMMITTEE.

We the undersigned members of the Select Committee appointed to consider Bill No. XIII of 1925 (A Bill to impose a tax on totalisator betting) have the honour to report as follows :—

We have considered the Bill and have had an opportunity of examining certain representatives of the Turf Club.

We have decided by a majority that the preamble of the Bill and clause 3 should be accepted.

We have also decided by a majority that the rate of tax proposed in clause 5 and also the rest of that clause should be accepted.

We have made slight verbal alterations in clauses 6 and 7.

As the Western India Turf Club has now been converted into a limited company, we consider that the last four lines of clause 8 are unnecessary. We have therefore deleted them.

We have decided by a majority that clauses 9 and 10 of the Bill should be accepted.

We recommend that this report and the Bill as amended be translated into Marathi, Gujarati, Kanarese and Urdu and that the translations should be published in the *Bombay Government Gazette*. They should also be translated into Sindhi and the translation published in the *Sind Official Gazette*.

(Signed) H. S. LAWRENCE.

(„) B. V. JADHAV.

(„) G. WILES.

(„) L. B. BHOPATKAR (*subject to a minute of dissent*).(„) A. N. SURVE (*subject to a minute* of dissent*).

(„) V. A. GRANTHAM.

(„) J. ADDYMAN.

(„) HOOSENALLY M. RAHIMTOOLA (*subject to a minute of dissent*).(„) RAFIUDDIN AHMAD (*subject to a minute of dissent*).(„) G. B. PRADHAN (*subject to a minute of dissent*).(„) VASANTRAO A. DABHOLKAR (*subject to a minute of dissent*).

(„) J. BAPTISTA.

* Will be published when received.

(Minute of dissent by Mr. L. B. Bhopalkar, M.L.C.)

I do not agree with the Select Committee in some parts of their report.

The rate accepted by the Select Committee will not in my opinion make any substantial addition to the public revenue of the Presidency. It should have been at least 10. Besides, the higher rate will put a check on the growing evil of betting.

Clause 10 of the Bill should have been altogether deleted.

(Signed) L. B. BHOPALKAR.

Poona City, 7th September 1925.

(Minute of dissent by Mr. Hoosenally M. Rahimtoola, M.L.C.)

I do not agree with the report. The Bill has emerged from the Select Committee practically the same as it was committed. Though two committees, one on Education and the other on Excise, have indicated this tax as one of the sources of revenue for their purpose the majority of the Select Committee have not considered it fit to allocate this revenue for either purpose.

By leaving the rate of taxation to the discretion of Government and by accepting clause 10, the majority have justified the popular belief that Government have a soft heart for the Turf Club.

(Signed) HOOSENALLY M. RAHIMTOOLA, M.L.C.

Bombay, 10th September 1925.

(Minute of dissent by Moulvi Rafiuddin Ahmad, M.L.C.)

Section 5 of the Bill was discussed at great length by the committee and was eventually carried only by the vote of the Chairman. I am strongly of opinion that the words "such rate not exceeding" should be deleted and a tax of 4 per cent. should at once be levied. This would involve, as a consequence, the deletion of the words "as the Governor in Council may from time to time notify in this behalf". Some of us were indeed in favour of increasing the tax to 5 per cent., but as it was suggested that the amendment would involve the reference of the Bill back to His Excellency in Council and even to the Government of India for sanction the proposal was dropped. Considering that the Turf Club has recently opened a third enclosure at Poona and Bombay and thus afforded further inducement to public betting and that too for the benefit of classes that can least afford to lose money and have thus been suffered to defeat one of the principal objects of the Bill, viz., to discourage gambling, a tax of 4 per cent. is the minimum that should be at once levied. There can be no reasonable ground for the Turf Club to complain when Government has gone out of their way to oblige them by reducing the entrance fees 25 per cent. by section 10 of the Bill.

(Signed) RAFIUDDIN AHMAD.

(Minute of dissent by Mr. G. B. Pradhan, M.L.C.)

In clause 5, line 8, I would delete the words "such rate not exceeding".

In lines 10 and 11 in the same clause, I would delete the words "as the Governor in Council may from time to time notify in this behalf".

In lines 15, 16 and 17 of the same clause, I would delete the words "at the rate notified as aforesaid by the Governor in Council in this behalf".

My reasons for omitting these words are that I do not want that there should be a tax at less than 4 per cent. at the discretion of the Governor in Council. The reasons that are given for this discretion are that there are large commitments of the Turf Club, some of them imposed upon them by the action of Government in taking portions of their land.

While accepting that reason, I do not think that this tax of 4 per cent. ought to prove such a heavy burden as to hamper the Turf Club in its legitimate activities. I hold that view for the following among other reasons :—

(a) The Turf Club may continue to take 10 per cent. out of the total balance after deducting the 4 per cent. tax unless it finds that there is a considerable reduction in the number of the betting public. Some members apprehended it and they seem to think that the Turf Club will have to reduce its percentage. Unless experience shows that, I am not inclined to levy the tax on a graded scale. If the Turf Club continues to take 10 per cent., then the loss to which it would be put is largely compensated in the reduced super-tax.

(b) The principle of taxation must always be that the same tax must not be enhanced every now and then as it creates friction and unpleasant feelings between the taxing authority and the tax-payer. It is a sort of an operation which must be done at one stretch and the wound must not be touched every now and then.

(c) The Turf Club has a very large income and the expenditure seems to be on a very lavish scale. In the beginning the Club may find it rather hard but it is bound to adjust its expenditure according to its reduced means.

(d) There is always a lurking suspicion in the mind of the public that the Government have leanings towards the Club and a graduated scale at the discretion of the Governor in Council will lend a further colour to that suspicion.

(e) From the next year the Turf Club is going to pay a considerably reduced amount in the shape of super-tax and that compensates, if not wholly, largely the present loss; and further reduced income will further reduce the amount of income-tax and super-tax.

(f) So long as the third enclosure is there which I consider as a bane to society the Turf Club should not expect any reduction in the tax.

I should have liked to raise the tax to 5 per cent. at least; but in the first place I was ruled out of order on the ground that no member has a right to propose an increase in the taxation, he may reduce it and secondly

I thought that it might amount to killing the goose that lays the golden egg as a heavy tax may bring into operation the law of diminishing returns. If the Turf Club is prepared to close the third enclosure I would be ready to reduce the tax to 3 per cent. even.

Secondly I would entirely delete clause 10 of the bill. My reasons are these :

(a) This amendment is against the preamble of the Act. The Bill is introduced as its heading shows to impose a tax on the totalisator betting. The preamble shows that the tax is necessary to make an addition to the public revenue ; so, a change in another Act to reduce that tax is outside the scope of the Bill.

(b) To reduce the tax on gate-money is an indirect way of reducing the entrance-fee and inducing more people to enter the enclosures. It is admitted to be an evil. The State has a right to make a profit out of this human frailty ; but there is no reason why there should be an encouragement to that vice.

(c) Both the taxes are different and there is no reason to reduce one tax because a second is being levied. It may be that the same institution pays both the taxes. A family pays different taxes for different articles but that is no reason why the imposition of one tax should necessitate the reduction of another tax.

(d) The Turf Club charges the tax over and above the original gate-money.

Under these circumstances, I see no necessity of putting in clause 10. Subject to this minute of dissent I sign the Select Committee's report.

(Signed) G. B. PRADHAN.

12th September 1925.

(Minute of dissent by Sir Vasantao A. Dabholkar, Kt., C.B.E., M.L.C.)

I agree with the majority report of the Select Committee except clause 10 of the Bill. If Government desire to reduce the tax on the gate-money by 25 per cent., then in my opinion the third enclosure must be abolished as recommended by the Bombay Municipal Corporation to Government, as its existence has proved a source of great temptation for gambling among the poor people and has brought misery and disaster to many a poor family.

(Signed) VASANTRAO A. DABHOLKAR.

BILL No. XIII OF 1925.

An Act to impose a tax on totalisator betting.

(As amended by the Select Committee.)

Whereas it is necessary to make an addition to the public revenue of the Bombay Presidency and for that purpose to impose a tax on totalisator betting ;

And Whereas the previous sanction of the Governor General required by section 80-A of the Government of India Act has been obtained for the passing of this Act: It is hereby enacted as follows:—

- 5 & 6 Geo. V, c. 61.
1. This Act may be called the **Bombay Totalisator Betting Short Title. Tax Act, 192 .**
- Extent.
2. It extends to the whole of the Bombay Presidency.
- Cf. Ben. V of 1922 s. 1 (2), (3) and (4).
3. (1) It shall come into operation on the first day of 192
Operation. in the first instance in—
(a) the City of Bombay, and
(b) the Cantonment of Poona.
- (2) The Governor in Council may, by notification in the *Bombay Government Gazette*, direct that this Act or any portion thereof shall come into operation in any other area in the Bombay Presidency on such date as may be specified in such notification.
- Provided that no such notification shall be published in respect of any area included in a Cantonment without the previous sanction of the Governor General in Council.
- Cf. Ben. V of 1922, s. 14.
4. In this Act unless there is anything repugnant in the subject Definitions. or context—
(i) 'backer' includes any person who bets at a totalisator;
(ii) 'bet' includes 'wager', and 'betting' includes 'wagering';
(iii) 'prescribed' means prescribed by rules under this Act;
(iv) 'licensee' means a person to whom a license has been granted for: horse racing on a race-course under section 4 of the Bombay Race-Courses Licensing Act, 1912;
(v) 'totalisator' means a totalisator in an enclosure which the licensees have set apart in accordance with the Bombay Race-Courses Licensing Act, 1912, and includes any instrument, machine or contrivance known as the totalisator or any other instrument, machine or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles.
- Bom. III of 1912.
- Cf. Ben. V of 1922, s. 15.
5. There shall be charged, levied and paid to the Government of Bombay out of all monies paid into any totalisator by way of stakes or bets a tax on backers hereinafter referred to as the totalisator tax at such rate not exceeding 4 per cent. of every sum so paid as the Governor in Council may from time to time notify in this behalf; and such portion of the monies so paid into a totalisator as is equal to the amount of the totalisator tax at the rate notified as aforesaid by the Governor in Council in this behalf shall be deemed to have been paid by the backer on account of the totalisator tax and shall be received by the licensees on behalf of the Government of Bombay.
- Tax on totalisator and payment thereof.
- Cf. Ben. V of 1922, s. 16.
6. The licensees shall forward at such *the* time and in the manner and to the officer prescribed in this behalf a return stating the total amount of the monies paid into the totalisator at any meeting and shall
- Totalisator tax to be paid to Government.

whenever required make over to the prescribed officer the amount of the tax collected at each meeting.

7. Every person having the custody or control of such *totalisator* Cf. Ben. V of 1922, s. 17. accounts shall when required in writing by an Inspection of totalisator accounts. officer empowered in this behalf by the Governor in Council, permit such officer or an officer authorized in writing by him in this behalf to inspect and to take copies of them.

8. The totalisator tax payable under section 5 shall be recoverable Cf. Ben. V of 1922, s. 21. from the licensees as an arrear of land revenue, Method of recovery of totalisator tax. and any portion of such tax which is not so recovered shall also be recoverable from such licensees jointly and severally.

9. The Governor in Council may make rules for securing the payment Cf. Ben. V of 1922, s. 22. of the totalisator tax, the production and inspection of accounts kept under this Act, and generally for carrying into effect the provisions of this Act and for dealing with such matters as are herein directed to be prescribed. Rules.

10. In sub-section (1) of section 3 of the Bombay *Entertainments* Bom. I of 1923. Duty Act, 1923, for the figures "50" the figures Amendment of section 3 of Bom. I of 1923. "25" shall be substituted.

APPENDIX B.

BILL No. XVI OF 1925.

(A Bill to give wider powers in the management of municipal affairs in certain cities.)

REPORT OF THE SELECT COMMITTEE.

We, the undersigned members* of the Select Committee appointed to consider Bill No. XVI of 1925 (A Bill to give wider powers in the management of municipal affairs in certain cities), have the honour to report as follows:—

We have examined the bill and have made several changes in it.

We consider that some provision should be made for the creation of special wards for the depressed classes also where they are sufficiently numerous to justify special representation. We have therefore redrafted clause 9 (c) of the bill, and have enlarged the franchise.

We have amended clause 13 (4) of the bill so as to make the definition of corrupt practice more comprehensive.

We consider that some provision is necessary in clause 21 of the bill to provide for the calling of a meeting in case the president or vice-president is unable or unwilling to call it. We have therefore provided by sub-clause (2) that in such a case the collector shall have the power of calling a meeting.

We are of opinion that the president of a municipality should have power in case of emergency to direct the execution or stoppage of any work. We have therefore inserted a new sub-clause (d) in clause 29 on the lines of section 23 (2) of the Bombay Local Boards Act of 1923 making this provision.

We consider that the change made by clause 50 of the bill is unnecessary. We have therefore deleted that clause and inserted in its place section 42 of the District Municipal Act III of 1901.

The more important of the other changes made in the bill are dealt with in the notes on clauses appended to this report.

We recommend that this report and the bill as amended be translated into Marathi, Gujarati, Kanarese and Urdu and the translations published in the *Bombay Government Gazette*. We also recommend that they should be translated into Sindhi and the translations published in the *Sind Official Gazette*.

Notes on clauses.

Clause 1A.—We have provided that the powers vested in Government by this bill should not be delegated to the Commissioner in Sind.

* *Note.*—Signatures of Messrs. G. B. Pradhan, L. B. Bhopatkar, R. D. Shinde, M. K. Dixit, P. G. Joshi, S. T. Kambli, V. N. Jog, Dr. K. E. Dadachanji and Khan Sahab A. M. Mansuri will be notified when received.

Clause 2 (11).—We deleted this clause as the bill does not provide for notified areas.

Clause 2 (20).—We altered the definition to tax so as to include water rate in it.

Clause 4 (2).—We have provided expressly that when a municipal borough is excluded from the operation of this Act it shall come under the operation of the District Municipal Act of 1901.

Clause 10.—We have amended clause 10 (2) so as to alter and enlarge the franchise, and have provided for a residential qualification.

Clause 12.—This clause appears to us to be unnecessary and we have deleted it.

Clause 13 (5).—We have made it clear that any error which has materially affected the result of an election should not be disregarded by the judge.

Clause 26 (1) (b) (iii).—We have amended the clause so as to provide that a pleader shall be disabled from continuing to be a councillor only, if he acts as a councillor in any matter in which he is professionally engaged in a case against the municipality.

Clause 26 (1) (e).—We have thought it necessary to insert a clause that a councillor who fails, after due notice, to pay arrears due by him to the municipality shall be disqualified.

Clause 26 (2).—We have provided that before Government passes orders disqualifying a councillor he should be given an opportunity of being heard.

Clause 27.—We have added a clause to provide that a councillor whose office has become vacant under section 26 shall, if his disability has ceased, be eligible for re-election.

Clause 31.—We have provided that for the removal, reduction, or suspension of the chief officer, the votes of two-thirds of the whole number of councillors should be sufficient.

Clause 32 (1) (g).—We do not consider it advisable to give this power to the chief officer and have therefore deleted the clause.

Clause 33 (2) (i).—We have provided that when the president fails to call a special general meeting the vice-president shall have power to do so.

Clause 33 (7).—We think that some time should be allowed before a meeting is adjourned for want of a quorum and have made provision for it.

Clause 33 (9).—We think that the minutes should be kept in the vernacular in every case, and in English also if any councillor so desires.

Clause 34.—We have amended this clause so as to provide that the chief officer shall be present at every meeting, but may address it only with the permission of the president or of the municipality.

Clause 41.—We have provided for the calling of meetings of committees in the absence of the chairman.

Clause 43 (a).—We have provided for delegation of powers on the lines of section 37 of Bombay Act III of 1901.

Clause 45 (3).—We have inserted this on the lines of section 40 (3) of Bombay Act III of 1901.

Clause 55 (b).—This corresponds to section 46 (b) of Bombay Act III of 1901.

Clause 55 (f).—We have amended this on the lines of section 46 (e) of Bombay Act III of 1901.

Clause 58 (I) (ff).—This follows section 48 (I) (d) of Bombay Act III of 1901.

Clause 58 (I) (o).—We have included in the clause private wells to which the public have access.

Clause 58 (I) (t).—Provision has been made for compensation where necessary.

Clause 58 (4).—We consider this clause unnecessary and have deleted it.

Clause 68 (I).—We have included the establishment and maintenance of dairy farms and breeding studs.

Clause 70 (xiii).—We have made provision for special educational tax.

Clause 83 (4).—This has been inserted on the lines of section 69 (4) of Bombay Act III of 1901.

Clause 96.—We have deleted the clause as we do not consider that such provision should be made in this bill.

Clause 109.—We have provided for a revision application against the decision of the magistrate.

Clause 116 (3) (b).—We have made the approval of the municipality necessary, as the order of the chief officer may render the municipality liable to pay compensation.

Clause 122.—We consider these provisions unnecessary for mofussil municipalities and have therefore deleted the clause.

Clause 141.—We think this power should rest with the municipality.

Clause 150 (4).—The period of four days provided by the clause is too short: we have therefore increased it to ten.

Clause 177 (4).—We have reduced the penalty.

Clause 184.—We have inserted a proviso on the lines of section 392 (2) of the City of Bombay Municipal Act III of 1888.

Clause 204.—We have increased the period of notice from one month to two.

Clause 207 (2).—We have extended the power of sanctioning re-appropriations to committees other than the standing committee,

(Signed) GHULAM HUSSAIN Hidayatallah,

(„) M. S. KHURRO.

(„) S. N. BRUTTO,

- (Signed) RAFIYUDDIN AHMAD (*subject to a minute* of dissent*).
- („) BHOJSING G. PAHALAJANI (*subject to a minute* of dissent*).
- („) A. F. I. PATHAN (*subject to a minute* of dissent*).
- („) W. S. MUKADAM (*subject to a minute* of dissent*).
- („) D. B. COOPER (*subject to a minute of dissent*).
- („) D. N. PATEL (*subject to a minute* of dissent*).
- („) A. N. SURVE (*subject to a minute of dissent*).
- („) L. J. MOUNTFORD (*would like to make some remarks on section 17*).
- („) C. W. A. TURNER.
- („) G. W. HATCH.
- („) D. R. PATIL (*subject to a minute* of dissent*).
- („) R. G. PRADHAN (*subject to a minute* of dissent*).

(*Minute of dissent by Khan Bahadur D. B. Cooper, M.L.C.*)

I have signed the majority report on the Bill No. XVI of 1925, subject to the following note of dissent.

2. The alterations which the Bill seeks to make in the existing law by clauses 17 and 35 are in my opinion uncalled for and in fact are a concession to a demand which does not exist.

3. Clause 17 leaves the term of office of the President to be fixed by the Municipalities. The arguments advanced in favour of the curtailment of the term of this office are—

- (1) that no President can afford to become an autocrat,
- (2) that the Municipalities can have wider powers of control over each and every individual Councillor,
- (3) that frequency of change in the office will conduce to the training of more men for responsible public office,
- (4) that such first class municipalities as the Bombay Corporation have not suffered by the annual election of the President.

4. Regarding argument (1), the President, whoever he may be, cannot by the very facts of his having been elected and being constantly under the necessity of having majorities in his favour as long as he remains in his office help being a party man. I refer to his inward sympathies and the sympathies of his supporters, and leave apart his opinions on minor questions not involving any main principle of policy, when he may side with minorities. Need of support in future as well as gratitude for past support is a more effective check on autocracy even than annual elections. Then the right which clause 35 gives him to necessarily head and nominate a third of the personnel of the Standing Committee, will make a greater autocrat of him than triennial elections.

* Will be found at the end of these appendices.

5. Passing to argument (2) in the present state of things the President is not the less subject to the control of the General Body who have the power of voting censure against him. The Bill elsewhere further empowers the General Body to turn the President out by a $\frac{2}{3}$ majority resolution.

6. Coming to argument (3) the President's office under the Bill does not include any great practical individual duties and individual powers. The end of diffused training would be better served by leaving the entire personnel of the Standing Committee to be elected as in the case of the present managing committees.

7. Lastly, in reply to argument (4) the analogy of the Bombay Corporation is clearly inapplicable to major municipalities in the mofussil, if for no other reason, on account of the former being able to pay for and having ever at the head of their administration a competent administrator from the cadre of the Indian Civil Service. There lies the security of the continuity of a well thought out civic policy, whereas in the mofussil the major municipalities look for the continuity of their policies to the managing committees. These latter being only annual, no single Board can safely look forward to its policy remaining substantially unaltered without at least one office-bearer at the head being there throughout its term.

8. As against the foregoing, the disadvantages of an annual election of the President are these :—

- (1) No individual, however pre-eminent in talent and tact, can hope to bring to fruition in one year's time any decent idea of civic good he may enter on his office with. This inability to effectively do any public good will act as a great deterrent to people of merit from seeking this office. The President's office therefore will attract fewer men of real merit to try for it.
- (2) Majorities who will not care to rise above cliques and intrigues may not mind pitchforking an unworthy man into that dignified office for the trifle of a year and take trials with such men as Presidents. Before electing incompetent dummies to be there for three years, even such majorities will think twice and many more times over.
- (3) The justification for a President being in his office is that he must be able to lead a local body. Annual elections might bring in only such men as would submit to be led by their supporters.
- (4) The President's office must remain one of the few rewards and encouragements public life has out in the mofussil, and public men with experience and capacity to lead must have a chance to remain at the helm sufficiently long to be able to do public good and carry out their pet policies therefor. The liability to be turned out after 12 months will to a great extent detract from the value of and allurements to the President's office.

6. Taking the analogy of the Chairman and Vice-chairman of a School Board under the Primary Education Act, the identical reasons must operate in both cases. The principal reason why the chairman's and

vice-chairman's terms of office, and in fact the terms of office of the School Boards, are made co-extensive with the terms of their respective local authority Boards is the necessity of a continuity in the policy initiated by them. There is no reason why the Presidents of Municipalities should be treated on a different footing from the chairman and vice-chairman of a School Board.

10. I, therefore, am of opinion that the existing law on the subject should be maintained intact and clause 17 should be amended accordingly.

11. Clause 35 makes the President *ex officio* chairman of the standing committee and gives him the power to nominate members thereon to the extent of a third of the entire number thereof. In my opinion, the first and third of the four arguments which I have noted and met on clause 17 of the Bill are really applicable here. These powers would place a majority of the committee constantly at the beck and call of the President. Every year there would be fewer people trained in practical civic affairs than is possible in the absence of such a power in the President.

12. If there is one individual office-bearer who is bound to receive real and intimate training in the working of municipalities more than any other, it is the chairman of the standing committee. There should be no *ex officio* chairman. The office should be left to be filled by free election every year, the municipality of course being left their present choice of electing the President on the Standing Committee. If elected, the President should be as he is *ex officio* the chairman for the year. The analogy of the District Local Boards is inapplicable. The difficulties in the way of these two classes of local bodies are the same in this matter, the ordinary residence of every member of a District Local Board not being necessarily at the head-quarters. Therefore the *ex officio* provision has had to be made in the special circumstances of the case. In my opinion the existing provisions of the law should be maintained in the present bill and clause 35 accordingly amended.

Satara, 26th September 1925.

(Signed) D. B. COOPER.

(Minute of dissent by Mr. A. N. Surve, M.L.C.)

With due respect I beg to differ from the majority report on the following important points.

Clause 9(c).—The majority have kindly met my wishes as regards representation to the depressed classes, and a provision has now been made for the creation of special wards for those classes. But I regret that my suggestion as regards the Hindu backward classes and other communities has not been accepted. If we take into account the present condition of political consciousness of the electorates and the reduction of power of nomination of non-official members from one-fourth to one-tenth of the total number of members, then, it is feared, the interests of minorities will be sacrificed. In order to safeguard these interests, I consider the reservation of seats in favour of minority communities is necessary. If that is not done, I am afraid the consequences will be very serious if not disastrous. To me it appears very unwise and also partial

to divide the people into two groups, viz., Mahomedans and non-Mahomedans, and to secure fixed proportion of representation for the former only, and to let all other communities consisting of Jews, Parsis, Christians, Jains, Lingayats and numerous Hindu communities to take care for themselves without evincing the least regard for their welfare. Municipal Democracy—in the true sense of the term—should mean equal opportunities to all classes and sections of the public to have representation and voice in the administration of the affairs of that body. Unfortunately in almost all municipalities of this presidency this desirable state of representation is non-existent. Classes rule over the masses. Intellectual classes obtain the sole monopoly of representation to the total or partial exclusion of the representatives of the masses; and what is regrettable is that they obtain it under the pretence of rendering public service out of philanthropic motives when as a matter of fact their activities are directed in channels of self-aggrandisement. Disproportionate representation obtained by the intelligentsia at the sacrifice of the just claims of the masses even though it be out of real motives of philanthropy—which is never the case—is not conducive to the welfare of the people. It never occurs to these pseudo-philanthropists that by their intrusion they are keeping out the rightful claimants and thereby retarding the political evolution of the masses which is resulting in the postponement for an indefinite period of the much talked of but little understood “Swarajya” for which all are thirsting. Government have realised that in the ordinary course those who have a claim for representation do not and will not obtain it, therefore they have given separate electorate to the Mahomedans. I do not grudge them that privilege, but my complaint is that Government have not made provision for other communities whose interests need similar protection. Government have—I am sorry to say—not only failed in their duty towards these communities but have divested themselves of the power of remedying the vagaries of elections which they possessed in the shape of ‘Nomination’. I should not be understood as defending the retention of that power in Government. I congratulate the Honourable Minister on the forward step he has taken in curtailing the power of Government. My only grievance is that no device for correcting abnormalities in election is adopted. I had therefore suggested that under the rule-making power they should fix the proportion of non-Mahomedan seats to be allotted to rightful claimants who would be shut out from obtaining representation in the absence of this device. The advantage of this course will be that the municipality will be thoroughly representative of all interests. Government will not lay itself open to the charge unnecessary interference in the right of electors because they will not prescribe the election of any particular individual (as is the case in nomination). What they will prescribe is that a particular community shall have representation. Electors will be quite free to choose any individual belonging to that community. There is to be a common electorate for all non-Mahomedan communities, therefore there will be no division of people into separate groups. For this reason I trust my suggestion will not offend the advocates of “one nation” feeling—if

it is sincere and is not merely a cloak for advancing selfish interests. When the electorates are sufficiently educated this device will not be necessary ; but in the present state of affairs it is absolutely necessary. I am afraid the Honourable Minister is much in advance of the times and I trust he will reconsider this point in the light of what is stated above and will not expose himself to the charge of sacrificing the interests of the minorities.

The qualifying age is fixed at 21. I still maintain that it should be 18. I admit I was in the minority in the select committee, but in it no one was able to point out wherein my mistake lay. On the contrary the arguments advanced against me were not only unconvincing but were also totally wrong in some respects.

Clause 13 (4) has undergone some change and my suggestions were partly accepted for which I am thankful, but I think that in the interests of purity of elections, the definition of corrupt practice should be brought in a line with its definition as laid down in Bombay (Legislative Council) Electoral Rules.

1st October 1925.

(Signed) A. N. SURVE, M.L.C.

BILL No. XVI OF 1925.

A Bill to give wider powers in the management of municipal affairs in certain cities.

[As amended by the Select Committee.]

[Except where otherwise stated the marginal references are to sections of the Bombay District Municipal Act, 1901.]
5 & 6 Geo. V.,
C. 61.

WHEREAS it is expedient to amend the law relating to the management of municipal affairs in certain cities of the Bombay Presidency; And Whereas the previous sanction of the Governor-General required by section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Cf. s. 1. Short title and extent. 1. (1) This Act may be called the Bombay City Municipalities Act, 1925.
(2) It extends to the whole of the Bombay Presidency.

1A. *The provisions of the Commissioner in Sind Act (Act V of 1868) shall not apply to any powers hereby conferred upon Government.*

Cf. s. 3. Definitions. 2. In this Act and in the schedules, unless there be something repugnant in the subject or context—

(1) "Annual letting value" shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situate therein or thereon, might reasonably be expected to let from year to year, and shall include all payments made or agreed to be made by a tenant to the owner of the building or land on account of occupation, taxes, insurance or other charges incidental to his tenancy.

(2) "Building" shall include any hut, shed or other enclosure, whether used as a human dwelling or for any other purpose, and shall also include walls, verandahs, fixed platforms, plinths, door-steps and the like.

(3) "Commissioner" shall mean the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879, and in Sind, the Commissioner in Sind.

(4) "Councillor" shall mean any person legally a member of the municipality in a municipal borough.

(5) "Dangerous disease" shall mean cholera, plague, small-pox, and any endemic, epidemic or infectious disease by which the life of man is endangered.

(6) "House-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cess-pool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom.

(7) "Judge" shall mean District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, Subordinate Judge, or Joint Subordinate Judge.

(8) "Land" shall include land which is built upon or covered with water.

(9) "Municipal borough" shall mean a municipal district as defined in the Bombay District Municipal Act, 1901, included or hereafter included in Schedule I, during the period of such inclusion. Bom. III of 1901.

(10) "Municipal district" shall mean a municipal district as defined in the Bombay District Municipal Act, 1901. Bom. III of 1901.

(11) "Notified area" means an area notified under section 187 of the Bombay District Municipal Act, 1901. Bom. III of 1901.

(12) (II) "Nuisance" shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

(12) "Octroi" shall include a terminal tax.

(13) "Official year" shall mean the year commencing on the first day of April.

(14) "Owner" shall include the person for the time being receiving the rent of any land or building, whether on his own account or as agent or trustee for any other person or for any society or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant.

(15) "Public securities" shall mean —

(a) securities of the Government of India and of the Local Government;

(b) stocks, debentures or shares in railway or other companies the interest whereon has been guaranteed by the Secretary of State for India in Council;

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India; or

(d) a security expressly authorized by any order which the Government makes in this behalf.

(16) "Public street" shall mean any street —

(a) over which the public have a right of way; or

(b) heretofore levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds; or

(c) which under the provisions of section 113 or 114 is declared by the municipality to be, or under any other provisions of this Act becomes a public street.

(17) "Private street" means a street which is not a public street.

(18) "Salaried servant of the Government" shall not include a retired servant of the Government in receipt of a pension, or a person in receipt of a salary from the Government who is not a full-time servant of the Government.

(19) "Street" shall mean any road, footway, square, court, alley, or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not; but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

(20) "Tax" shall include mean any toll, rate, cess, fee or other impost leviable under this Act and shall include a water rate.

(21) "Vehicle" shall include bicycles, tricycles, motor cars, and every wheeled conveyance which is used or capable of being used on a public street.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

(1) *Municipal boroughs.*

Cf. s. 4. 3. (1) Subject to the provisions of section 6 the *The Government* may, by notification in the *Bombay Government Gazette* and with effect from a date to be specified in the said notification, include in Schedule I any municipal district other than the municipal district of Karachi or exclude any municipal borough from the said schedule.

Extension of Act to and withdrawal of Act from municipal districts and boroughs.

(2) The Government may, after consulting the municipality, by notification in the *Bombay Government Gazette* and with effect from a date to be specified in the said notification, extend, contract or otherwise alter the limits of any municipal borough.

(3) A notification altering the limits of a municipal borough shall clearly set forth the local limits of the area to be included in or excluded from such municipal borough.

Limits to be specified in notification altering area.

Cf. s. 2.
Cf. Bom. I of 1904, ss. 9 and 25.
Bom. III of 1901. 4. (1) The provisions of the *Bombay District Municipal Act, 1901*, shall not apply to any municipal district included or hereafter included in Schedule I from the date of such inclusion:

Bom. III of 1901 not to apply to municipal boroughs. Municipal boroughs excluded from Schedule I. Continuance of acts, notifications, etc., in respect of boroughs.

Provided that—

(a) references in any other enactment or in any instrument to the Bombay District Municipal Act, 1901, shall, unless a different intention appears, be construed in respect of any municipal borough as references to this Act; Bom. III of 1901.

(b) any appointment, notification, notice, tax, order, scheme, license, permission, rule, by-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, in respect of a municipal district included or hereafter included in Schedule I, so far as is not inconsistent with the provisions of this Act, and any appointment, notification, order, scheme, rule, by-law or form made or issued under any other law in respect of such district shall continue in force and be deemed to have been made, issued or imposed under the provisions of this Act or of such other law in respect of the municipal borough constituted by such inclusion unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, license, permission, rule, by-law or form made or issued under this Act or such other law. Bom. III of 1901.

(2) From the date specified in a notification under sub-section (1) of section 3, excluding a municipal borough from Schedule I, ~~the provisions of this Act shall not apply to such municipal borough it shall cease to be a municipal borough and the provisions of the Bombay District Municipal Act, 1901, shall apply to it.~~ Bom. III of 1901.

5. The property, rights and liabilities of the municipality in a municipal district included or hereafter included in Schedule I shall vest in the municipality of the municipal borough constituted by such inclusion, from the date of such inclusion. Cf. s. 4 (e).
Transfer of rights, etc. on inclusion in Schedule I

6. (1) Not less than two months before the publication of a notification under section 3 the Government shall cause to be published in the *Bombay Government Gazette* in English, and in at least one of the local newspapers (if any) in the vernacular language of the district in which the municipal borough or municipal district is situate, and to be posted up in conspicuous places in such municipal borough or municipal district in such vernacular language, a proclamation announcing that it is proposed to include in or exclude from Schedule I the municipal district or municipal borough, as the case may be, or to alter the limits of the municipal borough in a certain manner, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor in writing, to the Collector within two months from the date of the said proclamation; and whenever it is proposed to add to or exclude from a municipal borough any inhabited area, it shall be the duty of the municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area. Cf. s. 8.
Preliminaries before notification.

(2) The Collector shall, with all reasonable despatch, forward every objection so submitted to the Government.

(3) No such notification as aforesaid shall be issued by the Government unless the objections, if any, so submitted are in its opinion insufficient or invalid.

(2) *Municipalities.*

Cf. s. 9. 7. In every municipal borough there shall be a municipality, and every such municipality shall be a body corporate of Incorporation of municipalities. by the name of "the Municipality of—", and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its Chief Officer.

(3) *Election of Councillors.*

Cf. s. 10. Municipalities to consist of elected and nominated councillors. 8. (1) Every such municipality shall consist of—

(a) elected councillors; and

(b) nominated councillors, that is to say, such persons as from time to time are by name appointed in this behalf, or are executing the functions of any office from time to time notified in this behalf, by the ~~Commissioner~~ Government:

Provided that the number of elected councillors shall not be less than four-fifths of the whole number, and that In specified proportions. not more than one-half of the nominated councillors shall be salaried servants of the Government:

But all councillors may be elected. Provided also that the Government may direct that all the councillors shall be elected.

(2) Any vacancy due to failure to elect the full number of councillors which under this section might be elected and any Failure to elect. vacancy due to failure to elect a councillor under section 27 may, notwithstanding anything in this Act, be filled up by nomination by the ~~Commissioner~~ Government.

Bom. III of 1901.

Continuance of councillors holding office at commencement of Act. Election in case of non-continuance.

(3) Councillors elected or nominated under the Bombay District Municipal Act, 1901, and holding office in a municipal district included or hereafter included in Schedule I, immediately prior to such inclusion, shall be deemed to have been elected or nominated, as the case may be, under this Act: provided that where the Government has directed that all the councillors shall be elected, councillors nominated under the Bombay District Municipal Act, 1901, shall not be deemed to have been nominated under this Act, and councillors shall be elected under the provisions of this Act in place of such nominated councillors.

Bom. III of 1901.

Cf. s. 11.

The Government shall determine number of councillors; fix proportion of elected and nominated councillors and make rules for regulating elections.

9. (1) The Government shall, from time to time, generally or specially for each municipality,—

(a) determine the number of councillors;

(b) fix, subject to the provisions of section 8, the proportion of the councillors, if any, who shall be nominated ;

~~(e) make rules consistent with this Act prescribing the number of Mahomedan and non-Mahomedan wards to be constituted in each municipal borough, the extent of such wards and the number of councillors to be elected by each ward, providing for the preparation and revision of the electoral roll of tax payers, and fixing the dates and the time and manner of holding elections, general, or casual of councillors to be elected.~~

(c) make rules consistent with this Act prescribing the number of councillors to be elected by public bodies or associations, if any, the number of wards to be constituted for Mahomedans, non-Mahomedans and depressed classes in each municipal borough, the extent of such wards and the number of councillors to be elected by each ward, providing for the preparation and revision of the lists of voters from time to time fixing the date after which no application for enrolment in any such list under preparation or revision shall be received, declaring the manner in which the right to vote of any undivided family, or any company or firm, or any other association or body of individuals or any trustees of any building or land, being two or more in number, entered in such list, may be recorded and exercised, and prescribing the restrictions, if any, on the number of votes which a voter may give ;

determining the manner in which and the authority by whom any objection to such lists in regard to the names entered therein or omitted therefrom may be heard and decided, and to what judicial authority the appeals as to such entries and omissions shall lie ;

prescribing the date for the publication of the Municipal Election Roll ;

regulating generally such elections.

Explanation.—A depressed class for the purpose of this section shall be one which in the opinion of the Government is a depressed class and the number of which is sufficient to require representation. There shall not be more than one ward for all such classes combined.

(2) The Government may from time to time delegate to the Commissioner any of the powers granted to the Government by clause (c) of sub-section (1), subject to such restrictions or conditions if any, as the Government may attach to the delegation and such powers shall be exercised in consultation with the Municipality concerned.

10. (1) Save as provided in section 14, every person whose name is entered in the current electoral roll or part thereof, prepared for a municipal borough which constitutes or forms part of a general constituency, and published under regulation 6 (3) of Part II of the Bombay Electoral Regulations, 1923, shall be qualified to vote at a municipal election in such municipal borough.

Persons qualified to vote or be candidates at a municipal election. Electoral roll of tax-payers.

~~(2) (a) Save as provided in section 11 every person who in any municipal borough has paid in the year in which the election takes place municipal taxes, other than octroi or terminal tax or toll, due for the official year preceding that in which the election takes place and whose name is entered in the municipal roll of such voters, shall be qualified to vote at a municipal election in such municipal borough:~~

(2) (a) *Save as provided in Section 14, every person—*

(i) *who in any municipal borough, on the first day of April next preceding the date of publication of the electoral roll, occupied as tenant a house or building, or part of a house or building separately occupied, as a dwelling or for the purpose of any trade, business or profession, of which the annual rental was not less than Rs. 24 or of which the capital value was not less than Rs. 400, or,*

(ii) *who for a period of not less than three months next preceding the last day before the preparation or revision of the list of voters upon which under the rules applications for enrolment may be received has paid the qualifying tax and who within the three months next preceding the aforesaid date has paid all arrears of taxes if any due from him to the Municipality,*

shall be qualified to be entered in the list of voters for such municipal borough and to vote at a municipal election in such municipal borough:

Provided that a person who—

(i) *is not a British subject or a subject of an Indian State, or*

(ii) *has been adjudged by a competent court to be of unsound mind, or*

(iii) *is under 21 years of age, shall not be entitled to have his name entered in such electoral roll.*

Explanation.—For the purposes of this Section, ‘the qualifying tax’ means a tax other than octroi, toll and the tax on vehicles and animals plying for hire or kept for the purpose of being let for hire, imposed in a municipal borough.

(b) *The electoral roll of tax-payers for the time being in force shall be conclusive evidence for the purpose of determining whether any person is entitled to vote under the provisions of this sub-section at any election. If an electoral roll is not revised in accordance with the rules made under clause (c) of sub-section (1) of section 9, the roll shall continue in force until such revision has taken place.*

(3) *Every person so qualified to vote who for a period of not less than six months next preceding the last day before the preparation or revision of the electoral roll upon which under the rules applications for enrolment may be received has been resident in such borough or within seven miles of the limits thereof shall, subject to the provisions of this Act and of any other law for the time being in force, be qualified to be a candidate at a municipal election in such municipal borough.*

Explanation.—For the purposes of this section a person shall be deemed to be resident in or within seven miles of the limits of a municipal borough

if he ordinarily resides or has his principal place of residence in or within seven miles of the limits of such borough.

General disqualifications for becoming a councillor. Vacation of seat. Decision of Government in case of dispute. 11. (1) No person may become a councillor— Cf. s. 15.

(a) who

(i) has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, if and so long as such sentence has not expired, or

(ii) has been removed from office under section 25 and five years have not elapsed from the date of the expiry of such removal,

unless he has, by an order which the Government is hereby empowered to make, if it shall think fit, in this behalf, been relieved from the disqualification arising on account of such sentence or removal from office; or

(b) who is an uncertificated bankrupt or an undischarged insolvent, or

(c) who is a Judge.

(2) No person—

(a) who is a subordinate officer or servant of a municipality, or

(b) who, save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a municipality, or in any contract or employment with or under or by or on behalf of a municipality,

may be a councillor of such municipality.

(3) A person shall not be deemed to have incurred disqualification under clause (b) of sub-section (2) by reason of his—

(i) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, or

(ii) having a share or interest in any joint-stock company or in any society registered or deemed to be registered under the Co-operative Societies Act, 1912, which shall contract with or be employed ~~II~~ of 1912. by or on behalf of the municipality, or

(iii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted, or

(iv) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipality, or

(v) being professionally engaged on behalf of the municipality as a legal practitioner, or

(vi) having a share or interest in the occasional sale to the municipality of any article in which he regularly trades, or in the purchase from the municipality of any article, to a value in either case not

exceeding in any official year five hundred rupees or such higher amount not exceeding two thousand rupees as the municipality with the sanction of the Government may fix in this behalf, or

(vii) having a share or interest in the occasional letting out on hire to the municipality or in the hiring from the municipality, of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the municipality with the sanction of the Government may fix in this behalf, or

(viii) being a party to any agreement made with the municipality under the provisions of section 88 or of proviso (a) to sub-section (1) of section 194 192.

(4) If any person is elected or nominated as a councillor in contravention of the provisions of this section, his seat shall be deemed to be vacant.

(5) If any question or dispute arises whether a vacancy has occurred under this section, the orders of the Government shall be final for the purpose of deciding such question or dispute.

Cf. s. 19.

12. ~~A person who has already been elected or appointed a councillor on one or more occasions shall, if~~
 Religiibility of otherwise duly qualified, be eligible at any
 eouncillors. time for reelection or re-appointment.

12. (1) *When, in accordance with rules framed under sub-clauses (iii) and (iv) of clause (c) of section II, a list of voters has been prepared or, upon a general revision, completed, a copy thereof signed by such person as may be designated in this behalf in the rules aforesaid, shall be the Municipal Election Roll. A new Election Roll shall be published in each year on such date as may be prescribed by the rules, and shall continue in operation for a period of twelve months from that day:*

Provided that if a new Election Roll is not published in any year before the date prescribed, the roll then in operation shall continue in operation until the new roll is published.

(2) *At every election of councillors every person enrolled in the Municipal Election Roll as for the time being in operation under sub-section (1), shall be deemed to be entitled to vote; and every person not so enrolled shall be deemed to be not entitled to vote.*

Enrolment in 12A. A person shall not be qualified to be
 Municipal Election Roll necessary for elected a councillor unless he is enrolled in the
 elected councillor. Municipal Election Roll :

Provided that if any company, body corporate, or other association of individuals is enrolled in the Municipal Election Roll, any one person duly authorized in this behalf to represent such association shall be deemed to be qualified to be elected a councillor.

Representative
 of an Association.

13. (1) If the validity of any election of a councillor is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Judge Court of the district within which the election has been or should have been held, for the determination of such question.

(2) An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by the Government either specially for the case or for such cases generally; and such Judge may, after such inquiry as he deems necessary and subject to the provisions of sub-section (3), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid; such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. The decision or order shall be conclusive.

(3) (a) The Judge, if satisfied that a candidate has, within the meaning of sub-section (4), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (2), and shall set aside the election of such candidate if he has been elected.

(b) If in any case to which clause (a) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

(4) A person shall be deemed to have committed a corrupt practice within the meaning of sub-section (3)—

- (i) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration gratification or holds out any promise of individual profit, or holds out any threat of injury to any person, or
 - (ii) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote;
- and a corrupt practice shall be deemed to have been committed by a candidate when candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 1.—For the purposes of this section the terms “gratification” is not restricted to pecuniary gratification or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward.

Explanation 2.—The expression “a promise of individual profit”—

(i) does not include a promise to vote for or against any particular measure which may come before a municipality for consideration, but

(ii) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

(5) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under clause (c) of sub-section (1) of section 9, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.—The expression ‘error’ in this clause does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected.

(6) If the Judge sets aside an election under clause (a) of sub-section (3), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal borough or district for a term of years not exceeding seven, and the decision of the Judge shall be conclusive: provided, however, that such person may, by an order which the Government is hereby empowered to make, if it shall think fit, in that behalf, be at any time relieved from such disqualification: provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made.

Cf. s. 22-A.
XLV of 1860.

14. Any person who has been convicted of an offence under section 171-E or 171-F of the Indian Penal Code, or who has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall be disqualified for five years from the date of such conviction or disqualification from voting at any municipal election in any municipal borough or district or at any election to a local board constituted under the Bombay Local Boards Act, 1923.

Bom. VI of
1923
Cf. s. 20.

15. The names of all councillors, finally elected to any municipality and the names of the nominated councillors, if any, appointed thereto shall be published, as soon as conveniently may be, in the *Bombay Government Gazette*.

(4) *Appointment of presidents and vice-presidents.*

16. (1) A municipality shall be presided over by a president who shall be elected by the councillors from among their number. There shall be a vice-president similarly elected for each municipality. No salaried servant of the Government shall be eligible for election as president or vice-president of a municipality and the election of any such person shall be void.

Election of president and vice-president. Continuance of president or vice-president holding office at the commencement of this Act.

Cf. s. 23.

(2) A president or vice-president holding office in a municipal district, included or hereafter included in Schedule I, at the time of such inclusion shall be deemed to have been elected under this section and shall continue to hold the office of president or vice-president as the case may be until a fresh election has been held under the provisions of this section. ~~Such fresh election shall be held as soon as may be after the Act comes into force or the municipal district is included in Schedule I as the case may be.~~

17. (1) Save as otherwise provided in this Act a president or vice-president shall hold his office for such term, not less than one year and not exceeding three years, as the municipality shall, previous to the election of the president or vice-president determine, or until the expiry within the said term of his term of office as councillor, but shall be eligible for re-election :

Term of office of president and vice-president.

Cf. s. 23 (7)

Provided that the term of office of such president or vice-president shall be deemed to extend to and expire with the date on which his successor is elected.

(2) *On the expiry of the term of office of a municipality the president and vice-president shall continue to carry out the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties: Provided that in the case of the new municipality constituted under this Act, a meeting for the election of a new president shall be called by the president of the retiring municipality. The president of the retiring municipality shall preside at such meeting and the new municipality shall then elect its own chairman for that meeting and then the meeting shall proceed to elect the new president.*

President and vice-president to continue to carry out certain duties until their successors take over charge.

18. A president may resign his office by tendering his resignation in writing to the municipality, and such resignation shall take effect on its acceptance by the municipality. Such acceptance shall be published in the *Bombay Government Gazette* or in the case of Sind, in the *Sind Official Gazette*. A vice-president may resign his office by tendering his resignation in writing to the president.

Resignation of president and vice-president.

Cf. s. 15-A.

Cf. s. 23 (7). 19. A president or vice-president shall be removable from his office as such president or vice-president by the municipality by a resolution passed to that effect, provided that three-fourths of the whole number of the councillors of the municipality vote in favour of such resolution.

Cf. s. 23 (5) and (6) 20. (1) Every president who for a period exceeding three months and every vice-president who for a period exceeding one month, shall absent himself from the municipal borough in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted by the municipality.

(2) Leave under sub-section (1) shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section, a councillor shall be elected by the councillors from among their number to perform all the duties and exercise all the powers of the vice-president, during the period for which such leave is granted.

Cf. s. 23 (8). 21. (1) In the event of the non-acceptance of office, death, resignation or removal from office of a president or of a vice-president or of his election being void, or of his becoming incapable of acting in such office or having ceased to be a president or a vice-president under sub-section (1) of section 20 or a councillor under sub-section (1) of section 26, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up by the election of some other councillor thereto.

(2) *When the president and vice-president are unable or for any reason fail to call a meeting for the purpose of an election under sub-section (1) of section 16 or sub-section (1) of this section within 15 days from the commencement of the term or the occurrence of the vacancy the Collector may exercise the powers of the president for the purpose of calling such meeting.*

(5) *Term of office of councillors.*

22. (1) Save as otherwise provided in this Act councillors deemed to have been elected or nominated under sub-section (3) of section 8 shall continue to hold office for the term for which they were elected or nominated under the Bombay District Municipal Act, 1901. Councillors elected under the said sub-section shall hold office for the same period as councillors deemed to have been elected as aforesaid.

(2) The provisions of clause (b) of sub-section (2) of section 23 shall apply to such councillors.

23. (1) Councillors nominated or elected at a general election under *Cf. s. 17.*
 Term of office of coun- this Act shall, save as otherwise provided in
 cillors after general this Act, hold office for a term of three years,
 election. extensible by order of the Government to a
 term not exceeding in the aggregate four years,
 if on any occasion the Government shall think fit, for reasons which
 shall be notified together with the order in the *Bombay Government
 Gazette*, so to extend the same.

(2) (a) The term of office of such councillors shall be deemed to com-
 mence on the date of the first general meeting which shall be held after
 such election and after the expiry of the term of the outgoing councillors
 hereinbefore provided and at which a quorum shall be present; and

(b) the term of office of the outgoing councillors shall be deemed to
 extend to and expire with the day before the date of such meeting.

24. Any councillor may resign his office by *Cf. s. 15-A.*
 Resignation of coun- giving notice in writing to that effect to the
 cillors. president.

25. The Government if it thinks fit, on the recommendation of the *Cf. s. 16.*
 municipality supported by at least two-thirds

Liability of councillors of the whole number of councillors, may remove
 to removal from office. any councillor elected or nominated, under this
 Act, if such councillor has been guilty of misconduct in the discharge
 of his duties, or of any disgraceful conduct, or has become incapable
 of performing his duties as a councillor:

Provided that no resolution recommending the removal of any coun-
 cillor shall be passed by the municipality unless the councillor to whom
 it relates has been given a reasonable opportunity of showing cause
 why such recommendation should not be made.

26. (1) If any councillor during the term for *Cf. s. 15 (2)*
 Disabilities from con- which he has been elected or nominated —
 tinuing a councillor.

(a) becomes subject to any disqualification specified in section
 11, or

(b) acts as a councillor in any matter —

(i) in which he has directly or indirectly, by himself or his part-
 ner, any such share or interest as is described in clause (i), (ii),
 (iii), (vi) or (viii) of sub-section (3) of section 11, whatever may
 be the value of such share or interest, or

(ii) in which he is professionally interested on behalf of a prin-
 cipal or other person, or

(e) — being a pleader is engaged in any case against the muni-
 cipality, or

“(iii) in which he is engaged at the time in any case against the
 municipality, or

(c) departs beyond the limits of the Presidency with the declared
 or known intention of absenting himself continuously for a period
 exceeding six months, or

(d) not being a president or vice-president or a salaried servant of the Government, absents himself during four successive months from the meetings of the municipality, except with the leave of the municipality,

(e) fails to pay any arrears of any kind due by him to the municipality within three months after a special notice in this behalf has been served upon him,

he shall be disabled from continuing to be a councillor and his office shall become vacant.

(2) If any question or dispute arises whether a vacancy has occurred under sub-section (1), the orders of the Government shall be final for the purpose of deciding such question or dispute after a reasonable opportunity has been given to the Councillor.

Cf. s. 18.

27. Where a vacancy occurs through the non-acceptance of office by a person elected or appointed to be a councillor, or through such person being disqualified for becoming a councillor, or through any election being set aside under the provisions of sub-section (2) of section 13, or through the death, resignation, removal or disability of a councillor previous to the expiry of his term of office the vacancy shall be filled up, as soon as it conveniently may be, by the election or nomination as the case may be of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or nominated would have held it if the vacancy had not occurred.

A councillor whose office has become vacant under section 23 shall, if his disability has ceased, be eligible for re-election.

(6) *Municipal Government. Functions of President and Vice-President.*

Cf. s. 23-A.

Municipal Government vests in the municipality:
Executive power vests in the Chief Officer.

28. (1) Except as in this Act otherwise expressly provided, the municipal government of a municipal borough vests in the municipality.

(2) The executive power for the purpose of carrying out the provisions of this Act vests in the Chief Officer appointed under section 31, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the municipality or of the standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act and the rules made thereunder.

Cf. s. 24.

Functions of president.

29. It shall be the duty of the president of a municipality—

(a) to preside, unless prevented by reasonable cause, at all meetings of the municipality, and subject to the provisions of the rules for the time being in force under clause (a) of section 55 to regulate the conduct of business at such meetings;

(b) to watch over the financial and executive administration of the municipality, and to perform such executive functions as may be allotted to him by or under this Act;

(c) to exercise supervision and control over the acts and proceedings of all officers and servants of the municipality in matters of executive administration and in matters concerning the accounts and records of the municipality; and, subject to the rules of the municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances.

“(d) *The president of a municipality may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the municipality, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the the expense of executing such work or doing such act shall be paid from the municipal fund: Provided that*

(a) *he shall not act under this section in contravention of any order of the municipality prohibiting the execution of any particular work or the doing of any particular act, and*

(b) *he shall report forthwith the action taken under this section and the reason therefore to the Standing Committee at its next meeting.*

Functions of vice-presidents. 30. It shall be the duty of the vice-president *(f. s. 25.*
of a municipality—

(a) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the municipality and he shall when so presiding exercise the same authority as is vested in the president under clause (a) of section 29;

(b) to exercise such of the powers and perform such of the duties of the president as the president may from time to time depute to him; and

(c) pending the election of a president, or during the absence of the president ~~on leave~~, to exercise the powers and perform the duties of the president.

(7) *Appointment and powers of chief and other municipal officers.*

31. There shall be a Chief Officer in every municipal borough, such *Cf. s. 182.*

Appointment of Chief Officer. Conditions of tenure. *officer who shall be a graduate of a recognized university or a qualified engineer appointed by the municipality and no such officer shall be removable from office, reduced or suspended unless by the votes of at least three-fourths two-thirds of the whole number of councillors; and no such officer shall be punishable with fine.*

Functions of vice-presidents. 32. (1) The Chief Officer shall—

Cf. ss. 29, 138 and 185.

(a) subject to the general control of the president, watch over the financial and executive administration of the municipality and perform all the duties and exercise all the powers specifically imposed or conferred upon him by, or delegated to him under this Act; *Cf. s. 64 of Bom. II of 1838.*

(b) subject to the provisions of sub-section (4), exercise supervision and control over the acts and proceedings of all officers and servants of the municipality as regards appointments referred to in clause (e) in matters of executive administration and in matters concerning the accounts and records of the municipality; and subject further to the rules of the municipality for the time being in force, dispose of all questions relating to the service of the said officers and servants and their pay, privileges, leave and allowances;

(c) subject to the provisions of sub-section (4) appoint to any post the monthly salary for which as fixed by rules made under clause (b) of section 55 does not exceed Rs. 50 and to any other post the appointment to which has not been otherwise provided for by such rules;

(d) with the permission of the President furnish to the Collector, or such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality;

(e) subject to the provisions of this Act and of the by-laws for the time being in force thereunder, grant, give and issue under his signature all licenses and permissions which may be granted or given by the municipality or the standing committee under this Act, other than licenses for markets or slaughter-houses;

(f) receive and recover and credit to the municipal fund all fees payable for licenses and permissions granted or given by him under the powers aforesaid;

~~(g) exercise the powers of the president for the purpose of calling a meeting for an election under sub-section (1) of section 16 or under section 21 when the president and vice president are unable or for any reason fail to call such a meeting;~~

(g) subject to the orders of the president, or of the standing committee or of the municipality, as the case may be, take prompt steps to remove any irregularity pointed out by the auditor appointed under section 210;

~~(h) report to the President and the standing committee and to the auditor appointed under section 210 all cases of fraud, embezzlement, theft, or loss of municipal money and property.~~

(2) The Chief Officer may—

(a) subject to the provisions of sub-section (4) fine, reduce, suspend or dismiss any municipal servant whose salary does not exceed Rs. 50 30 and subject further to the provisions of the rules for the time being in force, any other municipal officer or servant, not being the health officer, engineer or accountant auditor of the municipality.

Provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal either to the standing committee or, if the rules for the time being in force so provide, to the municipality;

(b) subject to the provisions of this Act and of the by-laws for the time being in force thereunder at his discretion suspend, withhold or withdraw any license, in any case in which he is empowered to grant or give a license and in which the municipality or the standing committee may suspend, withhold or withdraw such license ;

(c) with the sanction of the standing committee, delegate any of his powers or duties to any municipal officer or servant :

Provided that such delegation shall be subject to such limitations, if any, as may be prescribed by the standing committee, and also to control and revision by the Chief Officer.

(3) The Chief Officer shall at any time supply any return, statement, account or report or a copy of any document in his charge, called for by the municipality or the standing committee and shall comply with any orders passed by the municipality or the standing committee thereon.

(4) The powers conferred on the municipality by or under any of the provisions of this Act to appoint, grant leave of absence to, punish or dismiss any master, teacher or other person employed in a primary or other school vested in or maintained by the municipality, or employed in any educational institution aided by the municipality, shall not be exercised by the Chief Officer.

(5) (a) A municipality may appoint a health officer and an engineer *Cf. s. 132.*
 Appointment of Health Officer and engineer. or any one or more of such officers, ~~or one person to discharge the duties of these two officers,~~ whether temporarily or permanently.

(b) No such officer shall, ~~save with the previous sanction of the Government,~~ be removable from office, reduced or suspended unless by the ~~orders assent of at least three-fourths~~ *two-thirds* of the whole number of councillors, and no such officer shall be punishable with fine.

CHAPTER III.

CONDUCT OF BUSINESS.

(1) *Municipal Meetings.*

33. The following provisions shall be observed *Cf. s. 26.*
 Provisions in regard to meetings of a municipality. with respect to the meetings of a municipality :—

(1) There shall be held four ordinary general meetings in each year *for the disposal of general business, on or about the tenth day of the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. It shall be the duty of the president to fix the dates for all ordinary general meetings.*
 Ordinary general meetings.

(2) The president may, whenever he thinks fit, and shall upon *the written request of not less than one-fourth of the councillors and for a date not more than fifteen days after the presentation of such request, call a special general meeting. If the president fails to*
 Special general meeting.

call a special general meeting as provided in this sub-clause the Vice-President may call such meeting for a day not more than thirty days after the presentation of such request.

(3) Seven clear days' notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be ~~circulated to~~ served upon the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal borough. The said notice shall include any motion or proposition which a councillor shall have given written notice, not less than ten clear days previous to the meeting, of his intention to bring forward thereat, and in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting. ~~If when the said notice is circulated to the councillors, any councillor is not found, a notice in writing specifying the time and place of the meeting shall be sent to such councillor by registered post in an envelope addressed to him at his usual or last known place of residence as soon as possible.~~

(4) Every meeting of a municipality shall, except for special reasons to be specified mentioned in the notice convening the meeting, be held in the buildings used as a municipal office by such municipality.

Meetings to be held at municipal office.

(5) Every meeting shall, in the absence of both the president and vice-president, be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion and such chairman shall exercise thereat the powers vested in the president by clause (a) of sub-section (1) of section 29.

Absence of the president and the vice-president.

(6) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipality such as should be held in private :

Meeting must ordinarily be open to the public.

Provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

(7) If less than one-third of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall *after waiting for not more than 30 minutes* adjourn the meeting to such hour on the following or some other future day as he may reasonably fix; a notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought

Adjournment in absence of quorum.

before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

(8) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been entered in the notice convening such meeting or, in the case of a special general meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

(9) In every municipality there shall be kept ~~in English and, if the municipality so resolve,~~ in the vernacular language also, *and if any Councillor so desire,* minutes of the names of the councillors and of the Government officers, if any, present under the provisions of sub-section (14), and of the proceedings at each general meeting, in a book to be provided for this purpose; such minutes shall be signed, as soon as practicable, by the presiding authority ~~of such meeting,~~ and shall at all reasonable times be open to inspection by any inhabitant of the municipal borough.

(10) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (a) of section 55.

(11) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time *to a later hour on the same day or to any other day*; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

A notice of such adjournment posted in the Municipal office shall be deemed sufficient notice of the adjourned meeting.

(12) No resolution of a municipality shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of councillors and passed at a general meeting, whereof notice shall have been given fulfilling

the requirements of sub-section (3) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

(13) Except for reasons which the presiding authority deems urgent, no business relating to any work which is being executed for the municipality by a Government Executive Engineer or to any educational matter, shall be transacted at any meeting of a municipality unless, at least fifteen days previous to such meeting, a letter has been addressed to the said Executive Engineer or to the Deputy Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

(14) (a) The members of the Sanitary Board, and the Executive Engineer, Deputy Educational Inspector and the Assistant Director of Public Health, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a municipality within the district, shall have the right of being present at any meeting of such municipality; with the consent of the municipality, each of them may take part at such meeting in the discussion or consideration of any question, on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such municipality:

Provided that the said officers shall not unless they are members of the municipality, be entitled to vote upon any such question.

(b) If it shall appear to a municipality that the presence of the Executive Engineer, Deputy Educational Inspector, Assistant Director of Public Health or Civil Surgeon of or in the district, is desirable for the purpose aforesaid at any meeting of such municipality, it shall be competent to such municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat; and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting:

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative instead of appearing thereat in person.

Cf. s. 26A.

34. ~~A Chief officer shall have the same right of being present at a meeting of the municipality or of a committee and of taking part in the discussion thereat as a councillor or member thereof; with the consent of a majority of the councillors or members present, ascertained by a show of hands without discussion, he may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon or to make any motion.~~

Right of Chief Officer to be present and to speak at municipal and committee meetings.

31. *The Chief Officer shall be present at every meeting of the Municipality, and may with the permission of the President or of the Municipality make an explanation or a statement of facts in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at such meeting.*

(2) *Committees.*

35. (1) In every municipality there shall be a committee called the *cf. s. 27.*
 standing committee consisting of such number of
 Standing committee. councillors not being more than twelve nor less than six, as the municipality may determine. Of these such number, not being more than half, as may be prescribed by the Government one-third shall be nominated by the president and the remainder shall be elected by the municipal councillors in accordance with rules under clause (a) of section 55. The members so nominated or elected shall hold office for a period of one year.

(2) The standing committee shall exercise the functions allotted to it under this Act and subject to any limitations prescribed by the municipality especially in this behalf or generally by rules made under clause (a) of section 55, and to the provisions of sections 32 and 36, shall exercise all the powers of the municipality :
 Powers of standing committees.

(3) *The President shall be ex-officio a member and chairman of the Standing Committee.*

36. (1) *Notwithstanding any thing contained in section 35 (2) other* *cf. s. 29.*
 Committees consisting of such number of councillors as the municipality may decide, may be appointed to exercise the powers and perform the duties of the standing committee *Municipality* in respect of any purpose. The standing committee shall not exercise any powers or perform any duties which such committee has been appointed to exercise or perform.

(2) Of any such committee such number, not being more than half, as may be prescribed by the Government, one-third shall be nominated by the president and the remainder shall be elected by the municipal councillors in accordance with rules under clause (a) of section 55. The members so nominated or elected shall hold office for a period of one year.

(3) ~~The number of committees appointed under this section shall not exceed four.~~

37. A municipality may from time to time appoint such other com- *cf. s. 30.*
 Consultative committees. mittees consisting of such councillors as it thinks fit, and may refer to such committees for inquiry and report or for opinion such special subjects relating to the purposes of this Act as the municipality shall think fit, and may at any time discontinue or alter the constitution of any such committee. The municipality may direct that the report of any such

committee shall be made to the standing committee, or to a committee appointed under section 36, instead of to the municipality.

Cf. s. 31.

38. Notwithstanding anything contained in this Act, it shall be lawful for a municipality from time to time, by a resolution supported by not less than one-half of the whole number of councillors, to elect as members of any committee appointed under section 36 or 37 any person of either sex, who is not a councillor but who in the opinion of such municipality possesses special qualifications for serving on such committee; provided that the number of persons so elected on any committee shall not exceed one-third of the total number of the members of such committee.

When persons other than councillors may serve on committees.

All the provisions of this Act relating to the duties, powers, liabilities, Duties, etc., of such persons. disqualifications and disabilities of councillors shall be applicable so far as may be to such persons.

Cf. s. 32.

39. A vacancy occurring in a standing committee or in a committee appointed under section 36 shall as soon as possible, and a vacancy occurring in any other committee may, be filled up by the nomination or election of a member thereto subject to the same provisions as those under which the member whose place is to be filled up was nominated or elected. A person nominated or elected under this section shall hold office so long only as the person in whose place he is nominated or elected would have held it if the vacancy had not occurred. No person shall be ineligible at any time for election or nomination as a member of any such committee on the ground that he has previously been a member of that committee.

Casual vacancies; re-eligibility.

Cf. s. 33.

40. (1) The president or vice-president, if nominated or elected a member of any committee, shall be *ex-officio* chairman thereof.

Ex-officio and appointed chairman. Non-attendance of chairman.

(2) A municipality may appoint a chairman for a committee of which there is no *ex-officio* chairman.

(3) A committee, of which there is an *ex-officio* chairman or a chairman appointed by the municipality, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting.

(4) A committee, of which there is no *ex-officio* chairman or chairman appointed by the municipality, shall appoint from time to time a chairman from the members of such committee.

Cf. s. 34.

41. (1) The provisions of sub-sections (4), (9), (10) and (11) of section 33 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a municipality contained in those provisions, and as if for the word "municipality" where it occurs in the proviso to clause (a) of sub-section 11 of section 33, there was substituted the word "committee".

Procedure at meetings.

If the Chairman of any Committee has been absent from the Municipal Borough for a period exceeding fifteen days, the President or Vice-President may, in his absence, call a meeting thereof :

Provided that, notwithstanding anything to the contrary contained in sub-section (9) of section 33, a committee may record its proceedings either in English or in the vernacular language, as it may think fit.

(2) A committee may meet and adjourn as it thinks proper ; but the chairman of a committee may whenever he thinks fit, and shall, upon the written request of the president of the municipality or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

(3) No business shall be transacted at any meeting of a committee unless more than one-third of the members of the committee be present thereat.

42. (1) Notwithstanding anything contained in section 41 the chairman of a committee may, instead of convening a meeting, circulate a written proposition of his own or of any other member of the committee or of any executive officer of the municipality for the observations and votes of the members of the committee.

(2) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (13) of section 33, shall obtain thereupon the remarks, if any, which any Government officer whose presence the municipality would be entitled to require under the provisions of clause (b) of sub-section (14) of section 33, desires to record.

(3) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition.

(4) Every decision arrived at by a committee under this section shall be recorded in the minute book.

43. (1) A committee shall conform to any instructions that may from time to time be given to it by the municipality ; the municipality may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorized or directed to deal ; every such requisition shall, without unreasonable delay, be complied with by the committee so called upon.

(2) Every order passed by a standing committee or by a committee appointed under section 36, other than orders under sub-section (3) of section 78, shall be subject to such revision and open to such appeal

as may be required or allowed in respect thereof by any rules of the municipality for the time being in force under section 55.

43A. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the municipality may be delegated in accordance with rules to be made by the municipality in this behalf, to the president or to the vice-president or to the chairman of the school or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on the Chief Officer by this Act or on any committee by or under section 35 or 36, and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein.

Powers, duties and functions may be delegated to officers whose expenses may be paid.

(3) Joint transactions with other bodies.

Cf. s. 39.

Joint committees of local bodies. Joint levy of octroi.

44. (1) A municipality may from time to

time—

(a) join with any other municipality or with any local board, cantonment authority, sanitary board, sanitary committee or committee appointed for a notified area or with any combination of such municipalities, boards, authorities or committees—

(i) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee; and

(ii) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work, and any power which might be exercised by any of such bodies; and

(iii) in framing and modifying rules for regulating the proceedings of any such committee in respect of the purpose for which the committee is appointed; and

(b) enter, subject to the sanction of the Government, into an agreement with a municipality, cantonment authority, board, committee or combination as aforesaid for the levy of octroi duty, and tolls whereby the octroi duties and tolls respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

Explanation.—For the purpose of clause (b) of sub-section (1) octroi duty includes a terminal tax.

(2) If any difference of opinion arises between bodies having joined or entered into an agreement for any purpose under this section, the decision thereupon of the Government or of such officer as it appoints in this behalf, shall be final.

(4) Contracts.

45. (1) A municipality shall be competent, subject to the restriction *Cf. s. 40.*

Power of municipality contained in sub-section (2), to lease, sell or to sell, lease and contract. otherwise transfer any movable or immovable property which may, for the purposes of this Act, have become vested in or been acquired by it; and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as it may consider necessary or expedient in order to carry into effect the said provisions and purposes.

(2) In the case of every lease or sale of land under sub-section (1) of section 112 and of a lease of immovable property for a term exceeding seven years and of every sale or other transfer of such property, the previous sanction of the Commissioner is required.

(3) In the case

(a) of a lease for a period exceeding one year or of a sale or other transfer or contract for the purchase of any immovable property;
Sanction by resolution of general meeting requisite to validity of certain contracts.

(b) of every contract which will involve expenditure not covered by a budget grant;

(c) of every contract the performance of which cannot be completed within the official year current at the date of the contract;

the sanction of the municipality by a resolution passed at a general meeting is required.

(3) In a municipality—

(a) every contract under or for any purpose of this Act shall be made on behalf of the municipality by the Chief Officer;
Execution of contracts on behalf of municipality.

Cf. s. 186

(b) no such contract for any purpose which the Chief Officer is not empowered by this Act to carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(d) no contract which will involve an expenditure exceeding five hundred rupees shall be made by the Chief Officer unless otherwise authorized in this behalf by the Municipality except with the approval or sanction of the standing committee;

(e) every contract made by the Chief Officer involving an expenditure exceeding two hundred and fifty rupees and not exceeding five hundred rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee;

(f) the foregoing provisions of this section shall apply to every variation or discharge of a contract to the same extent as to an original contract.

(4) No contract shall be binding on a municipality unless the requirements of this section have been complied with.

y. a. 186 Q. 46. (1) Every contract entered into by a Chief Officer on behalf of a municipality shall be entered into in such manner and form as would bind such Chief Officer if such contract were on his own behalf, and may in the like manner and form be varied or discharged :

Provided that—

(a) where any such contract, if entered into by a Chief Officer, would require to be under seal, the same shall be sealed with the common seal of the municipality ;

(b) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees, shall be in writing and shall be sealed with the common seal of the municipality and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(2) The common seal of the municipality shall not be affixed to any contract or other instrument except in the presence of two members of the standing committee, who shall attach their signature to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(3) A contract not executed in the manner provided in this section shall not be binding on the municipality.

a. 186 P. 47. (1) Except as is otherwise provided in sub-section (3), a Chief Officer shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, give notice by advertisement in the a local newspaper, inviting tenders for such contract.

(2) The Chief Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, with the approval of the standing committee, accept any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(3) A municipality may authorise the Chief Officer, for reasons which shall be recorded in its proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

a. 186 Q. 48. A Chief Officer shall require security for the due performance of every contract, into which he enters under section 47 and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

(5) *Compulsory acquisition of land.*

49. When there is any hindrance to the permanent or temporary *Cf. s. 41.*

Recourse to the Land Acquisition Act, 1894. any land or building required for the purposes of this Act, the Government may, after obtaining possession of the same for itself under the Land Acquisition Act, 1894, or other existing law, I of 1894. vest such land or building in the municipality on its paying the compensation awarded, and on its repaying to Government all costs incurred by Government on account of the acquisition.

(6) *Liabilities of councillors, officers and servants.*

50.—~~Save as is hereinafter otherwise provided, no councillor~~ *Cf. s. 42.*

~~Municipal funds ordinarily liable for all costs and expenses incurred by municipalities;~~

~~shall be personally liable in respect of any contract or agreement made, or for any expense incurred by or on behalf of the municipality; the funds at the disposal of the municipality shall be liable for and be charged with all costs in respect of any such contract or agreement and all such~~

~~expenses:~~

~~Provided that every councillor shall be personally liable for the~~ *Cf. Mad. of 1884, 157.*

~~But councillors to be held responsible for lost, misapplied or wasted funds and property.~~

~~less, waste or misapplication of any money or other property of the municipality, to which he has been a party or which has happened through or been facilitated by his misconduct or gross neglect of his duty as a councillor; he may be sued by the Municipality concerned with the sanction of the Government, for~~

~~recovery of or compensation for the moneys or other property so lost, wasted or misapplied or by the Government as if such had been the moneys or the property of the Government; any money or property so recovered by the Government shall, after satisfaction therefrom of the necessary expenses of such recovery, be delivered to the municipality.~~

50. Every councillor shall be personally liable for the misapplication

Councillors to be held responsible for misapplied funds.

of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by gross neglect of his duty as a councillor,

and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of Government :

Provided that no Councillor shall be personally liable in respect of any contract or agreement made, or for any expense, incurred, by or on behalf of the municipality ; the funds at the disposal of each municipality shall be liable for, and be charged with, all costs as in respect of any such contract or agreement and all such expenses.

51. (1) Any person who has, directly or indirectly, by himself or his *Cf. s. 43.*

Officer or servant of municipality not to be interested in contract with such municipality.

partner, any share or interest in any contract with, by or on behalf of a municipality, or in any employment with, under, by or on behalf of a municipality, other than as a municipal officer

or servant, shall be disqualified for being an officer or servant of such municipality.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant, and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, under, by or on behalf of a municipality, as under clauses (i), (ii) and (iv) of sub-section (3) of section 11, it is permissible for a person to have without his being thereby disqualified from becoming a councillor.

7. s. 44.

52. (a) Any councillor who knowingly acquires directly or indirectly any share or interest in any contract or employment with, under, by or on behalf of a municipality of which he is a member, not being a share or interest such as under section 11 it is permissible for a person to have without being thereby disqualified from becoming a councillor, and

Penalty for councillor, officer or servant of a municipality being interested in contract, etc., with that municipality.

(b) any municipal officer or servant who knowingly acquires directly or indirectly any share or interest in any contract, or, except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by or on behalf of a municipality of which he is an officer or servant, not being a share or interest such as under clauses (i) and (iv) of sub-section (3) of section 11 it is permissible for a person to have without being thereby disqualified from becoming a councillor, shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees.

7. Bom. III of 1888, s. 52.

53. (1) Every municipal councillor, officer or servant, and every lessee of the levy of any municipal tax, and every servant or other person employed by any such lessee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

7. s. 51 of J. P. Act I of 900.

CLV of 1860.

(2) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (1) of this section, be deemed to include a municipality.

(7) *Validity of proceedings.*

7. s. 38

54. (1) No disqualification of or defect in the election or appointment of any person acting as councillor, or as the president or presiding authority of a general meeting, or as chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

Acts and proceedings of municipality and committee not vitiated by disqualification, etc., of members thereof.

No resolution of a Municipality or of any Committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice upon any Councillor or member, provided that the proceedings of the Municipality or Committee were not prejudicially affected by such irregularity.

(2) Until the contrary is proved, every meeting of a municipality or of a committee appointed under this Act in respect to be good and valid. of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(3) During any vacancy in a municipality or committee the continuing councillors or members may act as if no vacancy had occurred.

Vacancy not to affect proceedings.

CHAPTER IV.

RULES AND BY-LAWS.

55. A municipality shall make rules *not inconsistent with this Act and Cf. s. 46.*
Municipalities to make rules; *may from time to time alter or rescind them—*

(a) regulating the conduct of its business and the delegation of any of its powers or duties to any committee or to the Chief Officer or the powers or duties of any committee to any other committee or to the Chief Officer and the appointment and constitution of committees;

(b) *Determining the executive functions to be performed by the president, defining the functions of vice-president and the chairman of any the President and others; committee.*

(b) (c) determining the staff of officers and servants to be employed establishment; by the municipality and the respective designations, salaries, fees and absentee or other allowances of such officers and servants *and their powers and duties;*

(e) (d) generally for the guidance of its officers and servants in all mat. general guidance of municipal servants; ters relating to the municipal administration;

(d) (e) fixing the amount and nature of the security to be furnished amount of security; by any officer or servant from whom it may be deemed expedient to require security;

(e) (f) determining *subject to the limitations imposed by sections 31 and 32, (5), the mode and conditions of appointing, mode of appointing, etc., municipal servants; punishing, or dismissing any officer or servant; and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any officer or servant;*

(f) (g) regulating the grant of leave to its officers or servants, and fixing leave to municipal ser- vants; the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave ;

(g) (h) regulating the period of service of its officers and servants, and determining the conditions under which pensions, etc. ; such officers and servants or any of them shall receive pensions, gratuities or compassionate allowances on retirement, or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities or compassionate allowances; and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty ;

(h) (i) authorizing the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules, to any pension or provident fund which may be established by the municipality or, with the approval of the municipality, by its officers and servants ;

(i) (j) prescribing the taxes to be levied in the municipal borough for municipal purposes, the circumstances in which exemption will be allowed, the conditions on which and the extent to which remissions will be granted, and the system on which refunds will be allowed and paid, in respect of such taxes ; the limits of the charges or payments to be fixed in lieu of any tax under section 88, the fees to be charged for licenses or permissions granted under section 87 and for giving copies and stamping weights and measures ; the fees for notices demanding payments due on account of any tax and for the execution of warrants of distress, and the rates to be charged for maintaining any live-stock distrained ; and the time at which and the mode in which such taxes, charges, payments, fees or rates shall be levied or recovered or be payable and the persons authorised to receive payment of the same and the manner in which auctions of movable and immovable property under section 104 shall be held ;

(j) (k) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable, and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the standing committee :

Provided that—

(a) no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by the Government ;

(b) if an officer serving or having served under a municipality has been or is transferred from or to the service of the Government, or is partly employed by the Government and partly by a municipality, the municipality shall contribute to his pension

Officers transferred from or to the service of Government :

and leave allowances to the extent required by the rules in force for the time being, made by the Governor General in Council in this behalf;

(c) a municipality shall not, unless with the assent of the Government, dispense with the services of any officer transferred from the service of the Government to the service of the municipality or employed partly by the Government and partly by the municipality, or finally dismiss from the service of the municipality any officer transferred from the service of the municipality to the service of the Government, without giving the Government six months' previous notice.

56. (1) Notwithstanding anything contained in clause (a) of the proviso to section 55, the approval required to be given in respect of rules framed under clause (b) (c) of section 55 may be given by the Commissioner instead of by Government, subject to the condition that any such rules relating to Chief Officers, health officers or engineers or to the salaries, fees or absentee or other allowances of such officers shall require the sanction of the Government.

Cf. Bom. III of 1915, Schd. I

Rules made with approval of Commissioner or without approval.

(2) Notwithstanding anything contained in clause (a) of the proviso to section 55 or in sub-section (1) of this section, a municipality shall have power to make without sanction a rule under clause (b)(c) of section 55, creating an appointment or increasing the salary of an appointment or granting or increasing an allowance in any case where the salary of such appointment or the amount of such allowance or the amount of such increase, as the case may be, does not involve a charge on the municipal fund exceeding rupees one hundred in the month :

Provided that the ~~Commissioner~~ Government may withdraw this power from any municipality either permanently or for such period as he ~~they~~ thinks fit to prescribe when in ~~his~~ their opinion there are good reasons for doing so.

57. (1) Subject to the requirements of clause (a) of the proviso to section 55 a municipality may, except as otherwise provided in clause (b) of the proviso to section 101 at any time for any sufficient reason, suspend, modify or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax.

Cf. s. 47.

Power to suspend, reduce or abolish any existing tax.

(2) The provisions of chapter VII relating to the imposition of taxes shall apply so far as may be to the suspension, modification or abolition of any tax and to the suspension, alteration or rescission of any rule prescribing a tax.

58. (1) A municipality may from time to time, with the previous sanction of the Government, make, *alter or rescind* by-laws not inconsistent with this Act.

Cf. s. 48.

Power to make by-laws;

(a) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly

markets and slaughter-houses, etc., etc.

conduct of business therein; and for fixing the rents and other charges to be levied for the use of any of them which belong to the municipality; and in *Boroughs where there is a municipal market or a market licensed by the municipality for the purpose, preventing the sale of fruit and vegetables elsewhere than in such market.*

(b) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the municipality—
 licensing, regulating and inspecting certain businesses;

(i) as a slaughter-house;

(ii) for the manufacture, preparation, storing, sale, or supply for the purposes of trade of any animal article or thing intended for human food or drink, whether such food or drink is to be consumed in such place or not;

(iii) for any of the purposes mentioned in sub-section (1) of section 185 184; and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom;

(c) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories or other places for the purpose of summoning or dismissing workmen or persons employed;
 use of steam whistles, etc.;

(d) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the use of any place or building for the purpose of lodging pilgrims, and providing for the inspection and regulation of such places or buildings;
 pilgrims' lodging houses;

(e) prohibiting the stalling or herding of horses, camels, cattle, donkeys, sheep or goats, otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health;
 stalling of cattle, etc.;

(f) prescribing the conditions on which sweetmeats may be sold and on which licenses may be granted, refused, suspended, or withdrawn for the use, for purposes of trade, of any place for stabling milch cattle, for storing or selling milk, or for making, storing or selling butter or other milk products;
 Milk-shops;

(ff) (i) for the inspection of milch-cattle ; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk-sellers ;

for regulating dairies and cattle-sheds ;
 (ii) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter ;
 milk stores, etc.;

(g) for the inspection of weights and measures under section 176 inspection of weights, and for the stamping of weights and measures etc. ; and for charging fees for the same ;

(h) for defining the standard weights and measures used within the defining measures, etc. : municipal borough ;

(i) for the registration of births, deaths, and marriages and the registration of births, etc. ; taking of a census within the municipal borough and for enforcing the supply of such information as may be necessary to make such registration or census effective ;

(j) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead ;
 regulating the disposal of the dead ;

(k) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions for enforcing supply of information as to epidemics ; of sections 177 and 178 ;

(l) for enforcing the supply of such information by inhabitants of the municipal borough as may be necessary to ascertain their respective liabilities to any tax imposed therein ;
 for enforcing information as to liability to municipal taxation ;

(m) fixing octroi limits and stations ; providing for the exhibition of tables of octroi ; regulating, subject to any general or special orders which the Government may make in this behalf, the system, under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for use or consumption within the municipal borough ; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained, and the minimum amount for which any claim to refund may be made ;

(n) fixing terminal tax limits and stations, providing for the exhibition of tables of terminal tax, and regulating the mode of recovery of such tax ;

(o) for conserving and preventing injury to sources and means of water-supply and appliances for the distribution of water, whether within or without the limits for protecting water ;

of the municipal borough, and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works, and of pipes and fittings in connection therewith, whether the property of the municipality or not ;

Explanation.—*Sources and means of water-supply shall include private wells which are used by the public.*

- (p) regulating the use of public bathing and washing places within public baths, etc ; the municipal borough ;
- (q) regulating sanitation and conservancy and the disposal of the conservancy ; carcasses of dead animals ;
- (r) regulating the conditions on which permission may be given for temporary structures and the temporary occupation of, or the erection of buildings ; of temporary structures on, public streets or for projections over public streets ;
- (s) regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings buildings ; for the purpose of securing stability and the prevention of fires, and for purposes of health and determining the purposes for which existing or newly erected buildings may be used in any area ;
- (t) for preventing the erection of buildings without adequate provision being made for the location and laying out of streets ; and for the payment of compensation in such cases when necessary ;
- (u) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air ;
- (v) prescribing the qualifications of surveyors or persons by whom qualified surveyors ; plans required under section 121 are to be prepared, or of plumbers ; for licensing persons to be surveyors or plumbers, and fixing the fees chargeable for such licenses ; and for modifying the provisions of or revoking such licenses ; and prohibiting any alterations or repairs or fittings to water or drainage pipes or house-connections being carried out or made except by such persons :
- (w) regulating, in any other particular not specifically provided drains ; for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines, urinals and drainage or sewerage works of every description whether the property of the municipality or not ;
- (x) determining the information and plans to be required by the municipality under sections requiring information and plans in certain cases ; 115 and 121 ;

(y) prohibiting vehicular traffic in any particular street, so as to controlling unwieldy prevent danger, obstruction or inconvenience traffic ; to the public, by fixing up posts at both ends of such street or portion of such street, prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such heavy or unwieldy objects as may be deemed likely to cause injury to the roadways or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants, and other general precautions as may be prescribed either generally in such by-laws or in special licenses to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws :

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the municipality in conspicuous places at or near both ends of such street or portion of a street ;

(z) securing the protection of public parks, gardens and open spaces, public parks ; vested in or under the control of the municipality from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them ;

(aa) generally for the regulation of all matters relating to municipal general regulation ; administration ;

Fine may be imposed And the municipality may, with the like sanction, for infringement of by-laws ; prescribe a fine not exceeding five hundred rupees for every infringement of any such by-law.

(2) A municipality shall, before making any by-law under this section, Publication of drafts of proposed by-laws; publish in such manner as shall in its opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law together with a notice specifying a date on or after which the draft will be taken into consideration ; and shall, before making the by-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

(3) When any by-law made by a municipality is submitted to the Objections and suggestions to be submitted to Government. Government for sanction, a copy of the notice published and of every objection or suggestion received under the provisions of sub-section (2), shall be submitted for the information of the Government along with the said by-law.

(4) ~~The Government may require a municipality to make, add to, amend, vary or rescind any by-law; on such requisition the municipality shall, after following the procedure prescribed in sub-sections (1), (2) and (3), make, add to, amend, vary or rescind the by-law in accordance with such requisition.~~
 Government may require municipality to frame particular by-law.

- Cf. s. 49.* 59. The rules and by-laws for the time being in force shall be kept open to public inspection at the municipal office at all reasonable times; printed copies thereof and of this Act in the vernacular language of the district and in English shall be kept on sale at cost price.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

- Cf. s. 50.* 60. (1) A municipality may acquire and hold property both movable and immovable, whether within or without the limits of the municipal borough.

Power to acquire and hold property for the purposes of the Act.

(2) All property of the nature specified in the clauses to this section, not being specially reserved by the Government, shall be vested in and belong to the municipality, and shall together with all other property of what nature or kind soever which may become vested in the municipality, be under its direction, management and control, and shall be held and applied by it as trustee, subject to the provisions and for the purposes of this Act:—

(a) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depots, and public buildings of every description.

(b) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other water works; and all bridges, buildings, engines, works, materials and things connected with or appertaining to such water works; and also any adjacent land, not being private property, appertaining to any public tank or well.

(c) All public sewers and drains; all sewers, drains, tunnels, culverts, gutters and water-courses in, along-side or under any street, and all works, materials and things appertaining thereto; all dust, dirt, dung, ashes, refuse, animal matter, filth, or rubbish of any kind collected by the municipality from the streets, houses, privies, sewers, cesspools or elsewhere.

(d) All public lamps, lamp-posts, and apparatus connected therewith or appertaining thereto.

(e) All lands transferred to it by the Secretary of State for India in Council, or by gift or otherwise, for local public purposes.

(f) All public streets, and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets.

- Cf. s. 50A.* 61. (1) In any municipal borough to which a survey of lands, other than lands ordinarily used for the purposes of agriculture only, has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on
- Decision of claims to property by or against the municipality.

behalf of the municipality, or by any person as against the municipality, it shall be lawful for the Collector after formal enquiry, of which due notice has been given, to pass an order deciding the claim.

(2) Any suit instituted in any civil court after the expiration of one year from the date of any order passed by the Collector under sub-section (1), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined according to section 204 of the Bombay Land Revenue Code, 1879, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order: provided that the plaintiff has had due notice of such order. Bom. V of 1879.

(3) (a) The powers conferred by this section on a Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the Bombay Land Revenue Code, 1879.

(b) The formal enquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code. Bom. V of 1879.

(c) Any person shall be deemed to have had due notice of an enquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the Government.

62. All moneys received by or on behalf of a municipality by virtue of this or any other Act; all taxes, fines and penalties paid to or levied by it under this Act; all proceeds of land or other property sold by the municipality, and all rents accruing from its land or property; and all interest, profits and other moneys accruing by gift or transfer from the Secretary of State for India in Council or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property specified in section 60: Cf. s. 51.

Provided that—

(a) nothing in this section or in section 60 shall in any way affect any obligations accepted by or imposed upon any municipality by any declarations of trust executed by or on behalf of such municipality or by any scheme settled under the Charitable Endowments Act, 1890, for the administration of any trust, or by a trust of the nature specified in clause (b) of this proviso; VI of 1890.

(b) a municipality may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the municipal accounts any portion of the municipal fund received or set apart by it specially for the purposes of schools or dispensaries or waterworks or fire-brigades or other such purposes as the Commissioner in this behalf approves, and the municipality may apply any sums properly so credited exclusively to the special purposes for which such sums were received or set apart.

Cf. s. 52.

63. The municipal fund and all property vested in a municipality shall be applied for purposes of this Act within the limits of municipal borough : . . .
 Application of municipal property and funds within and without the municipal borough.

Provided always that it shall be lawful for the municipality, with the sanction of the Government or any officer duly authorised by it in this behalf,—

(a) to incur expenditure in the acquisition of land or in the construction, maintenance or repair of works beyond the said limits for the purpose of obtaining a supply of water required for the inhabitants of the municipal borough, or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals, or for drainage works, or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said borough ; or

(b) to make a contribution towards expenditure incurred by any other local authority or out of any public funds for measures affecting the health, instruction, safety or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality ; or

(c) to create scholarships tenable outside the limits of the municipal borough :

Provided, further, that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for a municipality, when with such sanction as aforesaid it has constructed works beyond the limits of the municipal borough for the supply of water or for drainage as aforesaid—

(a) to supply or extend to or for the benefit of any person or buildings or lands in any place, whether such place is or is not within the limits of the said borough, any quantity of water not required for the purposes of this Act within the said borough or the advantages afforded by the system of drainage-works, on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the municipality and such person or the occupier or owner of such buildings or lands, or

(b) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair, or alteration of any connection pipes or other works necessary for the purpose of such supply or for the extension of such advantages.

Cf. s. 53.

64. (1) It shall be lawful for a municipality to deposit at interest with the Imperial Bank of India or such other bank as may hereafter be appointed to conduct the business of His Majesty's treasury at Bombay, or with the sanction of the Government in any bank in the Presidency of Bombay, any surplus funds in its hands which may not be required for current charges, and to invest such funds in public securities in the name of the municipality, and from time to time to dispose of such securities as may be necessary.

Power to deposit and invest surplus funds.

(2) All surplus funds over and above what may be required for current expenses, unless deposited or invested as provided for in sub-section (1), shall be deposited in the Local Government treasury or such other place of security as may be sanctioned in the rules of the municipality.

Surplus not so deposited or invested how to be dealt with.

CHAPTER VI.

OBLIGATORY AND DISCRETIONAL FUNCTIONS OF MUNICIPALITIES.

65. It shall be the duty of every municipality to make reasonable *Cf. s. 54.*

Duties of municipalities. and adequate provision—

(1) for the following matters within the municipal borough under its authority, namely:—

- (a) lighting public streets, places and buildings ;
- (b) watering public streets and places ;
- (c) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipality or not ; removing noxious vegetation ; and abating all public nuisances ;
- (d) extinguishing fires, and protecting life and property when fires occur ;
- (e) regulating or abating offensive or dangerous trades or practices ;
- (f) removing obstructions and projections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipality or in His Majesty ;
- (g) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;
- (h) acquiring and maintaining, changing and regulating places for the disposal of the dead ;
- (i) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like ;
- (j) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost ;
- (k) naming streets and numbering houses ;
- (l) registering births and deaths ;
- (m) public vaccination ;
- (n) suitable accommodation for any calves, cows or buffaloes required within the municipal borough for the supply of animal lymph ;
- (o) establishing and maintaining public hospitals and dispensaries, and providing public medical relief ;

(p) establishing and maintaining primary schools ;

(q) printing such annual reports on the municipal administration of the borough as the Government by general or special orders requires the municipality to submit ;

(r) paying the salary and the contingent expenditure on account of such police or guards as may be required by the municipality for the purposes of this Act or for the protection of any municipal property ;

(s) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal borough ; and

(2) subject to such reasonable and adequate provision as aforesaid, for the following special matters, namely :—

(a) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence, of the disease ;

(b) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal borough.

Cf. Mad. IV
of 1884, s.
114.

66. Every municipality shall, out of the municipal property and fund, make payments, at such rates and subject to such conditions as the Government from time to time by general or special order prescribes, for the maintenance and treatment in any institution which the Government declares by notification to be suitable for such purpose either within or without the municipal borough, and for other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institution and proceeding from the municipal borough :

Provided that the municipality shall not be liable under this section for the maintenance, treatment and other necessary expenses of any person undergoing anti-rabic treatment as an indigent person in any such institution as aforesaid, unless such person, previous to his admission thereto, has been resident in the municipal borough for at least one year.

Cf. s. 55.

67. Every municipality shall also, out of the municipal property and fund, make payments at such rates as the Government from time to time by general or special order prescribes, for the maintenance and treatment either in the municipal borough or at any asylum, hospital or house, whether within or without such borough, which the Government declares by notification to be suitable for such purpose,—

(a) of lunatics not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898, is in force, and

(b) of lepers, resident within, or under any enactment for the time being in force removed from, such borough :

V of 1898.

Provided that the municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal borough for at least one year.

Provided further that before making any order for the payment of the cost of maintenance and treatment of any lunatic under this section the court making such order shall give an opportunity to the municipality to show that the lunatic has an estate applicable to his maintenance, or that there is a person legally bound to maintain such lunatic and having the means to maintain him, or that such lunatic has not been resident in the municipal borough for at least one year as aforesaid or that the cost of maintenance and treatment of such lunatic should be borne by a State in India or by a local authority other than the municipality to whose jurisdiction the lunatic belongs or by the Local Government. The officer in charge of any asylum to which lunatics for whose maintenance and treatment a municipality is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of each lunatic detained in the asylum and shall furnish a copy thereof to the municipality on application.

68. A municipality may, at its discretion, provide, either wholly *Cf. s. 56.*

Discretionary powers of expenditure of municipalities. or partly, out of the municipal property and fund for—

(a) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof, to abut on such streets;

(b) constructing, establishing, or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharamsalas, rest houses and other public buildings;

(c) furthering educational objects other than those set forth in clause (p) of sub-section (1) of section 65;

(d) planting and maintaining road-side and other trees;

(e) providing music for the people;

(f) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;

(g) making a survey;

(h) paying the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or honorary Magistrate, or any portion of any such charges;

(i) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 156 155 of this Act or under section 49 of the Bombay District Police Act, 1890; Bom. IV of 1890.

(j) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in sub-section (1) of section 185 184;

(k) supplying, constructing and maintaining, in accordance with a general system approved by the sanitary board, receptacles, fittings,

pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipality;

(l) the acquisition and maintenance of grazing grounds; *and establishment and maintenance of dairy farms and breeding stud.*

(m) establishing and maintaining a farm or factory for the disposal of sewage;

(n) the construction, maintenance, management, organisation or purchase of telephone lines, or for guaranteeing the payment of interest on money expended for the construction of a telephone line subject to the previous sanction of the Commissioner when the line extends beyond the limits of the municipal borough;

(o) providing accommodation for any class of servants employed by the municipality;

(p) the construction, management and maintenance of light-railways and tramways;

(q) any other measure not specified in section 65 likely to promote the public safety, health, convenience or education; and

(r) by a resolution passed at a general meeting and supported by two-thirds of the *whole number of* councillors present at the meeting any public reception, ceremony, entertainment or exhibition within the municipal borough.

Cf. s. 57.

69. Where a municipality has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the

Arrangements purporting to be binding permanently or for a term of years.

municipality or its successors with the sanction of the Government to cancel such arrangement or promise, or to discontinue or to diminish such yearly contribution, provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

CHAPTER VII.

MUNICIPAL TAXATION.

(1) *Imposition of Taxes.*

Cf. s. 59.

70. Subject to any general or special orders which the Government may make in this behalf and to the provisions of sections 72 and 73, a municipality may impose for the purposes of this Act any of the following taxes, namely—

Taxes which may be imposed.

(i) a rate on buildings or lands or both situate within the municipal borough;

(ii) a tax on all vehicles, boats or animals used for riding, draught or burden and kept for use within the said borough, whether they are actually kept within or outside the said borough;

- (iii) a toll on vehicles and animals used as aforesaid, entering the said borough but not liable to taxation under clause (ii) of this section ;
- (iv) an octroi on animals or goods or both, brought within the octroi limits for consumption or use therein ;
- (v) a terminal tax on goods imported into or exported from the terminal tax limits :

Provided that, save as provided in clause (xiv), no such tax shall be leviable in a borough in which an octroi was not levied on or before the 6th July 1917 ;

- (vi) a tax on dogs kept within the said borough ;
- (vii) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required ;
- (viii) a general sanitary cess for the construction and maintenance of public latrines, and for the removal and disposal of refuse ;
- (ix) a drainage tax ;
- (x) a general water-rate or a special water-rate or both for water supplied by the municipality, which may be imposed in the form of a rate assessed on buildings and lands or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of case or of any individual case ;
- (xi) a lighting tax ;
- (xii) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough ;
- (xiii) a special Educational tax ;
- (xiv) any other tax which under rules made under clause (a) of 5 & 6 Geo V, sub-section (3) of section 80-A of the Government of India Act, a^c. 61. local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General ;
- (xv) any other tax to the nature and object of which the approval of the Government and of the Governor General in Council shall have been obtained prior to the selection contemplated in clause (a) of section 72 :

Provided that—

(a) no tax imposed as aforesaid, other than a special sanitary cess, a drainage tax or a water-rate, shall, without the express consent of the Government, be leviable in respect of any building or part of any building or of any vehicle, animal or other property, belonging to His Majesty and used solely for public purposes and not used or intended to be used for purposes of profit ; and no toll shall be leviable in respect of any animal or vehicle used for the passage of troops or the conveyance of Government stores or of any other Government property, or for the passage of military or police-officers on duty or the passage or conveyance of any person or property in their custody ;

(b) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the municipality has—

- (i) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(ii) issued either severally to the persons to be charged, or generally to the inhabitants of the borough or part of the borough to be charged with such cess, one month's notice of the intention of the municipality to perform such cleansing and to levy such cess ;

(c) the municipality in lieu of imposing separately any two or more of the taxes described in clauses (i), (viii), (x) and (xi), may impose a consolidated tax assessed as a rate on buildings or lands or both situate within the municipal borough.

J. Bom. III
of 1888, s.
144.

71. (1) The Government shall pay to the municipality annually in lieu of a rate on buildings from which buildings vesting in His Majesty are exempted by proviso (a) to section 70, a sum ascertained in the manner provided in sub-sections (2) and (3).

Payment to be made to the municipality in lieu of a rate on buildings by the Government.

(2) The rateable value of the buildings vesting in His Majesty and beneficially occupied, in respect of which but for the said exemption a rate on such buildings would be leviable from the Government, shall be fixed by a person from time to time appointed in this behalf by the Government. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valuation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number and extent of the buildings vesting in His Majesty in the said borough materially increases or decreases.

(3) The sum to be paid annually to the municipality by the Government shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings in the said borough on account of the said rate on buildings on a rateable value of the same amount as that fixed under sub-section (2).

Cf. s. 60.

72. A municipality before imposing a tax shall observe the following Procedure preliminary preliminary procedure :—
to imposing tax.

(a) it shall, by resolution passed at a general meeting, select for the purpose one or other of the taxes specified in section 70 and approve rules prepared for the purposes of clause (i) (j) of section 55, prescribing the tax selected, and in such resolution and in such rules specify—

(i) the classes of persons or of property or of both, which the municipality proposes to make liable, and any exemptions which it proposes to make ;

(ii) the amount or rate at which the municipality proposes to assess each such class ;

(iii) in the case of a rate on buildings or lands or both, the basis, for each class, of the valuation on which such rate is to be imposed ;

(iv) all other matters which the Government may require to be specified therein.

(b) When such resolution has been passed, the municipality shall publish the rules so approved with a notice in the form of Schedule II

(c) Any inhabitant of the municipal borough objecting to the imposition of the said tax or to the amount or rate proposed or to the classes of persons or property to be made liable thereto or to any exemptions proposed may, within one month from the publication of the said notice, send his objection in writing to the municipality; the municipality shall take all such objections into consideration, or shall authorize a committee to consider the same and report thereon; and, unless it decides to abandon the proposed tax, shall submit such objections with its opinion thereon and any modifications proposed in accordance therewith, together with the notice and rules aforesaid to the Government.

Explanation.—In the case of lands the basis of valuation may be either capital or annual letting value.

73. The Government may refuse to sanction the rules submitted *Cf. s. 61.*
 under section 72, or may return them to the municipality for further consideration; or if no objection or no objection which is in its opinion sufficient, was made to the proposed tax within the period prescribed under section 72, may sanction the said rules without modification, or subject to such modifications not involving an increase in the amount to be imposed, or to such conditions as to the application within the municipal borough to any purpose or purposes of this Act specified in such conditions of the whole or in part of the proceeds of the tax, as it deems fit.

Power to sanction, modify and impose conditions.

74. Rules sanctioned under section 73 with the modifications and *Cf. s. 62.*
 conditions, if any, subject to which the sanction is given shall be published by the municipality in the municipal borough, together with a notice reciting the sanction and the date and serial number thereof; and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the date of publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the municipality in accordance with all conditions, if any, subject to which sanction under section 73 was given:

Provided that—

(a) a tax leviable by the year shall not come into force except on one of the following days, namely, the first day of April, the first day of July, the first day of October or the first day of January in any year; and if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing;

(b) on or before the day on which a notice is issued under this section, the municipality shall publish such further detailed rules as may be required, and as may have been approved by the Government under clause (a) of the proviso to section 55, prescribing the mode of levying and recovering the tax therein specified and the dates on which it or the instalments, if any, thereof shall be payable;

(c) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

(2) *Assessment of and liability to rates on buildings or lands.*

Cf. s. 63.

75. (1) When a rate on buildings or lands or both is imposed, the Chief Officer shall cause an assessment-list of all buildings or lands or lands and buildings in the municipal borough to be prepared containing—

- Preparation of an assessment-list.
- (a) the name of the street or division in which the property is situate ;
 - (b) a description of the property sufficient for identification ;
 - (c) the names of the owner and occupier, if known ;
 - (d) the valuation based on capital or annual letting value, as the case may be, on which the property is assessed ; and
 - (e) the amount of the tax assessed thereon.

(2) In assessing a tax on buildings or lands, where the valuation determined under clause (d) of sub-section (1) of this section is the annual letting value, a sum equal to ten per centum of the said valuation shall be deducted therefrom in lieu of all allowance for repairs or on any other account whatsoever.

(3) For the purpose of preparing such assessment-list the Chief Officer or any person acting under his authority may inspect any building or land in the municipal borough ; and on the requisition of the Chief Officer the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature of the name and place of abode of the owner or occupier or of both and *the annual letting value and his estimate of the value of such building or land.*

Power to inspect and require returns.

76. (1) When the name of the person primarily liable for the payment of a rate on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment-book, and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

Person primarily liable for a rate on buildings or lands or both how to be designated if his name cannot be ascertained.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid such person shall himself be liable, until such information is obtained, for all rates on buildings or lands or both leviable on the premises of which he is in occupation.

Occupier liable for a rate on buildings or lands or both until he gives information.

77. When the assessment-list has been completed, the chief officer shall give public notice thereof and of the place where the list or a copy thereof may be inspected ; and every person claiming to be either the owner or occupier of property included in the list, and any agent of such person,

Cf. Bom. III of 1888, s. 159.

Cf. s. 64,

Publication of notice of assessment list.

shall be at liberty to inspect the list and to make extracts therefrom without charge.

78. (1) The Chief Officer shall, at the time of the publication of the assessment-list under section 77, give public notice of a date, not less than one month after such publication, before which objections to the valuation or assessment in such list shall be made ; and in all cases in which any property is for the first time assessed or the assessment is increased, he shall also give notice thereof to the owner or occupier of the property, if known, and if the owner or occupier of the property is not known, he shall affix the notice in a conspicuous position on the property.

(2) Objections to the valuation and assessment of any property in such list shall, if the owner or occupier of such property desires to make an objection, be made by such owner or occupier or any agent of such owner or occupier to the standing committee before the time fixed in the aforesaid public notice, by application in writing, stating the grounds on which the valuation or assessment is disputed ; all applications so made shall be registered in a book to be kept by the standing committee for the purpose.

(3) The standing committee, after allowing the applicant an opportunity of being heard in person or by agent, shall—

(a) investigate and dispose of the objections,

(b) cause the result thereof to be noted in the book kept under sub-section (2), and

(c) cause any amendment necessary in accordance with such result to be made in the assessment-list :

Provided that ~~powers and duties of the standing committee may be transferred to any sub-committee appointed from its members or with the sanction of the municipality, to any other committee appointed by the municipality or with the permission of the Commissioner, to any officer or pensioner of Government.~~

(4) When all objections made under this section have been disposed of and all amendments required by sub-section (3) have been made in the assessment-list, the said list shall be authenticated by the signatures of the chairman and at least one other member of the standing committee, or if the standing committee's ~~has delegated its powers and functions under sub-section (3) have been transferred to any other committee or sub-committee or to an officer or pensioner of the Government, by the signatures of not less than two members of such committee or sub-committee or of the officer or pensioner aforesaid ; the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein.~~

(5) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property entered therein or to the agents of such persons, and a notice that it is so open shall be forthwith published.

(6) Subject to such alterations as may be made therein under the provisions of section 79 and to the result of any appeal or revision made under section 108, the entries in the assessment-list so authenticated and deposited and the entries, if any, inserted in the said list under the provisions of section 79 shall be accepted as conclusive evidence—

(i) for the purposes of all municipal taxes, of the valuation, or annual letting value on the basis prescribed in the rules regulating the rate, of buildings, lands and both buildings and lands to which such entries respectively refer, and

(ii) for the purposes of the rate for which such assessment-list has been prepared, of the amount of the rate leviable on such buildings or lands or both buildings and lands in any official year in which such list is in force.

Cf. s. 66.

79. (1) The standing committee may at any time alter the assessment-list by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment-list through fraud, accident or mistake, or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment-list, after giving notice to any person interested in the alteration of the list of a date, not less than one month from the date of service of such notice, before which any objection to the alteration should be made.

(2) An objection made by any person interested in any such alteration, before the time fixed in such notice, and in the manner provided by sub-section (2) of section 78, shall be dealt with in all respects as if it were an application under the said section.

(3) An entry or alteration made under this section shall, subject to the provisions of section 108, have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, or in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed; and the tax or the enhanced tax as the case may be shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.

80. (1) When any building or any portion of a building which is liable to the payment of a rate on buildings or lands or both is demolished or removed, otherwise than by order of the standing committee, the person primarily liable for the payment of the said rate shall give notice thereof, in writing, to the standing committee *Chief Officer.* Cf. Bom II of 1888, a. 153.

(2) Until such notice is given the person aforesaid shall continue liable to pay every such rate as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

(3) Provided that nothing in this section shall apply in respect of a building or portion of a building which has fallen down or been burnt down.

81. (1) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Chief Officer may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following. Cf. s. 67.

(2) But the provisions of sections 77, 78 and 79 shall be applicable every year as if a new assessment-list had been completed at the commencement of the official year.

82. A tax imposed in the form of a rate on buildings or land or both shall be leviable primarily from the actual occupier of the property upon which the tax is assessed if he is the owner of the property, or holds it on a building or other lease from the Secretary of State for India in Council or from the municipality, or on a building lease from any person. Otherwise the tax shall be primarily leviable as follows, namely:—

- (a) if the property is let, from the lessor;
- (b) if the property is sublet, from the superior lessor;
- (c) if the property is unlet, from the person in whom the right to let the same vests:

Provided that where the tax is based on the annual letting value, on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the property in respect of which it is due, as bears to the whole amount due the same ratio, which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said property, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater:

Provided, further, that for any sum paid by or recovered from any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum.

Recovery from occupiers.
Remedy of occupier in such case.

Cf. s. 69.

83. (1) Where any building or land which is assessed to a rate based on the annual letting value and payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year or portion of the year for which the rate is leviable, or throughout the period in respect of which any such instalment is payable, the standing committee shall remit or refund not less than two-thirds of the amount of the rate, or of the cess or instalment of the cess, as the case may be :

Provided that no such remission or refund shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Chief Officer, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

When discretionary. (2) Where any such building or land as aforesaid—

(a) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(b) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(c) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value,

the standing committee may remit or refund such portion, if any, of the rate, cess or instalment as it may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.
Burden of proof on claimant.

(4) *For the purposes of this section a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.*
Explanatory clause.

Cf. Bom. III
of 1888, s.
149.

84. (1) Whenever the title of any person primarily liable for the payment of a rate on buildings or lands or both to or over such land or buildings or both is transferred, the person to whom the same is transferred shall, within three months after execution of the instrument of transfer, or after its registration if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer in writing to the Chief Officer.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise, shall give notice of such transfer to the Chief Officer within one year from the death of the deceased.

(3) If the person liable to give the notice referred to in sub-section (1) or sub-section (2) fails to give such notice he shall be punished with fine which may extend to fifty rupees.

85. (1) The notice to be given under the last preceding section shall be in the form of Schedule III or Schedule IV, as the case may be, and shall state clearly and correctly all the particulars required by the said form. Cf. Bom. III of 1888, s. 150.

Form of notice.

(2) On receipt of any such notice, the Chief Officer may, if he thinks it necessary, require the production of the instrument of transfer, if any, or a copy thereof, obtained under section 57 of the Indian Registration Act, 1908.

XVI of 1908.

86. (1) Every person primarily liable for the payment of a rate on buildings or lands or both who transfers his title to or over such building or land or both without giving notice of such transfer to the Chief Officer as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of the said rate on the buildings or lands or both until he gives such notice, or until the transfer shall have been recorded by the standing committee. Cf. Bom. III of 1888, s. 151.

Liability for payment of a rate on buildings or lands or both to continue in the absence of any notice of transfer.

or land or both without giving notice of such transfer to the Chief Officer as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of the said rate on the buildings or lands or both until he gives such notice, or until the transfer shall have been recorded by the standing committee.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said rate or to affect the prior claim of the municipality on the said buildings and lands conferred by section 110, for the recovery of the rate on the lands or buildings or both.

(3) Power to charge fees.

87. (1) When any license is granted under this Act, or when permission is given thereunder for making any temporary erection or for putting up any projection or for the temporary occupation of any public street or other land vested in the municipality, the authority granting or giving such license or permission may charge a fee for the same. Cf. s. 70.

Fees may be charged for certain licenses.

(2) The municipality may charge a higher fee by way of penalty fee for any erection, or projection, or for the use or occupation of any public street or other land vested in the municipality, by any person without its permission, or license in cases where such erection, projection, use or occupation would, if made under a license or with permission required under the provisions of this Act, be chargeable with a fee. Such fee shall be leviable irrespective of any other penalty or liability to which the person liable to pay the same may be subject under any other provision of this Act or any other law for the time being in force.

Levy of fees for unauthorized occupation or projection.

erecton, projection, use or occupation would, if made under a license or with permission required under the provisions of this Act, be chargeable with a fee. Such fee shall be leviable irrespective of any other penalty or liability to which the person liable to pay the same may be subject under any other provision of this Act or any other law for the time being in force.

The rates of such higher fees shall be determined by rules.

(3) A Chief Officer may also charge such fees as may be fixed by by-laws under clause (a) of sub-section (1) of section 58, for the use of any such places mentioned in that clause as belong to the municipality and as may be fixed by by-laws

Market and other fees.

under clause (g) of sub-section (1) of section 58 for stamping weights and measures.

(4) *Special provisions relating to certain taxes.*

Cf. s. 71.

88. (1) A municipality may, instead of imposing a water-rate or where a water-rate has been imposed, in individual cases, instead of levying a rate imposed in respect of the supply of water belonging to the municipality to or for use in connection with any private lands or buildings,—

(a) fix at rates not exceeding such as shall be specified in the rules in force under section 55, charges for such supply according to the quantity used, as ascertained by measurement; or

(b) arrange with any person on his application to supply on payment, periodical or otherwise, water belonging to the municipality, in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade, manufacture or any other purpose, on such terms and subject to such conditions as it shall fix by agreement with such person :

Provided that—

(a) the meters, connection-pipes and all other works necessary for and incidental to such supply, and all repairs, extensions and alterations of such works shall be under the control of the municipality, and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the municipality, be defrayed by the persons liable for the charges or payments fixed in respect of such supply; and

(b) such supply of water shall be and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 58.

(2) Where a municipality has made provision for the cleansing of any factory, hotel or club or any group of buildings or lands used for any one purpose and under one management, it may, instead of levying in respect thereof any special sanitary cess imposed under this chapter, fix a special rate and the dates and other conditions for periodical payments thereof; such rate, dates and conditions shall be determined either,

(i) in accordance with the rules for the time being in force under section 55, or

(ii) by written agreement with the person who would have been otherwise liable for the cess: provided that in fixing the amount of such rate proper regard shall be had to the probable cost to the municipality of the service to be rendered.

(3) Where a municipality has imposed a tax on vehicles or animals used for riding, draught or burden and kept for such use within the municipal borough it may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire for the payment of a lump sum

for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

(4) Every sum claimed by a municipality as due under sub-section (1) as charges, payments or expenses, or as a special rate under sub-section (2) or as a lump sum payable under sub-section (3), shall for the purposes of chapter VIII be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of a tax recoverable under the said chapter:

Recovery of sums claimed under this section. Provided that nothing in this section shall affect the right or power of a municipality to contract with any person to supply for use beyond the limits of the municipal borough, at such rates and on such conditions as the municipality may think fit, any quantity of water belonging to the municipality but not required for the purposes of this Act.

89. Where a tax is imposed under this Act on pilgrims resorting periodically to a shrine within the limits of a municipal borough, the Commissioner may require the municipality of such borough to assign and pay to the district local board or to the taluka local board having authority in the taluka in which such municipal borough is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said board or boards, within the arrears respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

(5) Octroi and Tolls.

90. A municipality, when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (m) of sub-section (1) of section 58, after observing the requirements of sub-sections (2) and (3) of that section.

91. (1) A person bringing into or receiving from beyond the limits of a municipal borough any animal or goods on which octroi is payable shall, when required by an officer authorized in this behalf by the Chief Officer and so far as may be necessary for ascertaining the amount of tax chargeable,—

(a) permit that officer to inspect, examine, weigh, and otherwise deal with such animal or goods; and

(b) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to such animal or goods;

(c) make a declaration in writing to that officer regarding the correctness and accuracy of the document shown to him.

Octroi by-laws to be submitted with proposal for imposition of octroi.

Power to examine articles liable to octroi.

Cf. s. 72.

Cf. s. 76

(2) If any person bringing into or receiving from beyond the octroi limits of a municipal borough in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the Chief Officer in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate or such officer of the municipality as the Government appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Cf. s. 77 (1) 92. An officer demanding octroi by the authority of the municipality shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed and the rate at which the tax is calculated.

Cf. s. 77 (2) 93. Where any animal or goods passing into a municipal borough are liable to the payment of octroi, any person who, with the intention of defrauding the municipality, causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of the said borough any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the amount of such octroi or to fifty rupees, whichever may be greater.

Cf. s. 78 94. A municipality imposing any toll under this Act shall cause to be kept at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules, including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments; and it shall be the duty of every person authorized to demand payment of a toll, to show such table on the request of any person from whom such demand is made.

Cf. s. 79. 95. (1) In the case of non-payment on demand of any octroi or of any toll, leviable by a municipality, any person appointed to collect such octroi or toll may seize any animal or goods on which octroi is chargeable, or any vehicle or animal on which the toll is chargeable or any part of the burden of such vehicle or animal which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or thing seized, a list of the property together with a written notice in the form of Schedule VII.

(2) When any property seized is subject to speedy decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such property may

inform the person in whose possession it was that it will be sold at once ; and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

(3) If at any time before a sale has begun, the person from whose possession the property has been seized, tenders at the municipal office the amount of all expenses incurred and of the octroi or toll payable, the Chief Officer shall forthwith deliver to him the property seized.

Release of property on payment.

(4) If no such tender is made, the property seized may be sold, and the proceeds of such sale shall be applied in payment of such octroi or toll and the expenses incidental to the seizure, detention and sale.

Sale.

(5) The surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Chief Officer in writing within the six months three years next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made, shall be the property of the municipality.

Surplus how dealt with.

96. ~~Nothing contained in sections 91, 92, 93, and 95 shall apply in respect of any postal article which, in the course of transmission by post, is brought into or received from beyond the octroi limits of a municipal borough.~~

Postal articles exempted.

97. The standing committee, if it thinks fit, instead of requiring *Cf.* s. 80. payment of octroi due from any person, mercantile firm or public body to be made at the time when the animals or goods in respect of which the octroi is leviable are introduced within the octroi limits of the municipal borough, may at any time

Power to keep account current with person, firm or public body in lieu of levying octroi on introduction of goods.

direct that an account-current shall be kept on behalf of the municipality of the octroi so due from such person, firm or body. Such account shall be settled at intervals not exceeding one month, and such person, firm or public body shall give such information or details and make such deposit or furnish such security as the standing committee or any officer authorized by it in this behalf shall consider sufficient to cover the amount which may at any time be due from such person, firm or body in respect of such dues. Any amount so due at the expiry of any such interval shall, for the purposes of chapter VIII, be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable under the said chapter.

98. Where any agreement such as is referred to in clause (b) of subsection (1) of section 44 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish

Collection of octroi by one public body on behalf of others.

such octroi limits and octroi stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought

within the limits so established, and the provisions of this Act relating to octroi shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of the body by which they are so established; and the collections made and the costs thereby incurred shall, subject to the provisions of section 44, be divided between the bodies entering into the agreement, in such proportions as shall have been determined in the agreement.

~~Explanation.—For the purpose of this section octroi duty includes a terminal tax.~~

Cf. s. 81A.

99. (1) It shall be lawful for a municipality to lease by public auction or private contract the levy of any toll that may be imposed under this Act :

Farming of tolls.

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(2) Where any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, execute the powers and perform the duties conferred and imposed by sub-sections (1) and (2) of section 95

Person employed by lessee of toll to have power of seizure.

on a person appointed to collect a toll, and any property seized shall be dealt with as if it had been seized under the provisions of that section :

Provided that no property seized may be sold except under the orders of the Chief Officer.

(6) Powers of Government in respect of municipal taxes.

Cf. s. 73.

100. If it shall at any time appear to the Government on complaint made or otherwise that any tax leviable by a municipality is unfair in its incidence, or that the levy thereof or of any part thereof is obnoxious to the interest of the general public, it may require the municipality, within such period as the Government shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax; and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of the Government, it may, by notification in the *Bombay Government Gazette*, suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

The Government may at any time, by a like notification, rescind any such suspension.

Cf. s. 74.

101. Where it appears to the Government that the balance of the municipal fund of a municipality is insufficient for meeting any expenditure incurred under section 225 213 or for the performance of any duties for the performance of which the Government has directed the Commissioner to fix a period under section 228 216 the Government may by notification require the municipality to impose, within the municipal borough, any tax specified in the notification which may be imposed under section 70 and which is not at the time

Power of Government to require municipalities to impose taxes.

imposed within the said borough or to enhance any existing tax in such manner or to such extent as the Government considers fit; and the municipality shall forthwith proceed to impose or enhance, in accordance with the requisition, such tax under the provisions of this chapter as if a resolution of the municipality had been passed for the purpose under section 72:

Provided that—

(a) the Government shall take into consideration any objection which the municipality or any inhabitant of the municipal borough may make against the imposition or enhancement of such tax;

(b) it shall not be lawful for the municipality to abandon or modify or to abolish such tax when imposed;

(c) the Government may at any time cancel or modify any requisition made by it under this section and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

CHAPTER VIII.

RECOVERY OF MUNICIPAL CLAIMS.

102. (1) When any amount, Cf. s. 82.
taxes.

(a) which, by or under any provisions of this Act, is declared to be recoverable in the manner provided by this chapter, or

(b) which, not being leviable under sub-section (1) of section 95 or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal borough, shall have become due, the Chief Officer shall, with the least practicable delay, cause to be presented to any person liable for the payment thereof, a bill for the sum claimed as due.

(2) Every such bill shall specify the period for which, and the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of the liability incurred in default of payment and of the time within which an appeal may be preferred as hereinafter provided against such claim.

(3) If the sum for which any bill has been presented as aforesaid is not paid at the municipal office or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the Chief Officer may cause to be served upon the person to whom such bill has been presented, a notice of demand in the form of Schedule V, or to the like effect.

103. (1) If the person on whom a notice of demand has been served Cf. s. 83.
under section 102, sub-section (3), does not, within fifteen days from the service of such

In what cases warrant
may issue

notice, either—

(a) pay the sum demanded in the notice, or

(b) show cause to the satisfaction of the Chief Officer, why he should not pay the same, or

(c) prefer an appeal in accordance with the provisions of section 108 against the demand.

such sum with all costs of the recovery may be levied under a warrant signed by the Chief Officer *in consultation with the President* in the form of Schedule VI or to the like effect, by distress and sale of the movable property or the attachment and sale of the immovable property of the defaulter: provided that where any measures, precautionary or otherwise, have been taken in respect of any such property for the recovery of any sum claimed by Government, any proceedings under this chapter in respect of such property shall abate.

(2) Where the property is in the municipal borough the warrant shall be addressed to an officer of the Municipality. To whom warrant should be addressed. Where the property is in another municipal borough or district, the warrant shall be addressed to the Chief Officer in the municipal borough or to the vice-president in the municipal district, as the case may be; and where the property is not in a municipal borough or district, to a Government officer not lower in rank than a Mahalkari; provided that such Chief Officer, vice-president or Government officer may endorse such warrant to a subordinate officer. Where the property is in the City of Bombay, the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay:

Provided that the Registrar may endorse such warrant to a subordinate officer.

(3) It shall be lawful for any officer to whom a warrant issued under sub-section (1) is addressed or endorsed, if the Power of entry under special order. warrant contains a special order authorizing him in this behalf, to break open at any time between sunrise and sunset any outer or inner door or window of a building, in order to make any distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance:

Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention and has given such women an opportunity to remove.

(4) It shall also be lawful for any such officer, if authorized by the warrant, to distrain, wherever it may be found, Warrant how to be executed. any movable property or attach any immovable property of the person named in the warrant issued under sub-section (1) as defaulter, subject to the following conditions, exceptions and exemptions, namely:—

(a) the following property shall not be distrained:—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) the tools of artizans,

(iii) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood ;

(b) the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant ; and if any property has been distrained which, in the opinion of the Chief Officer or of the person to whom the warrant was addressed, should not have been so distrained, it shall forthwith be returned to the defaulter ;

(c) the officer shall on distraining or attaching the property forthwith make an inventory thereof, and give to the person in possession thereof at the time of distraint or attachment a written notice in the form of Schedule VII.

(d) (i) When the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge ;

(ii) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and then upon a conspicuous part of the municipal office, and also, when the property is land paying revenue to the Government, in the office of the Collector of the district in which the land is situate.

(e) Any transfer of or charge on the property attached or of any interest therein made without the written permission of the Chief Officer shall be void as against all claims of the municipality enforceable under the attachment. *Cf. Bom. III of 1888, s. 210.*

104. (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it *Cf. s. 84.*

Sale of goods distrained in special cases.

in custody together with the amount to be levied is likely to exceed its value, the Chief Officer shall at once give notice to the person in whose possession the property was, when distrained, to the effect that it will be sold at once ; and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

(2) If not sold at once under sub-section (1), the property distrained

Sale of property distrained or attached ; application of proceeds of sale.

or attached or in the case of immovable property a sufficient portion thereof may, unless the warrant is suspended by the Chief Officer or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress or attachment and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Chief Officer, and the proceeds or such part thereof as shall be requisite, shall be applied firstly in discharge of any sum due to Government in respect of such property and secondly in discharge of the sum due and of all such incidental costs

as aforesaid. Where the sum due together with costs is paid by the defaulter as aforesaid, the attachment if any of immovable property shall be deemed to have been removed. Sales of immovable property under this sub-section shall be held in the manner laid down in the rules framed in that behalf.

(3) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person in whose possession the property was at the time of distraint or attachment; if such person shall claim the surplus by written application to the Chief Officer within ~~one~~ *three* years from the date of the notice given under this sub-section, the Chief Officer shall refund the surplus to such person. Any sum not claimed within one year from the date of such notice shall be the property of the municipality.

Cf. s. 84A. 105. Where the warrant is addressed outside the municipal borough, Sale outside the district. the Chief Officer may by endorsement direct the officer or Registrar of the Court of Small Causes of Bombay to whom the warrant is addressed, to sell the property distrained or attached; in such case it shall be lawful for such officer or Registrar to sell the property and to do all things incidental to the sale in accordance with the provisions of section 104, and to exercise the powers and perform the duties of the Chief Officer under section 104, sub-sections (1) and (2), in respect of such sale, except the power of suspending the warrant. Such officer or Registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the Chief Officer by whom it was issued who shall dispose of the same in accordance with the provisions of section 104.

Cf. s. 85. 106. Fees for every notice issued under sub-section (3) of section Fees and costs charge- 102, every distress or attachment made under able. sub-section (4) of section 103 and the maintenance of any live-stock seized under the said sub-section shall be chargeable at the rates respectively specified in such behalf in the rules of the municipality and shall be included in the costs of recovery to be levied under section 103.

Cf. Bom. III of 1888, s. 210. 107. (1) If the Chief Officer shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this chapter is due or is about to become due, is about forthwith to remove from the municipal borough, the Chief Officer may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale of the moveable property or the attachment and sale of the immoveable property of the defaulter in the manner hereinbefore

prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the Chief Officer's warrant for distress and sale may be issued and executed without any delay.

108. (1) Appeals against any notice of demand issued under sub-Cf. s. 86.

Appeals to Magistrates. section (3) of section 102 may be made to any Magistrate or Bench of Magistrates by whom under the directions of the District Magistrate such class of cases is to be tried.

(2) No such appeal shall be heard and determined unless—

(a) the appeal is brought within fifteen days next after service of the notice of demand complained of; and

(b) an application in writing, stating the grounds on which the claim of the municipality is disputed, has been made to the standing committee as follows:—

(i) in the case of a rate on buildings or lands or both within the time fixed in the notice given under section 78 or 79 of the assessment or alteration thereof, according to which the bill is prepared,

(ii) in the case of any other claim for which a bill has been presented under sub-section (1) of section 102 within fifteen days next after the presentation of such bill; and

(c) the amount claimed from the appellant has been deposited by him in the municipal office.

109. (1) Every entry in the assessment list made under the provisions of this Act against which no objection is made *Cf. Bom. 11*

Entries in the assessment list and taxes and decisions to be final.

as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom *of 1888, s. 219.*

is made as hereinbefore provided, and the decision of the Magistrate or Bench of Magistrates upon any appeal against any such entry or tax, shall be final shall, at the instance of either party, be subject to revision by the Court to which appeals against his or their decisions ordinarily lie.

(2) Effect shall be given by the Chief Officer to every decision of the said Magistrate or Bench of Magistrates on any appeal or any decision in revision on such appeal against any such entry or tax.

110. All sums due on account of any tax imposed in the form of Cf. s. 78

Liability of land, a rate on lands or buildings or both shall, subject buildings, etc., for to prior payment of land-revenue, if any, due rates. to His Majesty thereupon, be a first charge upon the building or land, in respect of which such tax is leviable and upon the movable property, if any, found within or upon such building or land and belonging to any person liable for such tax :

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if such arrears have been due for more than one year or for a period during which such occupier was not in occupation.

- J. s. 89.* **111.** For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving such payments.
- Receipts to be given for all payments.

CHAPTER IX.

MUNICIPAL POWERS AND OFFENCES.

(1) Powers in respect of streets.

- J. s. 90.* **112.** (1) It shall be lawful for a municipality to lay out and make new public streets; to construct tunnels and other works subsidiary to public streets; to widen, open, enlarge or otherwise improve, and to turn, divert, discontinue or stop up any public street; and subject to the provisions of sub-section (2) of section 45 to lease or sell any such land, theretofore used or acquired by the municipality for the purposes of such streets, as may not be required for any public street or for any other purposes of this Act.
- Power regarding public streets, etc.

(2) In laying out, making, turning, diverting, widening, opening, enlarging, or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the municipality may purchase the land required for the construction of houses and buildings to form the said street; and, subject to the provisions contained in sub-section (2) of section 45, may sell and dispose of such additional land in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as it may think fit.

Acquisition of adjacent land to form street.

- J. s. 90 (3) and (4).* **113.** (1) Where the standing committee considers that in any street not being a public street, or in any part of such street, within the municipal borough, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the standing committee may by written notice require the respective owners of lands or buildings fronting, adjoining or abutting upon such street or part thereof to carry out such work in a manner and within a time to be specified in such notice.
- Power to require repair etc., of private streets.

- Cf. Ben. III of 1884, s. 181.* (2) After such work has been carried out by such owners or, as provided in section 194 192 by the municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the standing committee, to be a public street.
- And to declare such streets public.

(3) If the notice under sub-section (1) is not complied with and such work is executed by the municipality as provided in section 194 192, the expenses thereby incurred shall be apportioned by the standing committee between such owners in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of any such lands or buildings.

114. The standing committee may, at any time, by notice fixed up in any street or part of a street not maintainable by the municipality, give intimation of its intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of the several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the standing committee *Municipality* may by notice in writing put up in such street, or such part, declare the same to be a public street. *Cf. s. 90 (5).*

Power to declare any street a public street subject to objections by the owners.

115. (1) Every person intending to lay out or make any new street shall give notice in writing thereof to the standing committee *Chief Officer* and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, and such other particulars as may be required by the by-laws in force in this behalf; and save as hereinafter provided, the level, means of drainage, direction and width of every such street shall be fixed or approved by the standing committee. *Cf. s. 91.*

New private streets.

(2) Before passing orders under sub-section (1), the standing committee may either issue a provisional order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or a demand for further particulars.

Power of municipality to pass interim orders.

(3) If —

(a) within one month from the receipt of the notice given under sub-section (1) the standing committee has neither —

Right to proceed in certain cases.

(i) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (1) with regard to level, means of drainage, direction and width of the street, nor

(ii) under sub-section (2), issued any provisional order or demand for further particulars, or if

(b) the standing committee, having issued such demand for and having received in accordance with the demand such further particulars, has issued no further orders within one month from the receipt of such particulars.

then the street may be laid out and made, in such manner as may have been specified in the notice under sub-section (1) and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

(4) Whoever lays out or makes any such street, either without giving the notice required by sub-section (1) or, except in accordance with the provisions of sub-section (3), without awaiting, or otherwise than in accordance with, the instructions issued by the standing committee, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to two hundred and fifty rupees ; and the standing committee may cause any street so laid out or made to be altered, and any building constructed in such street to be altered or removed, and the expense thereby incurred shall be paid to it by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Cf. s. 91A.

116. (1) The Chief Officer shall, subject to the approval of the municipality, prescribe a line on each side of every public street within the municipal borough and may from time to time prescribe a fresh line in substitution for any line so prescribed, or for any part thereof. Provided that—

(a) at least one month previous to prescribing such line or such fresh line, as the case may be, the Chief Officer shall give public notice of the proposal and shall put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed ;

(b) the Chief Officer shall comply with any orders passed by the municipality after considering any written objection or suggestion in regard to such proposal, delivered at the office of the municipality within such time as may be specified in such public or special notice.

(2) The line for the time being so prescribed shall be called " the regular line of the public street ".

(3) (a) Except under the provisions of section 242, 141 no person shall construct or reconstruct any portion of any building within the regular line of the public street without the permission of the Chief Officer under section 121.

(b) Where the Chief Officer refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall *with the approval of the Municipality* be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the municipality.

(c) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 898 196, shall be paid by the municipality to the owner of any land added to a street under clause (b) of sub-section (3) for the value of the said land,

and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken or order passed by the Chief Officer under the said sub-section :

Provided that no such compensation shall be payable in cases to which section 648 147 applies.

(4) Whoever contravenes the provisions of sub-section (3) shall be punished with fine which may extend to one thousand rupees and, in the case of a continuing contravention with an additional fine which may extend to rupees ten for every day during which such contravention continues after the conviction for the first such contravention, and the chief officer may —

(a) direct that the building be stopped, and

(b) with the previous sanction of the standing committee, by written notice, require such building or portion thereof to be altered or demolished in accordance with the provisions of such notice.

(2) Powers to regulate buildings, etc.

117. (1) If any part of a building projects beyond the regular line *Cf. s. 9:*
of a public street as prescribed under section
of a public street as prescribed under section
116 or beyond the front of the building on either
side thereof, the Chief Officer *Municipality*
may, —

Setting back project-
ing buildings.

(a) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(b) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down,

require by written notice either that the part or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed ; or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. The portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the municipality.

(2) If any land not vested in the municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other structure external to a main building, the Chief Officer *Municipality* after giving the owner of the land not less than fifteen clear days' written notice

Acquisition of land
which is within the regular
line of a street and
open or occupied only
by platforms, etc.

of his intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same ; and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the municipality.

(3) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198 196 shall be paid by the municipality to the owner of any land added to a street under sub-section (1) or acquired under sub-section (2), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Chief Officer Municipality under either of the said sub-sections: provided that no such compensation shall be payable in cases to which section 148 147 applies.

(4) When the amount of compensation has been so ascertained and determined, or when a ruinous or dangerous building falling under sub-section (1) has been taken down under the provisions of section 143, 147 the municipality may, after tendering the amount of compensation, if any, as may be payable, take possession of the land so added to the street, and, if necessary, may clear the same.

Y. s. 93 118. (1) The standing committee may, upon such terms as it thinks fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

Setting forward to regular line of street.

Y. Bom. III of 1888, s. 901 (3). (2) If the land which will be included in the premises of any person permitted under sub-section (1) to set forward a building belongs to the municipality, the permission of the standing committee to set forward the building shall be a sufficient conveyance to the said owner of the said land; and the price to be paid to the municipality by the said owner for such land and the other terms and conditions of the conveyance shall be set forth in the said permission.

119. (1) The external roofs and walls of buildings constructed or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable material except with the written consent of the Chief Officer which may be given either specially in individual cases, or generally in respect of any area specified therein.

Roofs and external walls of buildings not to be made of inflammable materials.

(2) The Chief Officer may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the Chief Officer.

Power to require removal of roof and wall if inflammable.

(3) An appeal shall lie to the standing committee against any order of the Chief Officer refusing the consent under sub-section (1) or against any notice given by the Chief Officer under sub-section (2) if made within fifteen days of the receipt of such refusal or notice, as the case may be.

(4) Whoever without such consent as is required by sub-section (1) makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (2) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day on which the offence is continued after the date of the first conviction.

120. No building shall hereafter be constructed upon a lower level *Cf. s. 96*
 Level of buildings. than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the municipality, or into some stream or river or into the sea or some cesspool or other suitable place which may be approved of by the Chief Officer.

121. (1) Before beginning to construct any building, or to alter *Cf. s. 96*
 Notice of new build- externally or add to any existing building, or ings. to construct or reconstruct any projecting portion of a building in respect of which the standing committee is empowered by section 117 to enforce a removal or setback, or to construct or reconstruct which the Chief Officer is empowered by section 116 to give permission, the person intending so to construct, alter, add or reconstruct shall give to the Chief Officer notice thereof in writing and shall furnish to him at the same time, if required by a by-law or by special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid by reference to some level known to the Chief Officer, and all information required by the by-laws or demanded by the Chief Officer regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets, and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, and the purpose for which the building will be used.

(2) Save as otherwise provided in this Act or the rules and by-laws thereunder, the Chief Officer may either give permission to construct, alter, add or reconstruct according to the plan and information furnished or may impose in writing conditions, in accordance with this Act and the rules and by-laws made thereunder, as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation or to the number of storeys to be erected, or with reference to the location of the building in relation to any street existing or projected, or the purpose for which the building is to be used, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to his satisfaction.

(3) The municipality may, before any work has been commenced in pursuance of any permission granted by the Chief Officer under

sub-section (2) revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the rules and by-laws made thereunder, with reference to the matters mentioned in the said sub-section, as it thinks proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

(4) Before issuing any orders under sub-section (2) the Chief Officer may, within one month from the receipt of such notice, either issue—
 Or to suspend the work or require further particulars.

(a) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(b) may demand further particulars.

(5) A work proposed in a notice given under sub-section (1) may be proceeded with in the manner specified in such notice, provided such manner is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, namely :—

Right to proceed in certain cases.
 (a) in case the Chief Officer within one month from the receipt of the notice given under sub-section (1) has neither—

(i) passed orders under sub-section (2) and served notice thereof in respect of the intended work ; nor

(ii) issued under sub-section (4) any provisional order or any demand for further particulars ;

(b) in case the Chief Officer having issued such demand for and having received such further particulars, has issued no further orders within one month from the receipt of such particulars.

(6) No person who becomes entitled under sub-section (2) or (5) to proceed with any intended work of which notice is required by sub-section (1) shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed there-with, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-sections (1) to (5). And no person to whom permission to erect or alter or add to any building has been granted by the municipality under section 96 of the Bombay District Municipal Act, 1901, shall be entitled to commence such work after the expiry of one year from the date on which this Act comes into force.

(7) Whoever begins any construction, alteration, addition or reconstruction without giving the notice required by sub-section (1) or without furnishing any plan, information or particulars required by or under this section, or except as provided in sub-section (5), without awaiting or in any manner contrary to such legal orders of the Chief Officer as

may be issued under this section, or contrary to the provisions of sub-section (5) or (6) or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees ; and in the case of a continuing contravention of any of the aforesaid provisions, he shall be liable to an additional fine which may extend to ten rupees for each day during which such contravention continues after conviction for the first such contravention ; and the Chief Officer may

(a) direct that the construction, alteration, addition or reconstruction be stopped, and

(b) with the previous sanction of the standing committee upon a conviction being obtained under sub-clause 7 by written notice, require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.

(8) The Chief Officer may at any time inspect any work of which notice is required by sub-section (1) without giving notice of his intention to do so ; and at any time during the execution of any such work as aforesaid, may, by written notice, specify any matter in respect of which the execution of such work is in contravention of any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under this section ; and require the person executing such work to cause anything done contrary to any such provision or by-law or order to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

Explanation.—The expression “ to construct a building ” throughout this chapter includes—

(a) any material alteration, enlargement or reconstruction of any building, or of any wall, verandah, fixed platform, plinth, doorstep or the like, whether constituting part of a building or not,

(b) the conversion into a place for human habitation of any building not originally constructed for human habitation,

(c) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(d) the conversion of two or more places of human habitation into a greater number of such places,

(e) such alterations of the internal arrangements of a building as affect its drainage, ventilation or other sanitary arrangements, or its security or stability, and

(f) the addition of any rooms, buildings or other structures to any building,

and a building so altered, enlarged, reconstructed, converted or added to, is throughout this chapter included under the expression “ a new building.”

Cf. Bom. III of 1888, s. 311 A. 122. (1) ~~Every person who intends to erect a building or to execute any such work as is described in sub-section (1) of section 121 shall employ a person who shall be competent to the satisfaction of the Chief Officer, to supervise the erection of such building or the execution of such work.~~

(2) ~~The Chief Officer may in each case require that the person to be so employed shall be a licensed surveyor: and the Chief Officer shall within seven days from the receipt of the notice of intention under sub-section (1) of section 121,~~

(a) ~~approve the person named therein to supervise the building or work or~~

(b) ~~return the said notice for amendment if the person so named~~

(i) ~~is not a licensed surveyor, and~~

(ii) ~~is not, in the opinion of the Chief Officer, a fit and proper person to supervise such building or work.~~

(3) ~~A notice of intention returned for amendment under sub-section (2) shall be deemed not to have been given until it has been re-submitted duly amended.~~

(4) ~~Where the person so employed dies or ceases to be so employed before such building or work is completed the further erection of such building or the further execution of such work, shall forthwith be suspended until~~

(a) ~~a licensed surveyor whose name shall be forthwith reported to the Chief Officer or~~

(b) ~~another person approved by the Chief Officer has been so employed.~~

(5) ~~Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to one hundred rupees and, in the case of a continuing contravention or non-compliance, with an additional fine which may extend to ten rupees for every day during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.~~

Cf. Bom. III of 1888, s. 353A. 123 122. (1) ~~Every person who employs a licensed surveyor or person approved by the Chief Officer to erect a building or execute any such work as is described in sub-section (1) of section 121~~

Completion certificate to occupy or use. ~~Every person erecting a building or executing a work as described in sub-section (1) of section 121 shall, within one month after the completion of the erection of such building or the execution of such work, deliver or send or cause to be delivered or sent to the Chief Officer at his office, notice in writing of such completion, accompanied by a certificate in the form of Schedule VIII signed by the person employed under section 122, who is hereby required immediately upon completion of the work and upon demand by the person employing him to sign and give such certificate to such person, and shall give to the Chief~~

Officer all necessary facilities for the inspection of such building or of such work :

Provided that

(a) such inspection shall be commenced within seven days from the date of receipt of the notice of completion : and

(b) the Chief Officer may, not later than one month from the date of receipt of the notice of completion by written intimation addressed to the person from whom the notice of completion was received, and delivered at his address as stated in such notice or, in the absence of such address, affixed to a conspicuous part of the building to which such notice relates,

(i) give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or

(ii) refuse such permission in case such building has been erected or such work executed so as to contravene any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 121 intimating to the person who gave the notice under sub-section (I) of section 121 the reasons for such refusal and requiring such person, or, if the person responsible for giving notice under sub-section (I) of section 121 is not at the time of such notice the owner of such building or work, then such owner to cause anything which is contrary to any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 121 to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used the building or part thereof affected by any such work, until,

(a) the permission referred to in proviso (b) to sub-section (I) has been received, or

(b) the Chief Officer has failed for one month after the receipt of the notice of completion to intimate as aforesaid his refusal of the said permission.

(3) Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to one hundred rupees and, in the case of a continuing contravention or non-compliance, with an additional fine which may extend to ten rupees for every day during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.

124 123. It shall not be lawful for any person to erect any hut or shed *Cf. s. 97*
 Regulation of Huts. or range or block of huts or sheds, or to add any
 hut or shed to any range or block of huts or sheds
 already existing when this Act comes into operation, without giving
 previous notice to the Chief Officer ; the Chief Officer may require such

huts or sheds to be built so that they stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the Chief Officer may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage; and may require such huts to be provided with such number of privies and such means of drainage as he may deem necessary. If any hut or shed or range or block be built without such notice being given to the Chief Officer or otherwise than as required by the Chief Officer, the Chief Officer may give written notice to the owner or builder thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Chief Officer may think fit.

Cf. s. 98.

125. 124. (1) Where the standing committee is of opinion that any hut or shed whether used as a dwelling or as a stable or for any other purpose, and whether existing at the time when this Act comes into operation or subsequently erected, is by reason—

(a) of insufficient ventilation or of the manner in which such hut or shed is crowded together with other huts or sheds, or

(b) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(c) of the impracticability of scavenging,

attended with risk of disease to the inhabitants of the neighbourhood, it shall cause a notice to be affixed to some conspicuous part of such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the standing committee in this behalf, to take down and remove such hut or shed, or to carry out such alterations or works as the standing committee may deem necessary for the avoidance of such risk.

(2) Where any such owner or occupier refuses or neglects to take down and remove such hut or shed or to carry out such alterations or works within the time appointed, the Chief Officer may cause such hut or shed to be taken down, or such alterations or works to be carried out, in accordance with the requirements of the standing committee.

(3) Where such hut or shed is taken down by the Chief Officer, the said officer shall cause the materials of the hut or shed to be sold, if such sale can be effected; and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner is unknown or the title disputed, shall be held in deposit by the municipality until the person interested therein shall obtain an order of a competent Court for the payment of the same:

Provided always that where a hut or shed, existing at the time when the land on which it is situate first became part of a municipal district or

borough is taken down and removed under this section, compensation shall further be paid to the owner or owners thereof and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 198.

(3) *Powers connected with drainage, etc.*

126. 125. (1) All sewers, drains, privies, water-closets, house-gullies *Cf. s. 99.*
 Municipal control over drains, etc. and cesspools within the municipal borough shall be under the survey and control of the municipality.

(2) All covered sewers, drains and cesspools, whether public or private, shall be provided by the municipality or other persons to whom they severally belong, with proper traps or other means of ventilation; and the Chief Officer may by written notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

127. 126. (1) It shall be lawful for a municipality for any drainage *Cf. s. 100.*
 Powers for making and repairing drains. purposes to carry any drain, sewer, conduit, tunnel, culvert, pipe or water-course through, across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal borough.

(2) A municipality, or any person acting under its authority, may construct a new drain in the place of an existing drain in any land wherein any drain vested in the municipality has been already constructed, or repair or alter any drain vested in the municipality.

(3) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall in case of dispute be ascertained and determined in the manner provided in section 198, 196 shall be paid by the municipality to any person who sustains damage by the exercise of such power.

128. 127. (1) If any building or land be at any time undrained, or *Cf. s. 101 (1)*
 not drained to the satisfaction of the Chief Officer, the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as he may think necessary for the drainage of such building or land into—

(a) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(b) a covered cesspool to be provided by such owner and approved by the Chief Officer.

Cf. s. 101 (2) and (3). ~~120.~~ 128. (1) It shall not be lawful to construct or reconstruct any building, or to occupy any building newly constructed or reconstructed, unless and until —

(a) a drain be constructed of such size, materials and description, at such level and with such fall, as shall appear to the Chief Officer to be necessary for the effectual drainage of such building ;

(b) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may appear to the Chief Officer to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land, and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place set apart by the municipality for the discharge of drainage, situate at a distance not exceeding fifty feet from such building ; but if there is no such drain or place within that distance, then such drain shall empty into a cesspool provided by the owner of such building and approved by the Chief Officer.

Cf. s. 102. 130. 129. (1) The owner or occupier of any building or land within the municipal borough shall be entitled to cause his drains to empty into a municipal drain : provided that he first obtains the written permission of the Chief Officer, and that he complies with such conditions as the Chief Officer may prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the municipality and drains which are so vested.

(2) An appeal shall lie to the standing committee against any order of the Chief Officer under sub-section (1) if made within fifteen days of the receipt of such order.

Cf. s. 103. 131. 130. (1) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain to be constructed through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Chief Officer.

(2) Subject to the control of the standing committee the Chief Officer thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in his opinion insufficient, by an order in writing authorize the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to him to be adequate and equitable.

(3) Every such order shall be a competent authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner, occupier or user of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner, occupier or user reasonable notice in writing, to enter upon the land specified in the said order with assistants and workmen at any time between sunrise and sunset and, subject to all provisions of this Act, to do all such work as may be necessary—

(a) for the construction or connection of the drain, as may be authorized by the said order;

(b) for renewing, repairing or altering the same, as may be necessary from time to time; or

(c) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

(4) In executing any work under this section as little damage as *Cf. s. 104.* possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall—

(a) cause the work to be executed with the least practicable delay;

(b) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and

(c) pay compensation to any person who sustains damage by the execution of the said work.

132. 131. If the owner of any land into, through or under which a *Cf. s. 105.* drain has been carried under section 131 130 whilst

Rights of owner of land through which drain is carried in regard to subsequent building thereon.

such land was unbuilt upon, shall at any subsequent time desire to construct a building thereon, the Chief Officer subject to the control of the standing committee shall, if he sanctions the construction of such building, by written notice

require the owner or occupier of the building or land for the benefit of which such drain was constructed, to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as he may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

133. 132. (1) Where the Chief Officer is of opinion that any privy or *Cf. s. 106.* cesspool, or additional privies or cesspools, should

be provided in or on any building or land, or, in any municipal borough in which with the approval of the sanitary board a water-closet system has been introduced, that water-closets should be substituted for the existing privies in or on any building or

land, or that additional water-closets should be provided therein or thereon, the Chief Officers, subject to the control of the standing committees, may by written notice call upon the owner of such building or land to provide such privies, cesspools or water-closets at such sites as he may deem proper.

(2) The Chief Officer subject to the control of the standing committee may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals at such sites as he may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The Chief Officer subject to the control of the standing committee may by written notice require the owner or occupier of any land upon which there is a privy or urinal, to have such privy or urinal shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as he may direct any privy door or trap door which opens on to any street, and which he deems to be a nuisance.

Cf. s. 107.

134 133. (1) All sewers, drains, privies, water-closets, *urinals*, house-gullies and cesspools within a municipal borough shall unless constructed at the cost of the municipality, be altered, repaired, and kept in proper order at the cost and charge of the owners of the lands or buildings to which they belong, or for the use of which they have been constructed or continued; and the Chief Officer subject to the control of the standing committee may by written notice require any such owner to alter, repair, and put the same in good order in such manner as he may think fit.

(2) Subject to the control of the standing committee the Chief Officer may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the Chief Officer is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Cf. s. 108.

135. 134. When any building or land within a municipal borough has a drain communicating with any cesspool or sewers, the Chief Officer, if he considers that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapted to the general sewerage of the locality, may, subject to the control of the standing committee, close such drain and such cesspool or sewer, whether they are or are not on land vested in the municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Chief Officer may, subject as foresaid, do any work necessary for the purpose.

136. 135. The standing committee may by written notice require that *Cf. s. 109.*

Power in respect of sewers, etc., unauthorisedly constructed, rebuilt or unstopped.

any sewer, drain, privy, water-closet, *urinal*, house-gully or cesspool on any land within a municipal borough, constructed, rebuilt or unstopped—

(a) after such land became part of a municipal district or borough, and

(b) either without the consent or contrary to the orders, directions or general regulations or by-laws of the municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as it may deem fit, by the person by whom it was so constructed, rebuilt or unstopped; and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, *urinal*, house-gully or cesspool, whether he does or does not receive such notice or does or does not comply therewith, shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

137. 136. (1) Whoever, without the written consent of the Chief *Cf. s. 110.*

Encroachments on municipal drains.

Officer first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in a municipality, shall be punished

with fine which may extend to twenty-five rupees, and the Chief Officer may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as he may think fit.

(2) No building shall be newly constructed or reconstructed over any sewer, drain, culvert or gutter vested in a municipality, without the written consent of the Chief Officer; and the Chief Officer may by written notice require any person who has so constructed or reconstructed any building without such written consent, to pull down or otherwise deal with the same as he may think fit.

138. 137. (1) A Chief Officer *after due notice to the occupier* may *Cf. s. 111.*

Inspection of drains, etc.

inspect any sewer, drain, privy, water-closet, *urinal*, house-gully, or cesspool; and for that purpose,

at any time between sunrise and sunset, may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

(2) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne

Expense of inspection when to be borne by the municipality.

by the municipality, unless the sewer, drain, privy, water-closet, *urinal*, house-gully or cesspool is found to be in bad order or condition, or was

constructed in contravention of the provisions of any enactment or of any by-laws or orders thereunder in force at the time or issued in respect of such construction; in which case such expense shall be paid by the

owner of such sewer, drain, privy, water-closet, house-gully or cesspool and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Cf. s. 112.

139. 133. (1) The standing committee may, if it thinks fit, cause any work, the execution of which may be ordered by or on behalf of the municipality under any of the provisions of this sub-chapter, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the municipality shall, by a general or special order or resolution, sanction as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

Cf. s. 112 (3).

140. 139. Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of any private building or land shall, if supplied, constructed or erected at the expense of the municipality, be deemed to be municipal property, unless the municipality shall have transferred its interest therein to the owner of such building or land.

(4) *Powers in respect of water-supply.*

Cf. Bom. III of 1888, s. 265.

141. 140. For the purpose of obtaining a supply or an additional supply of water or of distributing the same, the municipality shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing and altering water mains, pipes and ducts within or without the municipal borough as it has and is subject to under the provisions hereinbefore contained for carrying, renewing and repairing drains within the municipal borough.

(5) *Powers regarding external structures, etc.*

Cf. s. 113.

142. 141. (1) The Chief Officer, subject to ~~the control of the standing committee~~ any by-laws made under the provisions of this Act may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey of such buildings at such height from the surface of the street as the municipality may fix by by-laws from time to time, and to an extent not exceeding four feet beyond the line of the plinth or basement wall of the building; and may prescribe the extent to which and the conditions under which roofs, eaves, weather-boards, shop-boards and the like may be allowed to project over such streets.

(2) (a) Notwithstanding any proceedings which may be taken under clause (b) of this sub-section, the Chief Officer, ~~subject to the control~~

of the standing committee may by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission or orders given or issued by or on behalf of the municipality.

(b) Any such owner or occupier putting up any projection as aforesaid without such permission or in contravention of such permission or orders, shall be punished with fine which may extend to twenty-five rupees; and if any such owner or occupier fails to remove any projection in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

(3) The Chief Officer, ~~subject to the control of the standing committee~~ may, by written notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether made before or after the site of such building became part of a municipal district or borough, shall have been made against or in front of such building, and which—

(a) overhangs or juts into or in any way projects or encroaches upon any public street, so as to be an obstruction to safe and convenient passage along such street, or

(b) projects and encroaches into, upon or over any uncovered aqueduct, drain or sewer in any such street, so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof:

Provided always that the Chief Officer shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district or borough or after such date with the written permission of the municipality, pay reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 198 196.

143. 142. The Chief Officer may by written notice require the owner of *Cf. s. 114.*
a building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as he may think fit, so that it shall not fall upon the persons passing along the street.

144. 143. The Chief Officer may erect or fix to the outside of any building *Cf. s. 115.*
Fixing of lamps, brackets for lamps to be lighted with oil or gas kets, etc., to houses. or subject to the provisions of the Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise or IX of 1910. subject to the provisions of the Indian Telegraph Act, 1885, for telegraph XIII of 1885. wires or telephone wires, or wires for the conduct of electricity for locomotive purposes; or such pipes as he may deem necessary for the proper

ventilation of sewers and water-works : such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the occupants of the said building or of any others in the neighbourhood, or to the public.

Cf. s. 116.

145. 144. (1) The Chief Officer *municipality* may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end or corner or of entrance to a street the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

Naming streets and numbering houses ; penalty for defacing, etc.

(2) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the municipality, and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

Cf. s. 117.

146. 145. Any person—

(a) who, without the consent of the owner or occupier, and in the case of municipal property without the permission in writing of the Chief Officer affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence, pale, post, lamp-post or the like, or

Penalty for defacing building, etc.

(b) who, without such consent as aforesaid, writes upon, soils, defaces or marks any such building, wall, board, fence, pale, post, lamp-post or the like, with chalk or paint or in any other way whatsoever, shall be punished with fine which may extend to twenty rupees.

Cf. s. 118.

147. 146. The Chief Officer may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet ; and to cut down, lop, or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which such officer deems likely to overhang, endanger, or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well or other provision for water-supply as to pollute, or be likely to pollute the water thereof.

Removal and trimming of hedges, trees, etc.

(6) Powers for promotion of public health, safety and convenience.

Cf. s. 119.

148. 147. (1) Where any building or anything affixed thereon is deemed by the Chief Officer to be in a ruinous state or likely to fall or in any other way dangerous to any inhabitant of such building or of any neighbouring building or to any occupier thereof or to passengers,

Ruinous or dangerous buildings : precautionary measures.

the Chief Officer shall immediately, if it appears to him to be necessary, cause a proper hoard or fence to be put up for the protection of passengers :

Provided that if the danger be not of hourly imminence, the Chief Officer may, instead of causing a hoard or fence to be put up, issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence which the Chief Officer considers sufficient in the circumstances of the case, the Chief Officer shall at once cause such hoard or fence to be put up.

(2) The Chief Officer shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Chief Officer shall cause all or so much of such building or thing as he shall think necessary to be taken down, repaired or secured.

(3) All expenses incurred by the Chief Officer under this section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

149 148. (1) A Chief Officer may at any time by written notice require *Cf. s. 120.*

Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

that the owner of or any person who has the control over any well, stream, channel, tank or other source of water-supply, shall, whether such source is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (d) within twenty-four hours of such notice—

(a) keep and maintain any such source of water-supply, other than a stream in good repair, or

(b) cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(c) in such manner as the Chief Officer may prescribe, protect any such source of water-supply from pollution by surface drainage, or

(d) repair, protect or enclose in such manner as the Chief Officer approves, any such source of water-supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Chief Officer dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same, or

(e) desist from using and from permitting others to use for drinking purposes any such source of water-supply, other than a stream in its natural flow, which is proved to the satisfaction of the Chief Officer to be unfit for drinking, or

(f) if notwithstanding any such notice under clause (e) such use continues and cannot in the opinion of the Chief Officer be otherwise

prevented, close either temporarily or permanently or fill up or enclose or fence in such manner as the Chief Officer considers sufficient to prevent such use, such source of water supply as aforesaid, or

(g) drain off or otherwise remove from any source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Chief Officer considers is injurious to health or offensive to the neighbourhood.

(2) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time specified by or under the provisions of sub-section (1), the Chief Officer may, and if in his opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice; and all the expenses incurred therein by the Chief Officer shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII :

Provided that in the case of any well or private stream or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Chief Officer or necessarily incurred by such owner or person having such control, may, if the standing committee so direct, be paid from the municipal fund.

a. 121.

150. 149. (1) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags or other materials of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, waterpost, hydrant, or other such municipal property therein, without the written consent of the Chief Officer or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

(2) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials, or in such fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants, or other municipal property, shall fail to replace or restore the same to the satisfaction of the Chief Officer after notice to do so, shall be punished with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in replacing or restoring the same; and such expense shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

a. 122.

Obstructions and encroachments upon public streets and open spaces. 151 150. (1) Whoever in any place after it has become a municipal district, or borough,

(a) shall have built or set up, or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(b) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing, in any public street or in or over or upon any open drain, gutter, sewer, or aqueduct in such street shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(2) The Chief Officer shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorized obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the municipality or not; provided that if the space be vested in His Majesty the permission of the Collector shall have first been obtained; the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

(3) Whoever, not being duly authorized in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and, in the case of encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(4) Nothing contained in this section shall prevent the Chief Officer from allowing any temporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than ~~four~~ ten days and in such manner as not to inconvenience the public or any individual.

(5) Nothing contained in this section shall apply to any projection duly authorized under sub-section (1) of section 142 141.

152. 151. (1) A person intending to construct or take down any building, *cf. a.* 123

or to alter or repair any building externally shall, if the position or circumstances of the work is or are likely to cause or may cause obstruction, danger or inconvenience in any street, before beginning such work—

(a) first obtain a license in writing from the Chief Officer so to do, and

(b) cause sufficient hoards or fences to be put up in order to separate the area where the work is to be carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Chief Officer during such time as the Chief Officer considers necessary for the public safety or convenience, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Chief Officer.

(2) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case

may be, on which such contravention continues, after the date of such conviction for such offence.

Y. s. 124. 153. 152. (1) The Chief Officer shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in the municipality, take proper precaution for guarding against accident, by fencing and lighting during repairs, etc. shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts as he shall think fit, to be fixed across or in any street to prevent the passage of carriages, carts, or other vehicles, or of cattle or horses, while such construction or repair is being carried on and shall cause any such construction or repair work in a street to be sufficiently lighted and guarded during the night.

(2) Whoever takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any such light without the authority or consent of the chief officer, shall be punished with fine which may extend to fifty rupees.

Y. s. 125. 154. 153. (1) No person shall, without the written permission of the Chief Officer or otherwise than in accordance with the conditions of such permission, make a hole in any street, or deposit on any street any timber, stone, brick, earth or other material that has been or is intended to be used for building; such permission shall be terminable at the discretion of the Chief Officer; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed to the satisfaction of the Chief Officer until the materials are removed, or the hole is filled up or otherwise made secure, and shall cause such materials or hole to be sufficiently lighted during the night.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction for such offence. ~

Y. s. 126. 155. 154. (1) If in the opinion of the Chief Officer the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having a right of access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Chief Officer may, by written notice, require the owner of the said quarry or place or the person responsible for such working or removal not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Chief Officer shall direct for the purpose of preventing the danger or of abating the nuisance arising or likely to arise therefrom :

Provided that if such quarry or place is vested in His Majesty, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of Government, or any person acting with the

permission or under the authority of Government or of any officer of Government acting as such, the Chief Officer shall not take such action unless and until the Collector has consented to his so doing :

Provided further that the Chief Officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers near such quarry or place, if it appears to him to be necessary in order to prevent imminent danger.

(2) Any expense incurred by the Chief Officer in taking action under this section shall be paid by such owner or the person responsible for such working or removal, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

156. 155. (1) The Chief Officer may by public notice require that every dog while in the streets and not being led by some person shall be muzzled in such a way as to allow the dog freely to breathe and to drink, while effectually preventing it from biting.

(2) Subject to the provisions of sub-section (3) the Chief Officer may take possession of any dog found wandering unmuzzled in any public place and may either detain such dog until its owner has claimed it, has provided a proper muzzle for it, and has paid all the expenses of its detention, or cause it to be destroyed.

(3) When a dog which has been detained under the last preceding sub-section is wearing a collar with the owner's name and address thereon, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to the said address and the dog has remained unclaimed for three clear days ; provided that any dog which is found to be rabid may be destroyed at any time.

(4) Any unclaimed dog, and any dog the owner of which refuses to pay all the expenses of its detention may be sold or destroyed, after having been detained for the said period of three clear days.

(5) All expenses incurred by the Chief Officer under this section may be recovered from the owner of any dog which has been taken possession of or detained in the manner provided by chapter VIII.

(7) Powers for the prevention of nuisances.

157. 156. (1) Whoever deposits or causes or suffers any member of his family or house-hold to deposit any dust, dirt, dung, ashes, refuse or filth of any kind or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance, in any street or in any arch under a street or in any drain beside a street or on any open space or on any quay, jetty or landing-place or on any part of the seashore on the bank of a tidal river, whether above or below high-water mark, or on the bank of any river, water-course or nullah, except at such places, in such manner and at such hours as shall be fixed by the Chief Officer, and whoever commits or suffers any member of his family

Cf. s. 127.

Depositing dust, etc., committing nuisance.

or household to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees.

(2) Whoever throws or puts or causes or suffers any member of his family or household to throw or put any of the matters described in sub-section (1) except night-soil, or, except with the permission of the Chief Officer, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance or suffers any member of his family or household to commit nuisance in any such sewer, drain, culvert, tunnel, gutter or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

Cf. s. 128. 158. 157. Whoever causes or allows the water of any sink or sewer or Discharging sewage, any other liquid or other matter which is or which etc. is likely to become offensive, from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Chief Officer or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees.

Cf. s. 129. 159. 158. Whoever, being the owner or occupier of any building or Non-removal of filth, etc. land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees and with further fine which may extend to five rupees for every day on which such offence is continued, after the date of the first conviction for such offence.

Cf. s. 130. 160. 159. (1) The Chief Officer may from time to time fix the hours Removal of night-soil. within which only it shall be lawful to remove any night-soil or other such offensive matter.

(2) Whoever,—

(a) when the Chief Officer has fixed such hours and given public notice thereof by beat of drum, removes or causes to be removed along any street any such offensive matter at any time except within the hours so fixed, or

(b) at any time, whether such hours have been fixed by the Chief Officer or not,

(i) uses for any such purpose any cart, carriage, receptacle or vessel, not having a covering sufficient for preventing the escape of the contents thereof and of the stench therefrom, or

(ii) wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

(iii) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(iv) places or sets down in any public place any vessel containing such offensive matter, or

(v) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Chief Officer by public notice,

shall be punished with fine which may extend to twenty-five rupees.

164. 160. (1) Whoever, being the owner or occupier of any build- *Cf. s. 131.*

Filthy buildings, etc. ing or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Chief Officer a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing by the Chief Officer to cleanse, clear or otherwise put such building or land in a proper state have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued after the date of the first conviction for such offence.

(2) Where any building, by reason of dilapidation, neglect, abandon-

Deserted and offensive building. ment, disuse or disputed ownership, or of its remaining untenanted and thereby—

(a) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(b) coming into use for any insanitary or immoral purpose, or

(c) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the standing committee, if it considers such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal borough who claims to be the owner of such building, by written notice directed to such person, require such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed; in the event of non-compliance with such requirement, the standing committee, on the expiration of the period specified as

aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by it in so doing; all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Cf. Bom. III of 1888, s. 378. 162. 161. (1) If, for any reason, it shall appear to the standing committee that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the standing committee shall give to the owner or occupier of such building notice in writing, stating such reason, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall in such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice; and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the standing committee invalid or insufficient, the standing committee may by an order in writing prohibit the further use of such building or room as a dwelling.

(2) When any such prohibition as aforesaid has been made, the Chief Officer shall cause notice of such prohibition to be affixed to, and the letters "U.H.H." to be painted on, the door or some conspicuous part of such building or room as the case may be; and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the standing committee certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

Cf. s. 132. 163. 162. It shall be lawful for the president, vice-president, chairman of the standing committee, Chief Officer or any inspect, etc., buildings. councillor or officer authorised by the municipality in this behalf, at any time between sunrise and sunset *after due notice* to enter into and inspect all buildings and lands and by written notice to direct for sanitary reasons all or any part thereof to be forthwith internally and externally limewashed or otherwise cleansed.

Cf. s. 133. 164. 163. (1) The standing committee may set apart sufficient public bathing places. places, or any part of the seashore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, or for any purpose connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, or any purpose mentioned in this section, of any or all other public places within the municipal borough.

(2) Copies of all orders passed and notices issued by the standing committee and for the time being in force under this section, shall be

kept at the municipal office and shall be open for inspection by the public at all reasonable times.

145. 161. Whoever, in disobedience of any order of the municipal *Cf. s. 134.*

Fouling water. pality under section 164 163, or of any by-law, bathes in any stream, pool, tank, reservoir, well, cistern, conduit, or aqueduct belonging to the municipality, or washes or causes to be washed therein any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought thereinto anything that is or may become a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted, and whoever without permission of the Chief Officer steeps in any tank, stream, or ditch within or on the boundary of, the municipal borough any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance shall be punished with fine which may extend to fifty rupees.

146. 165. (1) If, in the opinion of the Chief Officer—

*Cf. Bom. III
of 1888,
ss. 381, 381A.*

Abatement of nuisance
from wells, etc.

(a) any pool, ditch, quarry, hole, excavation tank, well, pond, drain, water-course, or any collection of water, or

(b) any cistern or other receptacle for water whether within or outside a building, or

(c) any land on which water accumulates and which is situate within a distance of one hundred yards from any building used as a dwelling house

is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Chief Officer may, by notice in writing, require the owner thereof to fill up, cover over or drain off the same in such manner and with such materials as the Chief Officer shall prescribe, or to take such order with the same for removing or abating the nuisance as the Chief Officer shall prescribe.

(2) (a) No new well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission in writing of the Chief Officer.

(b) If any such work is begun or completed without such permission, the Chief Officer may either—

(i) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chief Officer shall prescribe; or

(ii) grant written permission to retain such work; but such permission shall not exempt such owner from proceeding for contravening the provisions of clause (a) of this sub-section.

147. 166. Whoever, except with the written permission of the Chief *Cf. s. 136.*

*Using offensive
manure, etc.* Officer, and in accordance with the conditions of such permission, stores or uses night-soil or other

manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees.

Cf. s. 137. 168. 167. Whoever tethers cattle or other animals, or causes or suffers tethering cattle, etc. them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper or who keeps any animal on his premises so as to be a nuisance or danger to any person shall be punished with fine which may extend to twenty-five rupees.

Cf. s. 137A. 169. 168. Whoever feeds any animal which is kept for dairy purposes Feeding animals on filth. or is intended for human food on excrementitious matter, stable-refuse, filth or other offensive matter, or permits such animal to feed or to be fed on such matter, shall be punished with fine which may extend to fifty rupees.

Cf. s. 138. 170. 169. (1) It shall be lawful for the municipality to direct by Consumption of smoke. public notice that every furnace employed, or to be employed in any works or buildings used for the purpose of any trade or manufacture whatsoever within the limits of the municipal borough whether a steam engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace.

(2) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented, or altered, or shall so negligently use, or permit to be used, any such furnace that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, such person being the owner or occupier of the said works or buildings or an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees and upon any subsequent conviction to five hundred rupees :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(8) Regulation of markets, sale of food, etc.

171. 170. (1) It shall be lawful for the municipality to direct that no Licensing markets and slaughter-houses. place other than a municipal market or slaughter-house, shall be used for any of the purposes specified in sub-clause (i) and (ii) of clause (b) of sub-section (1) of section 58 except under and in accordance with the conditions of a license from the standing committee, which may at its discretion from time to time grant, suspend, withhold or withdraw such licenses either generally or in individual cases.

(2) Whoever uses or permits the use of any place contrary to such direction, or without the license required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal

of such license, shall be punished with fine which may extend to twenty-five rupees.

(3) Upon a conviction being obtained in respect of any place under sub-section (2) of this section, the magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with a fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

(4) Nothing in this section or in sub-clause (ii) of clause (b) of sub-section (1) of section 58 shall apply to any liquor as defined in the Bombay Bom. V of
1878. Abkari Act, 1878.

172. 171. (1) The municipality may from time to time open or close Cf. s. 140. any public market or slaughter-house. It may also

Opening, closing and letting of markets and slaughter-houses. Bom. V of
1878. either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in or of otherwise using any such market or slaughter-house.

(2) Any person who, without the permission of or a license from the municipality, shall sell or expose for sale any article in the said markets or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

173 172. It shall be lawful for the municipality to lease by public Cf. s. 140. Farming of market and slaughter-house rents. auction or private contract the collecting of any rent or fees which may be imposed under section

172 171.

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

174. 173. It shall be lawful for a municipality with the sanction of the Cf. s. 141. Commissioner or, if authorized by him, of the

Slaughter-houses, etc., beyond municipal limits. Collector to establish slaughter houses or places for the disposal of carcasses of animals beyond the limits of the municipal borough, and all provisions of this Act and of by-laws in force thereunder relating to such slaughter-houses or places within the municipal borough, shall have full force in slaughter-houses or places established under this section, as if they were within the municipal borough.

175. 174. (1) The president, vice-president, chairman of the standing Cf. s. 142. committee, Chief Officer or any councillor or

Search for and inspection of unwholesome articles. officers authorized by the municipality in this behalf—

(a) may at all reasonable times enter into any place for the purpose of inspecting and may inspect any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought

to any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

(b) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine, may seize the same.

Any article which is of a perishable nature may under the orders of the president, vice-president, chairman of the standing committee or Chief Officer, if in his opinion it is diseased, unsound, unwholesome or unfit for human food, drink or medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

XLV of 1860. If it appear to the Magistrate upon sufficient evidence that any such animal or article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees, and the Magistrate shall cause such animal or article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for human food or drink or medicine.

Bom. II of 1899. (2) In every municipal borough in which by virtue of a notification Adulterated articles under sub-section (4) of section 1 of the Bombay Prevention of Adulteration Act, 1899, the provisions of that Act are in force, and in respect of any food or drink to which the provisions of any section coming into force under sub-section (4) of section 1 of that Act are for the time being applicable in such borough by a notification, under sub-section (5) of section 1 of that Act, the following provisions shall be in force, namely :—

XLV of 1860. If any article to which this sub-section is applicable as aforesaid is intended for food or drink, the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorised by the municipality in this behalf in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink ; and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

Explanation.—If such article having been exposed or stored in or brought to any place for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed to be, for the purposes of this sub-section, an article which is not what it is represented to be.

Where any article to which this sub-section is applicable, appears to the Magistrate not to be what it is represented to be, solely by reason of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate—

(a) that such substance has been added to the article because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the article or conceal the inferior quality thereof, or

(b) that in the process of production, preparation or conveyance of such article, the extraneous substance has unavoidably become inter-mixed therewith, or

(c) that, by a label distinctly and legibly written or printed on or with the said article or by other means of public description, he has given sufficient notice that such substance has been so added, or

(d) that—

(i) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(ii) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(iii) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it.

Provided that this sub-section shall not apply to any borough to which the Bombay Prevention of Adulteration Act of 1925 has been extended.

(3) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

Application for summons to be refused if not applied for within reasonable time.

174. 175. The president, vice-president, Chief Officer or any councillor *Cf. s. 143.* authorised by the municipality in this behalf, may at all reasonable times enter into any place used for the sale of articles used for human food, and inspect the weights and measures in use; and if the person in charge be found in possession of any false or defective weights or measures, or of weights and measures by the use of which the public may be defrauded, he shall be punished with fine which may extend to two hundred and fifty rupees.

(9) *Regulation of dairies and cattle sheds.*

177. 176. (1) No person shall, for the purposes of trade, use or permit to be used any place for stabling milch cattle

Licensing of dairies.

or for storing or selling milk or for making, storing or selling butter except under and in accordance with the terms of a license from the standing committee.

(2) The standing committee may grant such license subject to such conditions as it may deem fit and may at any time withdraw such license on giving one month's notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

(3) Whoever so uses or permits to be used any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such license, shall be punished with fine which may extend to fifty rupees and in the case of a continuing offence with additional fine which may extend to ten rupees for each day during which such offence is continued after the date of the conviction for the first such offence.

(4) Upon a conviction being obtained in respect of any place under sub-section (3) the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.

(10) *Prevention of dangerous diseases.*

Cf. s. 144.

178 177. (1) The Government may at any time confer by notification on any municipality designated therein, all or any of the powers specified in sub-section (2), and such municipality shall, subject to all such limitations, restrictions and conditions, if any, as the Government in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal borough every power so conferred on it, for such period as may be specified in this behalf, in any such notification, or if no period is so specified, then, until the power is withdrawn.

(2) The powers, all or any of which may be conferred under the preceding sub-section, are :—

(a) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under his management or control, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the municipality in that behalf ;

(b) power to direct or authorize the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable of any place in which any dangerous disease is

reported or suspected to exist and the taking of measures to prevent the spread of the disease beyond such place ;

(c) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the municipality, on the advice of a medical officer, likely to endanger or cause the spread of any dangerous disease ;

(d) power to direct or cause the removal, on a certificate signed by any duly qualified medical practitioner authorised by the municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, or in a place where his presence may be a danger to the neighbourhood, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment ; and to prohibit the person so removed from leaving such hospital or place without the permission of the municipality ;

(e) power to require by written notice the owner or occupier of any building or part of a building, or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the municipality in the circumstances of the case considers reasonable, at the expense of the municipality ;

(f) power to provide the means, and to prescribe places, for disinfecting or washing bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof ;

(g) power—

(i) to provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease, and

(ii) when such provision is made, to prohibit the conveyance of such persons in all or any public conveyances, and

(iii) to direct that any conveyances that may at any time be used for conveying any such persons shall be immediately disinfected ;

(h) power to prohibit—

(i) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmshala, theatre, market or other place of public resort, or

(ii) any person in charge of any person so suffering from so exposing such sufferer ;

(i) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows or has reason to believe has been exposed to infection of any kind whatsoever from any dangerous disease ;

(j) Power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharmshala or serai, in which a person has, or in which there is reason to believe that a person has been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the municipality, or of such officer as the municipality may appoint in this behalf ;

(k) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from a dangerous disease.

(3) The municipality may, in its discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(4) Any person who in a municipal borough disobeys any order which is for the time being in force therein, and which has been passed by the municipality in exercise of any power conferred on such municipality under this section, or obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order, shall be punished with fine which may extend to ~~two hundred~~ *fifty* rupees.

Cf. s. 145. 179. 178. (1) In the event of the municipal borough or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the municipality shall take all such measures as the Government may deem necessary for the purpose of preventing, meeting, mitigating or suppressing such outbreak.

(2) In such event as aforesaid the Government may by special notification declaring that such municipal borough is threatened or visited with an outbreak of a dangerous disease, confer on the municipality all or any of the additional powers specified in the following sub-section, and such municipality shall, subject to such limitations, restrictions and conditions, if any, as the Government in the same or in any subsequent notification may prescribe, exercise every such power so conferred on it until the same is withdrawn by means of a like notification.

(3) The powers, all or any of which may be conferred under the preceding sub-section, are—

(a) power to order, subject to the conditions—

(i) that the permission of a Magistrate exercising not less than second class powers shall be in each case first obtained, and

(ii) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling or of any part thereof, or of any building so used adjacent to such building, by the person or persons residing, whether habitually or temporarily, therein ;

(b) power to direct the examination by a medical officer of persons and if necessary, the disinfection of the clothing, bedding, or other articles suspected of being infected, belonging to persons either arriving from places outside the municipal borough, or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such times and places as may be prescribed, for a period not exceeding ten days ;

(c) Power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the district or other medical officer appointed by the Government in this behalf, such assemblages in such place or in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(4) The municipality may in its discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section ; but except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(5) If in any municipal borough in which a notification under subsection (2) is for the time being in force, any person—

(a) knowingly disobeys any order which for the time being is in force in such borough and which has been passed by the municipality in exercise of any power conferred on it under section 178 177 or under this section, or

(b) obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order, such person shall be punished with fine which may extend to one thousand rupees.

Withdrawal and modification of powers and orders. 180. 179. (1) The Government may at any time— *Cf. s. 146.*

(a) withdraw any power conferred under section 178 177 or under section 179 178 ;

(b) cancel or modify any limitation, restriction or condition prescribed in respect of any such power ; or

(c) cancel any order passed by a municipality in exercise of any such power.

(2) Every order passed by a municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal borough.

f. s. 147. 181. 180. If in any municipal borough any infectious disease amongst cattle, sheep or goats breaks out or if the introduction of any such disease appears to be likely, the municipality shall take all such measures as it may deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

f. s. 148. 182. 181. (1) Whenever the standing committee considers the interior of a building is so overcrowded as to be or to be likely to become dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the standing committee may cause proceedings to be taken before a Magistrate of the first class for the purpose of obtaining an order to prevent such overcrowding.

(2) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease or risk of disease, and after such further inquiry, if any, as may appear to such Magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(3) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall for the purposes of this section be deemed to be the owner of the building.

(4) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (2), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed in such requisition, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

(5) Any owner who after the date specified in any requisition issued under sub-section (2) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (4), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.

f. s. 49. 183. 182. (1) If the Government is of opinion that risk of disease has arisen or is likely to arise either to any occupier in, or to any inhabitant in the neighbourhood of, any area by reason of any of the following defects, namely—

(a) the manner in which either buildings or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together, or

(b) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected, or

(c) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid, or

(d) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings,

it may by notification confer on the municipality to which such area is subject, all or any of the powers specified in sub-section (2), and may, if it deems necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of the Government.

(2) The powers all or any of which may be conferred on a municipality under sub-section (1) are as follows :—

(a) power when any building or block already existing or in course of erection, by reason of any defect specified in sub-section (1), has given or is in the opinion of the municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed, as the municipality deems fit, either to the owners thereof or to the owners of the land on which such building or block is erected or is in course of erection that the persons so addressed shall, within such reasonable time as shall be specified in the notice, either pull down or remove such building or block, or execute such works or take such action in connection therewith as the municipality deems necessary to prevent all such risk of disease ;

(b) power by municipal or other agency, to pull down or remove such building or block, or to execute such works or take such action as aforesaid, if the persons addressed in the said notice neglect so to do within the time specified therein ;

(c) power, subject to a right of appeal to the Commissioner whose decision shall be conclusive, to prohibit, by written notice addressed to the owners and occupiers of any site or space hereinafter described and by general notice published in the manner provided in sub-section (3) of section 19+ 19), the erection of any building or of any building exceeding such dimensions as may be specified in such notice :—

(i) on the site of any building which has, in whole or in part, under the provisions of this section, been pulled down, or

(ii) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not, if the municipality considers that in order to prevent such risk as aforesaid, such site or space should not be built upon in whole or in part ; and either to acquire such site or space or to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof :

Provided that in every case compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided

in section 198 196, shall be paid to any person whose rights are affected by such prohibition.

(3) When, in pursuance of any notice under sub-section (2), any building has been pulled down, the municipality shall, unless such building has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall in case of dispute be ascertained or determined in the manner provided in section 198 196.

(4) The Government may prescribe by rule a fine not exceeding five hundred rupees for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach, of any order made or conditions imposed by the municipality in exercise of any powers conferred upon it under this section.

s. 150.

184. 183. (1) Where the municipality is of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, it may submit its opinion with the reasons therefor to the Commissioner and the Commissioner thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the said notification.

(2) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(3) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

(11) *Nuisances from certain trades and occupations.*

s. 151.

185. 184. (1) If it be shown to the satisfaction of the standing committee that any building or place used or intended by any person to be used—

- (a) for boiling or storing offal, blood, bones or rags,
- (b) for salting, curing, or storing fish,
- (c) for storing hides, horns or skins,
- (d) for tanning,
- (e) for the manufacture of leather or leather goods,
- (f) for dyeing,
- (g) for melting tallow or sulphur,
- (h) for washing or drying wool or hair,
- (i) as a brick, pottery or lime kiln,
- (j) for soap-making,
- (k) for oil-boiling or oil extracting,
- (l) as a manufactory of sago,
- (m) as a distillery,
- (n) for storing hay, straw, fodder, wood, coal or other combustible material,
- (o) as a manufactory of snuff,

(p) for the manufacture or sale of sweetmeats,

(q) as a factory, workshop or place of business in which animals are employed or intended to be employed for doing work, or in which steam, water or any mechanical power is used or intended to be used,

(r) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,

is or is likely to become by reason of such use and of its situation a nuisance to the neighbourhood or is so used or is so situated as to be likely to be dangerous to life, health or property, the standing committee may by written notice require the owner or occupier—

(i) at once to discontinue the use of, or at once to desist from carrying out or allowing to be carried out the intention so to use, such building or place, or

(ii) to use it in such manner or after such structural alterations as the standing committee in such notice prescribes, so that it may not become, or may be no longer, a nuisance or dangerous.

For the purpose of sub-section (r) nuisance shall include any contamination of the atmosphere whereby a deposit of soot or any mechanical noise is caused.

Nothing in this sub-section shall be deemed to affect any provision of the Indian Boilers Act, 1923, or shall authorize any order relating to the fixing or fencing of any engine, mill-gearing, hoist or other machinery in any factory to which the provisions of the Indian Factories Act, 1911, are applicable.

(2) Whoever after notice has been given under sub-section (1), uses any building or place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health, or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction.

(3) Upon a conviction being obtained under this section the Magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section (1).

(4) Whoever uses without a license or during the suspension or after the withdrawal of a license, any place for any purpose mentioned in sub-section (1) in any municipal borough in which by-laws are for the time being in force prescribing the conditions on or subject to which, the circumstances in which, and the areas or localities in respect of which, licenses for such use may be granted, refused, suspended or withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction.

Liability to penalty after notice.

Penalty for unlicensed places in district in which by-laws under section 58 (1) (b) (iii) are in force.

f. s. 151A.

186. 185. (1) No person shall use or employ in any factory or any other place any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a license from the standing committee.

(2) The standing committee may grant such license subject to such conditions as it may deem fit and may at any time withdraw such license on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

(3) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of or after the withdrawal of such license, shall be punished with fine which may extend to fifty rupees.

f. s. 152.

187. 186. Whoever in any street or public place within the limits of a municipal borough loiters for the purposes of prostitution, or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a Police officer not below the rank of an officer in charge of a police station and specially authorized in this behalf by the District Magistrate or by the municipality.

f. s. 153.

Brothels.

188. 187. In any municipal borough—

(a) any part of which is within three miles of a cantonment, or

(b) to which on the application of the municipality the Government may by notification have declared this section to apply,

any Magistrate of the first class, on receiving information that a house within the limits of such borough is used as a brothel, may summon the owner or occupier of such house and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it ; and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

Provided that action under this section shall be taken only—

(a) with the sanction or by the order of the District Magistrate or

(b) on the complaint of three or more inhabitants of the municipal borough residing in the vicinity of the house to which the complaint refers.

(12) Regulation of pilgrims' lodging houses.

189. 188. (1) No person shall, in any municipal borough which the Government shall have declared by notification to be a pilgrim centre for the purposes of this section and of clause (d) of sub-section (1) of section 58, use or permit to be used any place or building for the purpose

Pilgrims' lodging houses.

of lodging pilgrims except under and in accordance with the conditions of a license from the standing committee.

(2) The standing committee may grant such license subject to such conditions as it may deem fit and may at any time withdraw such license on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any further notice.

(3) Whoever lodges or permits to be lodged any pilgrim in any place or building without or in contravention of any of the conditions of or after the withdrawal of or during the suspension of such license shall be punished with a fine not exceeding five rupees for each such pilgrim for each day or part of a day during which such pilgrim has been so lodged.

(13) Powers in case of fire.

100. 189. It shall be the duty of all police officers and of all municipal officers and servants to aid a fire-brigade in the execution of its duties. Such officers and servants may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

Police and municipal officers to aid fire brigade.

Cf. Bom. III of 1888, s. 362.

(14) Service of notices, penalties on non-compliance therewith, and execution of works on default.

101. 190. (1) The service of every notice and the presentation of every bill under this Act on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for in this Act, be effected by a municipal officer or servant or other person authorized by the Chief Officer in this behalf—

Service of notices, etc., addressed to individuals.

Cf. s. 154.

- (a) by giving or tendering the notice or bill to the person to whom it is addressed ; or
- (b) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal borough, or by giving or tendering the notice or bill to some adult male member or servant of his family ; or
- (c) if such person does not reside within the municipal borough, and his address elsewhere is known to the President or other person directing the issue of the notice or bill, then by forwarding the notice or bill by registered post under cover bearing the said address ; or
- (d) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

(2) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in

Service of notices on owners or occupiers of buildings and lands.

cases not otherwise specially provided for in this Act, shall be effected either—

(a) by giving or tendering the notice to the owner or occupier or if there be more owners or occupiers than one, to any one of them ; or

(b) if no such owner or occupier be found, then by giving or tendering the notice to some male adult member or servant of the family of any such owner or occupier as aforesaid ; or

(c) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

(3) Every notice which this Act requires or empowers a municipality or any municipal authority or officer to give or to

Public and general notices how to be published. serve either as a public notice or generally or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other public buildings and places, or is published in such local papers or in other such manner, as the municipality in by-laws in this behalf prescribes.

Defective form not to invalidate notice. (4) No notice or bill shall be invalid for defect of form.

(5) (a) Where any notice under this chapter requires any act to be

Execution of acts required to be done by any notice. done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(b) In the event of non-compliance with the terms of the notice it shall be lawful for the Chief officer to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 190 197.

Cf. s. 3 (8) 102. No person receiving the rent of any land or building as

Liability of agent, etc., of owner. agent or trustee for another person, shall be liable to do anything by this Act required to be done by the owner of such land or building which may involve expenditure on the part of such owner, unless he have funds of or due to such other person sufficient to pay for the same ; nor shall he be subject to any penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of or due to such other person sufficient to defray the expense of doing the act required.

Cf. s. 135.

103. 191. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on

Punishment for disobedience of orders and notices not punishable under any other section. behalf of a municipality under any power conferred by this chapter, or fails to comply with the conditions subject to which any permission was given to him by or on behalf of a municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable

under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction :

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

194. 192. (1) Where under the provisions of this Act any work is *Cf. s. 156.*

Municipality in default of owner or occupier may execute works and recover expenses. required to be executed by the owner or occupier of any building or land and default is made in the execution of such work, the municipality, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the municipality may seem fit :

Provided that—

(a) where any drainage scheme or water-works scheme has been commenced by any municipality, it shall be lawful for the municipality, without prejudice to its powers under section 128 127 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the municipality shall render : and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner described in sub-sections (2) and (3) ;

(b) where an order or requisition has been passed under sub-section (1) of section 113, sub-section (1) of section 115, sub-section (2) or (8) of section 121 or under section 126 125, 128 127, 133 132, or 134 133 or where permission has been given under section 130 129, or where an arrangement has been made under proviso (a) of this sub-section, the municipality may, without prejudice to any other powers under this Act, if it thinks fit, declare any expenses incurred by the municipality in the execution of such order or in the carrying out of such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the municipality may decide, including interest at the rate of seven and a half per cent. per annum, and shall be recoverable in the manner described in sub-sections (2) and (3).

(2) If the defaulter be the owner of the building or land, the municipality may, by way of additional remedy,

Power to levy charges on occupier who may deduct the same from his rent. whether a suit or proceeding has been brought or taken against such owner or not, require, subject

to the provisions of sub-section (3), the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

(3) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this

Occupiers not to be liable for more than the amount of rent due.

Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him, or which at any time after such demand and notice not to pay rent to the landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

Cf s. 157.

195. 193. Where default is made by the owner of any building or land in the execution of any work required to be

Occupier in default of owner, may execute works and deduct expenses from his rent.

executed by him, the occupier of such building or land may, with the approval of the municipality, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Cf, ss. 158.

196. 194. If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect of

Proceedings if any occupier opposes the execution of the Act.

such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order, and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute any such work, such occupier shall for every day during which he so continues to refuse, be punished with a fine which may extend to fifty rupees, and every such owner, during the

continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

(15) Miscellaneous.

197. 195. It shall be lawful for the president, vice-president, Chief *Cf. s. 159.*

Entry for purposes of ~~Officer or any councillor authorised by the~~ the Act. ~~municipality for such purpose or any officer~~ authorised by the Chief Officer for such purpose, to enter, for any purpose of this Act, between sunrise and sunset, with such assistants as he may deem necessary, into and upon any building or land :

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier :

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

198. 196. (1) If a dispute arises an agreement is not arrived at with *Cf. s. 160.*

Arbitration in cases of respect to any compensation or damages which compensation, etc. are by this Act directed to be paid, the amount and if necessary the apportionment of the same shall be ascertained and determined by a panchayat of five persons, of whom two shall be appointed by the municipality, two by the party to or from whom such compensation or damages may be payable or recoverable, and one, who shall be sir-panch, shall be selected by the members already appointed as above.

(2) If either party or both parties fail to appoint members, or if the members fail to select a sir-panch, within one month from the date of either party receiving written notice from the other of claim to such compensation or damages, such members as may be necessary to constitute the panchayat shall be appointed, at the instance of either party, by the District Judge.

(3) In the event of the panchayat not giving a decision within one month from the date of the selection of the sir-panch or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the Land Acquisition Act, 1894, or proceedings in I of 1894. matters referred for the determination of the Court :

Provided that—

(a) no application to the Collector for a reference shall be necessary, and

(b) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

(4) In any case where the compensation is claimed in respect of land and the panchayat has given a decision, either party, if dissatisfied with the decision, may within a month of the date thereof apply to the District Court, and the matter shall be determined by the District Court in accordance with the provisions of sub-section (3).

(5) In any case where the compensation is claimed in respect of any land or building the municipality may, after the award has been made by the panchayat or the District Court, as the case may be, take possession of the land or building, after paying the amount of the compensation determined by the panchayat or the District Court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the municipality shall deposit the amount of the compensation in the District Court.

Cf. s. 160A. 199. 197. If a dispute arises with respect to any costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the standing committee and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Costs or expenses how determined and recovered.

CHAPTER X.

PROSECUTIONS, SUITS AND POWERS OF POLICE.

cf. s. 161. 200. 198. (1) The standing committee and, subject to the provisions of sub-section (3), the Chief Officer may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act or of any rule or by-law thereunder and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund :

Provided that no prosecution for an offence under this Act or by-laws framed thereunder shall be instituted except within six months next after the commission of such offence.

(2) Any prosecution under this Act or under any rule or by-law thereunder may, save as therein otherwise provided, be instituted before any Magistrate; and every fine or penalty imposed under or by virtue of this Act or any rule or by-law thereunder, and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to any Magistrate, by the distress and sale of any movable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(3) The Chief Officer shall not, except with the previous approval of the standing committee, direct a prosecution or order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections, namely :—

section 52; sub-section (4) of section 116; section 170 169; and sub-section (4) of section 115; sub-section (4) of section 183 182.

201. 199. No distress levied or attachment made by virtue of this *Cf. s. 162.*

Distress lawful though defective in form.

Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress or attachment or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

202. 200. If through any act, neglect or default, on account whereof *Cf. s. 163.*

Damage to municipal property how made good.

any person shall have incurred any penalty imposed by or under this Act, any damage to the property of a municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted; and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

203. 201. In lieu of any process of recovery allowed by or under this *Cf. s. 164.*

Alternative procedure by suit.

Act or in case of failure to realise by such process the whole or any part of any amount recoverable under the provisions of chapter VIII, or of any compensation, expenses, charges or damages payable under this Act, it shall be lawful for a municipality to sue in any Court of competent jurisdiction the person liable to pay the same.

204. 202. (1) A municipality may sue in any Court of competent *Cf. s. 165.*

Power to sue, compromise and pay compensation.

jurisdiction any person who may have in any way caused or may appear likely to cause any injury to any property, rights or privileges of the municipality.

(2) A municipality may compound or compromise in respect of any suit instituted by or against it, or, in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(3) A municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its committees, officers and servants under this Act.

(4) *The municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on its behalf.*

205. 203. For the purpose of the recovery of any amount due on *Cf. s. 166.*

Assistance for the recovery of rent on land.

account of rent from any person to a municipality in respect of any land vested in or otherwise held by such municipality, the municipality shall be deemed to be a superior holder and every such

Bom. V of
1879.

person an inferior holder of such land, within the meaning of sections 86 and 87 of the Bombay Land Revenue Code, 1879; and the municipality as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent or land-revenue payable to him by an inferior holder.

Cf. s. 167.

206. 204. No person shall commence any suit against any municipality or against any officer or servant of a municipality or any person acting under the orders of a municipality for anything done or purporting to have been done in pursuance of this Act, without giving to such municipality, officer, servant or person ~~one~~ two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of;

and in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Cf. s. 268.

207. 205. (1) Any Police-officer may arrest any person committing Powers of police in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person is unknown to him, and if he declines to give his name and address or if the Police-officer has reason to doubt the accuracy of such name and address if given; and such person may be detained at the station-house until his name and address has been correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(2) It shall also be the duty of all Police-officers to give immediate information to the municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder and to assist all municipal officers and servants in the exercise of their lawful authority.

208. 206. Accounts of the receipts and expenditure of every municipality shall be kept in accordance with the Accounts to be kept. Municipal Account Code subject to such modifications as the Government may in each case direct.

CHAPTER XI.

MUNICIPAL ACCOUNTS.

Cf. s. 160.

209. 207. (1) A municipality shall have prepared and laid before it, at its periodical general meetings, complete Presentation of accounts. Budget Estimates. accounts of the receipts and expenditure of the municipality since the 1st day of April last preceding, and at a general meeting which shall be held on such day between the 10th January and the 1st of March as may

be fixed in this behalf by the rules of the municipality, a complete account of the actual and expected receipts and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the municipality for the financial year to commence on the 1st April next following.

(2) The municipality shall thereupon decide upon the appropriation and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose.

Provided that the standing committee or any other committee appointed under the Act may, within the budget so sanctioned, sanction re-appropriations not exceeding Rs. 500 from one sub-head to another or from one minor head to another minor head under the same major head and controlled by the same committee. A statement of such re-appropriations shall be submitted to the municipality at every quarterly general meeting.

(3) The municipality shall at the general meeting in April, or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past year.

210. 208. (1) The municipal accounts shall from time to time, and *Cf. a. 170.*
 once in every year at the least, be audited by
 Audit of accounts. such agency as may be prescribed in the rules of the
 municipality, or if the Government so direct, by a Government auditor.

(2) The auditor shall, for the purposes of his office, have access to all the accounts and other records of the municipality.

211. 209. A municipality shall as soon as the accounts of the past *Cf. a. 171.*
 year have been finally passed by it, transmit
 Transmission of ac- to the Government or any officer duly authorized
 counts to Government. by it in this behalf, a copy thereof, or an account
 in such form as the Government may prescribe, and shall furnish such
 details and vouchers relating to the same as the Government or such
 officer may from time to time direct.

212. 210. The quarterly and annual accounts, receipts and expend- *Cf. a. 172.*
 iture, and the budget when sanctioned, shall be
 Publication of ac- open to public inspection, and shall be published
 counts. in such manner as the municipality may prescribe
 in this behalf.

CHAPTER XII.

CONTROL.

213. 211. (1) The Commissioner, Collector or any officer of *Cf. a. 173.*
 Government authorized by the Government
 Power of inspection and supervision. by a general or special order shall have
 power—

(a) to enter on and inspect, or cause to be entered on and inspected any immovable property occupied by any municipality or any institution under its control or management or any work in progress under it or under its direction;

(b) to call for or inspect, any extract from any municipality's or any committee's proceedings and any book or document in the possession of or under the control of a municipality.

(2) The Collector shall have power—

(a) to call for any return, statement, account or report which he may think fit to require such municipality to furnish ;

(b) to require a municipality to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such municipality or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply to him within a reasonable time, stating its reasons for not desisting from doing, or for not doing, such thing.

Cf. s. 174.

214. 212. (1) If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature, suspend the execution or prohibit the doing thereof.

(2) When the Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the municipality affected thereby a copy of the order, with a statement of the reasons for making it ; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

(3) The Commissioner shall forthwith submit to the Government a report of every case occurring under this section, and the Government may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

Cf. s. 175.

215. 213. (1) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which may be executed or done by or on behalf of a municipality and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public ; and may direct that the reasonable expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality.

(2) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such

moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) The provisions of sub-sections (2) and (3) of section 214 212 shall apply, so far as may be, to any order made under this section.

216. 214. If in the opinion of the Commissioner the number of *Cf. s. 17.*

persons who are employed by a municipality as officers or servants, or whom a municipality proposes to employ, or the remuneration assigned by the municipality to those persons or to any particular person is excessive, the municipality shall, on the requirement of the Commissioner, reduce the number of the said persons or the remuneration of the said person or persons :

Power of Commissioner to prevent extravagance in the employment of establishment.

Provided that the municipality may appeal against any such requirement to the Government whose decision shall be conclusive.

217. 215. (1) The Government may order an inquiry to be held by any officer appointed by it in this behalf into any

Government inquiry into municipal matters.

matters concerning the municipal administration of any municipal borough or any matters with respect to which its sanction, approval or consent is required under this Act.

(2) The officer holding such inquiry shall for the purposes thereof have *V of 1968.* the powers which are vested in a Court under the Code of Civil Procedure in respect of the following matters :—

- (a) discovery and inspection,
- (b) enforcing the attendance of witnesses, and requiring the deposit of their expenses,
- (c) compelling the production of documents,
- (d) examining witnesses on oath,
- (e) granting adjournments,
- (f) reception of evidence taken on affidavit, and
- (g) issuing commissions for the examination of witnesses ;

and may summon and examine *suo motu* any person whose evidence appears to him to be material ; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

V of 1968.

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of such officer's jurisdiction shall be the limits of the Bombay Presidency.

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(f) Costs shall be in the discretion of the Government and the Government shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6 per cent. per annum ; and such costs and interest shall be leviable as an arrear of land revenue.

Cf. s 172.

248. 216. (1) When the Government is informed, on complaint made or otherwise, that default has been made in the performance of any duty imposed on a municipality by or under this Act or by or under any enactment for the time being in force, the Government, if satisfied after due inquiry that the alleged default has been made, may direct the Commissioner to fix a period for the performance of that duty.

Power of Government to provide for performance of duties on default by municipality.

(2) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

(3) If the expense and remuneration are not so paid, the Commissioner may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, as its officer, treasurer, banker, or otherwise to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

249. 217. (1) If, in the opinion of the Government, a municipality is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Government may, after giving the municipality an opportunity to render an explanation, by an order published, with the reasons therefor, in the *Bombay Government Gazette*, declare the municipality to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and may dissolve such municipality or supersede it for a period to be specified in the order.

Power of Government to dissolve or supersede municipality in case of incompetency, default or abuse of power.

(2) When the municipality is so dissolved or superseded, the following consequences shall ensue :—

Consequences of dissolution or supersession.

(a) all councillors of the municipality shall, in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution, vacate their offices as such councillors ;

(b) all powers and duties of the municipality shall during the period of dissolution or supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in this behalf ;

(c) all property vested in the municipality shall, during the period of dissolution or supersession, vest in His Majesty.

(d) The person or persons appointed under clause (b) may delegate his or their powers and duties to an individual or to a committee or sub-committee.

(e) When more than one person are appointed under clause (b) they may sue or be sued by any one of them who has been duly authorized to sue and be sued on behalf of the rest by a resolution duly passed by them in this behalf.

(3) On the issue of an order of dissolution under sub-section (1) elections of councillors shall be held under the provisions of this Act or of the rules made thereunder on or before a date to be specified by the Government in the order, and the municipality shall be re-established by the election or appointment of councillors under the aforesaid provisions on such date as may be specified by the Government in the aforesaid order.

(4) If, after inquiry made, the Government so directs the period of supersession with all the consequences aforesaid shall, from time to time, be continued by an order published as aforesaid until such date as may be fixed by the Government of the re-establishment of the municipality.

(5) After the municipality is superseded it shall be re-established by the election or appointment of councillors under the provisions of this Act or the rules made thereunder applicable thereto,

(a) if no direction has been made under sub-section (4) on the expiration of the period specified in the order of supersession under sub-section (1) and

(b) if a direction has been made under sub-section (4) on such date as is fixed under that sub-section for the re-establishment of the municipality.

220. 218. In all matters connected with this Act, the Government, *Of. a. 180.* Commissioners and Collectors shall, respectively, have and exercise the same authority and control over Commissioners, Collectors and their subordinates as in matters of general and revenue administration.

Powers of Government and of the Commissioners over Collectors, etc.

SCHEDULE I.

(See Section 3.)

MUNICIPAL BOROUGHS.

Northern Division.

1. Ahmedabad.
2. Nadiad.
3. Broach.
4. Surat.
5. Thana.
6. Godhra.

Bombay Suburban.

7. Bandra.

Appendices
Central Division.

8. Ahmednagar.
9. Jalgaon.
10. Bhusaval.
11. Amalner.
12. Dhulia.
13. Nasik.
14. Poona City.
15. Poona Suburban.
16. Lonavla.
17. Satara City.
18. Sholapur.
19. Pandharpur.

Southern Division.

20. Belgaum.
21. Bijapur.
22. Dharwar.
23. Hubli.
24. Gadag-Bettigeri.
25. Ratnagiri.

Sind.

26. Hyderabad.
27. Sukkur.
28. Shikarpur.
29. Larkana.

SCHEDULE II.

(See clause (b) of section 72).

Notice is hereby given to the inhabitants of the municipal borough of _____ that the municipality desire to impose the tax, rate, toll, octroi or cess (as the case may be) defined in the rules appended (in lieu of the tax known as the _____ which is published at page _____ of the sanctioned rules*).

Any inhabitant of the municipal borough objecting to the proposed tax may, within one month from the date of this notice, send his objection in writing to the municipality.

RULES.

(The rules approved by the municipality under clause (a) of section 72 are to be appended here.)

* To be inserted if the tax is to be substituted for any existing tax.

SCHEDULE III.

(See section 85).

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, A. B., hereby give notice as required by section 85 of the Bombay City Municipalities Act, 192 , of the following transfer of property :—

Date of Notice.	Date of Instrument.	Name of vendor or Assignor.	Name of purchaser or Assignee.	Amount of consideration.	DESCRIPTION OF THE PROPERTY.						If any instrument has been registered, the date of registration.	Remarks.	
					Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.			

Dated

(Signed)

SCHEDULE IV.

(See section 85.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, A. B., hereby give notice as required by section 85 of the Bombay City Municipalities Act, 192 , of the following transfer of property :—

Date of notice.	Name in which the property is at present entered in the Chief Officer's records.	To whom it is to be transferred.	DESCRIPTION OF THE PROPERTY.						Remarks.	
			Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.		

Dated

(Signed)

SCHEDULE V.

(See sub-section (3) of section 102.)

FORM OF NOTICE OF DEMAND.

To
 A. B., residing at
 Take notice that the municipality of demand from
 the sum of the sum of due
 from on account of

(Here describe the property or other thing in respect of which the tax is leviable.)

Leviable under rule No. for the period of
 commencing on the
 day of 19 and ending on the
 day of 19, and that if, within fifteen
 days from the service of this notice, the said sum is not paid into the
 municipal office at , and sufficient cause
 for non-payment is not shown to the satisfaction of the Chief Officer, a
 warrant of distress or attachment will be issued for the recovery of the
 same with costs.

Dated this day of 19 .

(Signed)

Chief Officer.

SCHEDULE VI.

(See sub-section (1) of section 103.)

FORM OF WARRANT.

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas A. B. of has not paid, and has not shown
 satisfactory cause for the non-payment of, the sum of
 Here describe the tax. the due for the tax mentioned in the margin for the period commencing on
 the day of 19, and ending with
 the day of 19, and leviable
 under rule No. ;

And whereas fifteen days have elapsed since the service on him of notice of demand for the same ;

This is to command you to ^{distrain}_{attach} subject to the provisions of section 103 of the Bombay City Municipalities Act, [...] the goods and chattels any property

APPENDIX C.

BILL No. XXIV OF 1925.

A Bill to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay.

(As published in the "Bombay Government Gazette" of the 14th October 1925.)

WHEREAS it is expedient to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by section 80A (3) of the Government of India Act has been obtained for the passing of this Act: It is hereby enacted as follows :—

5 & 6 Geo.
5, c. 61.

1. This Act may be called the Bombay Securities Contracts Control Act, 1925.

Extent and operation. 2. (1) This Act shall apply to the City of Bombay only.

(2) It shall come into operation from such date as the Governor in Council may, by notification in the *Bombay Government Gazette*, appoint.

3. In this Act unless there is something repugnant in the subject or context,

(1) "Securities" includes stocks, shares, bonds, debentures, debenture stock and any other instruments of a like nature.

(2) "Stock-Exchange" means any association, organisation or body of individuals, whether incorporated or not, established for the purpose of assisting, regulating and controlling business in buying, selling and dealing in stocks, shares, bonds, debentures, debenture stock and any other like securities.

(3) "Ready delivery contract" means a contract for the purchase or sale of securities for performance of which no time is specified and which is to be performed immediately or within a reasonable time.

Explanation.—The question what is a reasonable time is in each particular case a question of fact.

4. (1) A Stock Exchange may, subject to the sanction of the Governor in Council, make rules for the regulation and control of all transactions in securities (other than ready delivery contracts).

Rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for :—

(a) the government of the stock-exchange by a governing body and the constitution of such governing body;

(b) the powers and duties of the governing body and the manner in which its business shall be transacted;

- (c) the fixing of a scale of charges ;
 - (d) the making, settling and closing of bargains ;
 - (e) the exercise of emergency powers in the case of corners ;
 - (f) the regulation of dealings by members for their own account ;
- and
- (g) the settlement of disputes arising between members and the punishment of defaulting members.

(3) The Governor in Council may refuse to sanction any or all the rules made by a stock-exchange and may, from time to time, add to, amend, vary or rescind the rules made by a Stock Exchange and sanctioned by the Governor in Council.

(4) Rules made by a Stock Exchange under sub-section (1) and sanctioned by the Governor in Council and any addition, amendment, variation or rescission made by the Governor in Council under sub-section (3) shall be published in the *Bombay Government Gazette*.

(5) All rules made by a Stock Exchange and in existence on the date on which this Act comes into operation relating to transactions in securities other than ready delivery contracts shall be of no effect and shall not be enforceable by law on and from the date this Act comes into operation except such rules as are sanctioned by the Governor in Council.

(6) If no rules are made under sub-section (1) within such time as may be fixed by the Governor in Council, the Governor in Council may, by notification in the *Bombay Government Gazette*, make rules for the regulation and control of all transactions in securities (other than ready delivery contracts):

5. Every contract entered into after the date on which this Act comes into operation for the purchase or sale of securities, whether either party thereto is a member of a Stock Exchange or not, other than a ready delivery contract shall be void, unless the same is made subject to the rules duly made and published under section 4 ; and no claim shall be allowed in any Civil Court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

Contracts not made
subject to rules to be
void.

STATEMENT OF OBJECTS AND REASONS.

The repeated occurrence of crises in the Bombay Stock Exchange led to a demand by the public in 1923 for an enquiry by Government into the administration of the Exchange. A Committee was accordingly appointed to investigate and submitted a report to Government in 1924 making certain recommendations for the better administration of the Stock Exchange. By this bill Government propose to take authority to enforce such rules as they may consider necessary to the interests of the public.

H. S. LAWRENCE.

APPENDIX D.

BILL No. XVIII OF 1925.

(A Bill to amend the Bombay Children Act, 1924.)

REPORT OF THE SELECT COMMITTEE.

We, the undersigned members* of the Select Committee appointed to consider Bill No. XVIII of 1925 (A Bill to amend the Bombay Children Act, 1924), have the honour to report as follows :—

2. The alterations we have made in the Bill are explained in the following notes on the clauses of the Bill :—

Clause 2—Section 10B.—We think the offence here defined should be limited to acts done in public places and that the protection given by it should be extended to children up to 14 years. We have amended the section accordingly.

Section 10C.—In view of the amendments made in section 10B, this section will apply to section 10A only. We have therefore added it as an explanation to section 10A.

Section 10D—sub-section (1).—We do not think it advisable to make the selling of bidis, cigarettes, tobacco or any smoking mixture to a child or young person an offence. We have therefore, decided by a majority to delete sub-section (1).

Clause 3.—We have decided to provide appeals for convictions under sections 10A and 10B.

3. We recommend that the report and the Bill as amended should be translated into Marathi, Gujarathi, Kanarese and Urdu, and the translations should be published in the *Bombay Government Gazette*. They should also be translated into Sindhi and the translations should be published in the *Sind Official Gazette*.

(Signed) M. H. W. HAYWARD,
 („) A. MONTGOMERIE,
 („) J. ADDYMAN,
 („) A. M. MANSURI,
 („) K. E. DADACHANJI,
 („) L. B. BHOPATKAR (*subject to a minute of dissent*),
 („) S. K. BOLE (*subject to a minute of dissent*),
 („) HOOSEINBOHY A. LALLJEE (*subject to a minute of dissent*),
 („) R. G. PRADHAN (*subject to a minute of dissent*),
 („) S. T. KAMBLI,
 („) D. R. PATIL (*subject to a minute of dissent*).

*Note.—The signatures of Messrs. A. N. Surve, W. S. Mukadam, Noor Mahomed, B. K. Davi, G. B. Pradhan and D. B. Adwani will be notified when received.

(Minute of dissent by Mr. L. B. Bhopatkar, M.L.C.)

1. I think that the penalty contained in clause 10B should extend to the giving of intoxicating drugs also. The words "in case of sickness or other urgent cause" should be deleted, so that they may not prove a loophole to get out of the clutches of the clause.

2. It is desirable to keep the original clause 10D.

(Signed) L. B. BHOPATKAR.

Poona City, 25th September 1925.

(Minute of dissent by Mr. S. K. Bole, M.L.C.)

I think section 10B should be retained as drafted in the original Bill and should not be modified as has been done by the Select Committee.

Section 10D, sub-section (1), should also be retained and should not be deleted. Such restriction has been made regarding the sale of liquor to children and I don't see any reason why the same should not be provided for here.

(Signed) S. K. BOLE.

Bombay, 25th September 1925.

(Minute of dissent by Mr. Hoosainbhoy A. Lalljee, M.L.C.)

I am sorry I was unable to attend the Select Committee meeting.

I agree with the suggestion that an explanatory note be added to clause 10A as suggested in the Report.

I agree with the suggestion of the Committee that in clause 10B the age limit of a child is increased to 14 years; but I regret I do not agree with the suggestion made of adding in the same clause the words "in any highway or other public place whether a building or not or any licensed premises" and my reason is that there is already provided in this clause more than sufficient safeguards, i.e., except under the order of a duly qualified medical practitioner or in case of sickness or other urgent cause. No one will object to a child being given intoxicating liquor under the advice of a medical practitioner but the words "in case of sickness" really leaves open a very wide door. Who can say whether there is or there was sickness except a medical man? However, I do not object even to this as one cannot pretend sickness often; then again the words "other urgent cause" are again very wide but still as urgent cause may mean accident I do not object. But I do strongly object to the addition of the words stated above, viz., "In any highway, etc.", being added because it only means that the legislation allows

people to allow their children to drink and thereby be addicted to intoxicating drugs in their homes. This Act provides for the protection of children and any illtreatment or even illfeeding is intended to be stopped and children are liable to be taken away for these reasons from their parents ; if this is the laudable object of the Bill, I fail to see how parents should be allowed to ruin the future life of children at their homes by not being made responsible to see that their children do not become addicted to intoxicating drinks as stated above. There is more than sufficient latitude given to parents under which circumstances a child may be given intoxicating liquors and I do hope that this evil of drunkenness which is one of the real causes of making this Act will not be overlooked and it will be seen that the future parents are such as would protect their children without acts like this. This point goes to the very root of the whole show. Protective measures are by far better than curative ones and therefore I trust the very object of the Act will be safeguarded by omitting these words and many a ruin for the future generation due to drunkenness will be avoided. I may also add that Government have declared as their policy the total prohibition of intoxicating drinks ; if that is so, I think the first step taken should be to see that children and young persons are not any more addicted to this ruinous habit. This Act which is brought forward to protect children must be as rigid as possible in this matter. *I am not in favour of deleting clause D of the Bill.* My reason for this is that this is also a preventive measure. It may be said that the parents are in the habit of sending out their children for this sort of work. Well it could also be said that certain parents are in the habit of sending out children for fetching intoxicating drinks or even begging, but the object of the Act is to stop such things and to keep away children from these shops and environments. I therefore hope it will be re-instated.

(Signed) HOOSEINBHOY A. LALLJEE.

(Minute of dissent by Mr. R. G. Pradhan, M.L.C.)

I do not approve of the entire deletion of clause 10D. I am in favour of amending it by adding the words "under twelve years of age" after the word "child".

(Signed) R. G. PRADHAN.

Nasik, 26th September 1925.

(Minute of dissent by Mr. D. R. Patil, M.L.C.)

I am of opinion that the age limit of children contemplated by clause 10A ought to be at least 10 years if we want to extend real help to children in the matter of due care on the part of their drunkard custodians.

In order to save children from bad effects of smoking it is necessary to retain clause 10D which was wisely inserted in the bill for the welfare of

children so far as smoking vice on their part was concerned by making persons selling bidis, cigarettes, tobacco, etc., to children liable to be punished with fine.

(Signed) D. R. PATIL.

Bhusaval, 25th September 1925.

BILL No. XVIII OF 1925.

A Bill to amend the Bombay Children Act, 1924.

(As amended by the Select Committee.)

Whereas it is expedient to amend the Bombay Children Act, 1924, in Bom. XIII manner hereinafter appearing; And Whereas the previous sanction of of 1924. the Governor-General required by section 80A of the Government of 5 & 6 Geo. India Act has been obtained for the passing of this Act; It is hereby V. c. 61. enacted as follows:—

1. This Act may be called the Bombay Children (Amendment) Short Title. Act, 1924 .

2. After section 10 of the Bombay Children Act, 1924, hereinafter Bom. XIII of called the said Act, the following sections shall 1924. be inserted, namely:—
 Insertion of new ss. 10A, 10B, 10C, 10D, and 10E, 10F in Bom. XIII of 1924.

“10A. If any person is found drunk in any highway or other public place whether a building or not or on any licensed premises, while having the charge of a child apparently under the age of seven years and if such person is incapable by reason of his drunkenness of taking due care of the child, he may be arrested and shall, if the child is under that age, be punishable with fine which may extend to fifty rupees. Cf. 2 Edw. 7, c. 28, s. 2.

10C *Explanation.*—For the purposes of this sections 10A and 10B a child shall be deemed to be under the age of seven if it appears to the Court to be under that age unless the contrary is proved. Presumption as to age of child.

10B. Whoever in any highway or other public place whether a building or not or on any licensed premises gives, or causes to be given, to any child apparently under the age of seven years any intoxicating liquor except upon the order of a duly qualified medical practitioner, or in case of sickness or apprehended sickness or other urgent cause, shall be punishable with fine which may extend to fifty rupees. Cf. 8 Edw. 7, c. 67, s. 119.

10D—(1) —Whoever sells to a child bidis, cigarettes, tobacco or any smoking mixture intended as a substitute for tobacco, whether for his own use or not, shall be punishable with fine which may extend to fifty rupees. Cf. 8 Edw. 7, c. 67, s. 39. Penalty for selling tobacco to a child or young person: forfeiture of tobacco.

10C. It shall be the duty of a police officer to seize any bidis, cigarettes, tobacco or smoking mixture in the possession of a child whom he finds smoking in any street or public place and any bidis, cigarettes, tobacco or smoking mixture so seized shall be forfeited to Government; and every such police officer shall be authorized to search any boy so found smoking but not a girl.

Cf. 55 Vic.,
c. 4, ss. 1 & 2.

10D. Whoever by words, either spoken or written or by signs, or otherwise, incites or attempts to incite a child or young person to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child or young person to borrow money or to enter into any transaction involving the borrowing of money shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Cf. 8 Edw. 7,
c. 67, s. 117.

10E. Whoever takes an article in pawn from a child or young person whether offered by that person on his own behalf or on behalf of any other person shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

3. In sub-section (1) of section 51 of the said Act after the figures "10" the figures and letters "10A, 10B, 10D, 10E" shall be inserted.

Amendment of section
51 of Bom. III of 1924.

APPENDIX E.

BILL No. XII OF 1925.

A Bill further to amend the Bombay Port Trust Act, 1879.

(As read for the second time.)

Whereas it is expedient further to amend the Bombay Port Trust Act, 1879, in manner hereinafter appearing : And whereas the previous sanction of the Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Port Trust (Amendment) Act, 192 .

2. After section 61 of the Bombay Port Trust Act, 1879, the following section shall be inserted, namely :—
 Insertion of new s. 61A
 in Bom. VI of 1879.

61A (1) The Board shall, immediately upon the landing by them of any goods, take charge thereof, except as may be otherwise provided in the bye-laws, and store such as are liable in their opinion to suffer from exposure in any shed or warehouse belonging to the Board.

(2) If any owner, without any default on the part of the Board, fails to remove any goods, other than those stored in the warehouses appointed by the Board for the storage of duty-paid goods or in warehouses licensed under section 16 of the Sea Customs Act, 1878, from the premises of the Board " or from any public warehouse on the premises of the Board appointed under section 15 of the Sea Customs Act 1878 ", and within eleven clear days from the date on which such goods shall have been landed, such goods shall remain on the premises of the Board or in such public warehouse at the sole risk and expense of the owner, and the Board shall thereupon be discharged from all liability theretofore incurred by them in respect of such goods".

Board to take charge of goods landed by them.

Goods not stored in licensed warehouses to remain at risk and expense of owner if not removed within seven days.

APPENDIX F.

BILL No. XVII OF 1925.

A Bill to transfer the powers and duties of the Trustees for the Improvement of the City of Bombay to, and to vest the property and rights vested in the said Trustees in the Municipal Corporation of the City of Bombay.

REPORT OF THE SELECT COMMITTEE.

We, the undersigned members* of the Select Committee appointed to consider Bill No. XVII of 1925 (A Bill to transfer the powers and duties of the Trustees for the Improvement of the City of Bombay to, and to vest the property and rights vested in the said Trustees in the Municipal Corporation of the City of Bombay) have the honour to report as follows:—

2. We have considered the Bill and have made several changes in it.
3. We have increased the number of the Improvements Committee from 14 to 18 and have provided for the representation on it of the Bombay Chamber of Commerce, the Indian Merchants' Chamber and the Millowners' Association.
4. We have reduced the starting salary of the Chief Officer from Rs. 2,500 to Rs. 2,000 and the maximum salary from Rs. 3,500 to Rs. 3,000, but have provided that if the present Chairman of the Board of Trustees is appointed Chief Officer, his salary shall not be less than Rs. 3,000 or more than Rs. 3,500.
5. We consider that some additional compensation should be awarded for compulsory acquisition and that such compensation should be at a higher rate for properties of lower value. We have therefore made the necessary provision in clause 61 of the Bill and have appended to it a schedule (AA) prescribing the scale.
6. We consider that the provision made in clause 64 of the Bill for the disposal of pending references and appeals by the Tribunal of Appeal is necessary, and have therefore retained the clause. We have however provided that the restriction on the right of appeal imposed by section 48 (ii) of the present Act should be removed as regards such pending cases and that all such cases should be disposed of by the Tribunal within eighteen months from the date on which this Act comes into force.
7. We have decided by a majority to insert in the Bill a new clause 109A, giving to those officers and servants who have been in the service of the Board for not less than five years before the date on which this Act comes into force the right to go on leave preparatory to retirement, and to enjoy all the leave due to them under the rules, to draw their share of the Trustees' contribution to the Provident Fund and any gratuity which may be due to them. This right may be exercised only within two years from the date on which this Act comes into force.
8. The reasons for the more important of the other changes made by us in the Bill are given in the Notes on Clauses appended hereto.

*NOTE.—The signatures of Messrs. J. Baptista, K. F. Nariman, Noor Mahomed and Dr. M. B. Velkar will be notified when received.

9. A copy of the Bill as amended is appended to this Report. We recommend that this report with a copy of the Bill as amended by us should be translated into Marathi, Gujarati and Urdu and should be published with the translations in the *Bombay Government Gazette*.

Notes on Clauses.

Clause 9 (2).—We have altered this clause so as to give the Board general power to make rules regarding the transaction of its business.

Clause 9 (2) (b).—We have altered this clause so as to give to any four members of the Improvements Committee the right to ask for a special meeting.

Clause 9 (2) (d).—*Proviso.*—We have inserted this proviso on the lines of section 36 (f) of the City of Bombay Municipal Act.

Clause 10.—We have increased and altered the constitution of the Improvements Committee by providing that it shall consist of 18 members, and by providing representation on it of the Chamber of Commerce, the Indian Merchants' Chamber, and the Millowners' Association, as we consider that these bodies should be specially represented on the Committee.

Clause 11.—This clause has been altered so as to provide that the Chairman of the Committee shall be elected only from among the members elected by the Board.

Clause 14.—This clause has been redrafted on the lines of section 13 of Bombay Act IV of 1898.

Clause 18.—We have extended the payment of fees to members attending a meeting of a sub-committee.

Clause 19 (g).—We have provided that copies of the minutes of a meeting shall be supplied to each member of the Board.

Clause 28 (2).—We have given the Committee power to appoint a temporary Chief Officer for a period not exceeding one month.

Clause 36 (2) (a).—Power has been given to the Committee to alter the scheme.

Clause 36 (2) (c).—We have made the sanction of Government necessary in all cases in which the estimated outlay on a scheme which has been altered exceeds the estimate of the original scheme by more than 10 per cent.

Clause 43.—We have deleted all reference to Schedule D lands, as these lands are vested in the Board.

Clause 52.—The reference to Schedule D lands has been omitted.

Clause 79 (2) (a).—We have given the Committee wider powers for dealing with property vested in or acquired by the Board.

Clause 86 (3).—We have omitted certain words which increase the borrowing powers of the Board, as we consider that the existing borrowing powers of the Board are ample.

Clause 109 (1).—The clause has been altered on the lines of section 74 (d) of the City of Bombay Municipal Act:

Clause 114.—We have extended the provisions of this clause to the members of the Committee who are not Trustees.

- (Signed) GHULAM HUSSAIN HIDAYATALLAH.
 (") RAFIUDDIN AHMAD.
 (") G. WILES.
 (") C. W. A. TURNER.
 (") LALJI NARANJI.
 (") K. E. DADACHANJI (*with a note as shown below*).
 (") N. N. WADIA.
 (") V. A. GRANTHAM.
 (") S. K. BOLE (*subject to a minute of dissent*).
 (") HOOSENALLY M. RAHIMTOOLA
 (*subject to a minute of dissent*).
 (") VASANTRAO ANANDRAO DABHOLKAR
 (*subject to a minute of dissent*).
 (") R. H. A. DELVES.
 (") HOOSEINBHOY A. LALLJEE (*subject to minute of dissent*).
 (") PUNJABHAI THAKERSI (*subject to a minute of dissent*).

(Note by Dr. K. E. Dadachanji, M.L.C.)

I regret that owing to my illness I was unable to attend the meetings of the Select Committee, but I approve of the report.

(Signed) K. E. DADACHANJI.

Minute of dissent by Mr. S. K. Bole, M.L.C.

As representation is sought to be given to capital under Section 10, I think that it is but fair and just that the same privilege should be extended to labour. I would therefore suggest that Government should appoint two members to represent labour and the number of nominated members should be increased from three to five and consequently the number of the Improvements Committee should be increased from 18 to 20.

In clause " 46 " Sub-Clause ' e ' the word ' Board ' should be substituted for the word ' Committee ' in line 35 as I think the final right of making any alteration in the rent should rest with the Board in case if any appeal is made to them.

17th September 1925.

(Signed) S. K. BOLE.

Minute of dissent by Mr. Hoosenally M. Rahimtoola, M.L.C.

There is no reason why special representation on the Committee should be given to the Bombay Chamber of Commerce, the Indian Merchants'

Chamber and the Millowners' Association as proposed by the Select Committee. These bodies are already represented on the Corporation and hence on the Board and their representatives, if desirous of serving on the Committee, can seek election by the Board and they are bound to get the support they deserve.

The Select Committee have accepted the recommendation of the Improvement Trust for continuing the Tribunal of Appeal for the disposal of the pending cases though the Corporation wanted that it should be abolished on the passing of this Act.

On the advice of the Chairman of the Improvement Trust the Corporation had recommended to Government that the Improvement Trust should be allowed to let the Municipal and Government lands on leases for 999 years. Government have accepted this partially by vesting Municipal lands in the Board absolutely but as regards Government lands they have kept the period of 99 years only.

The new clause 109-A was put in by a majority at the last moment when every one in the Select Committee was in a hurry to leave. There is absolutely no justification for it and both this clause and clause 104 (2) regarding the vesting in Government the power of prescribing Banks for the investment of surplus monies show a want of confidence in the Corporation and I most strongly protest against them.

The Corporation had requested Government to put in a clause in the Bill to enable them, if they so desired, to transfer their Development Schemes to the Improvement Trust in order that all improvement schemes under the Corporation—whether as the Corporation or as the Board—should be carried out by a single agency. This is desirable with a view to co-ordination, economy and efficiency. Government did not comply with the Corporation's request. In the Select Committee an amendment to insert such a clause was ruled out of order. I hope it will be passed by the Council.

(Signed) HOOSENALLY M. RAHIMTOOLA.

*(Minute of dissent by Sir Vasant Rao Anand Rao Dabholkar,
Kt., C.B.E., M.L.C.)*

I agree with the report of the Select Committee with the exception of clauses 61 and 62 of the Bill and Schedule A thereof.

(Signed) VASANTRAO ANANDRAO DABHOLKAR.

(Minute of Dissent by Mr. Hoosainbhoy A. Lalljee, M.L.C.)

Chapter II, Section 9, clause (d), line 44.

"Twenty Trustees" should form the quorum instead of "Thirty Trustees."

My reason for this change is that in the Municipal Act, a quorum of 20 members is provided for and there is no reason why 30 Trustees should form quorum for these meetings.

Section 9.—After clause (i),

An additional clause should be inserted, *viz.*, clause (j) giving the right to the public to attend the meetings unless otherwise decided by the presiding authority or by the vote of the meeting.

My reason for this addition is that it has been so provided in the Municipal Act and because the Board of Trustees will be the Corporation.

Section 10.—The composition of the "*Improvements Committee.*"

I agree with the original proposal that the corporation shall appoint 15 persons to be members. I am entirely against giving any special representation to the Millowners' Association, the Indian Merchants' Chamber and the Bombay Chamber of Commerce. The plea put forward that the members of these associations are essential is in my opinion groundless. The corporation, as it is at present constituted, has no less than 30 members out of 106, who belong to one or other of these associations; besides each of these associations has also members representing them in the corporation. The financing work of the corporation as also other important work of the corporation, have been most satisfactorily carried out by the corporation and there is no special reason why these associations should have a right on the committee when they are already represented on the corporation. It is a well known fact that the members representing these associations on the corporation have been taking little interest in the general work of the corporation and their attendance, as also their work, if scrutinized, will bear out what I state above. Besides, if members of these associations are appointed and they not being members of the corporation are not expected to know the views of the corporation. I am sorry I have to make these remarks but it seems that an undue advantage at the cost of the corporation which is being saddled with this enormous work is being taken. I must in all fairness state the true facts. I admit and must say that those of the members of the corporation who are also the members of these associations have been always taking keen interest and therefore it is not at all fair to these members that special persons from those bodies should be allowed. Sure enough 30 members belonging to these associations will be much more able to do all they can for these associations. It may be argued that members coming to the corporation from different constituencies will look to the interest of their constituencies; but I do not agree with such a view at all for the simple reason that I have always found that the members of the corporation have looked to the interest of the city as a whole once they become members of the corporation. I would certainly object to a principle if it is going to be established that the separate electorate is intended with the idea of only looking to the interest of one or other constituencies and not of the corporation or the city as a whole. I hope and trust such a policy shall not be countenanced. These three associations as I have stated above have their representatives on the corporation and it behoves them, as also their associations, to see to the work of the Board with as much care as they wish to. They have an opportunity and it is no use creating members of a committee who will not be members of the corporation and therefore will have no interest

in the work of the corporation or the city as a whole. They will come with a set object as stated above and as such they should not be countenanced. I do not object to the three official members because they are in charge of administrative departments and as such their departments have to work in co-operation with the corporation. I do not take them as experts because in the municipal administration, as also in the Improvement Trust administration, we have eminent experts and we have also in the municipal corporation eminent businessmen and financiers. The Municipal Corporation is responsible for the Improvement Trust and on the principle of "No representation without responsibilities and liabilities". I emphatically desire that none but the members of the corporation should be on the "Improvements Committee" and that the number 15, as originally proposed, should remain.

Section 11, clause (1), line 5th :

Instead of the words "A member elected", it should be "A member elected by the Corporation".

Because if a member of the committee is a member of the corporation, then and then only can he place before the corporation all the facts relating to the work of the committee.

Section 18.—This section should be deleted entirely. I am entirely against paying any fees to the members for attending committee meetings and specially against payment to those who attend sub-committee meetings. It is admitted that persons who join these bodies are those who out of public spirit take upon themselves this work and therefore on the very principle it is not fair and proper that their public spirit should be valued by a monetary consideration. It has been suggested that if fees are not provided attendance will be defective; it has also been said that when fees are provided canvassing for the posts is done to an extent which to say the least is derogatory. Whatever may be the position, I am of opinion that public spirit should not be valued by a monetary consideration.

Section 36 (2).—After the sub-clause (b), the following clause should be inserted as sub-clause (c), and the sub-clauses (c), (d), (e) should be re-named as (d), (e) and (f), respectively :—

"(c) If the estimated outlay on the scheme as altered exceeds by more than five per cent. the estimated outlay on the scheme as sanctioned, the Committee shall not, without the previous sanction of the Board, proceed to execute the scheme as altered."

The amount of various schemes will run into crores of rupees and as 5 per cent. of these amounts will make a difference of lacs of rupees, the Board should know beforehand of the intentions of the committee in cases where the amounts do exceed 5 per cent. and the committee should not be given such vast discretionary powers over schemes which might involve lacs of rupees. It must be remembered that in every scheme lacs of rupees are provided as contingencies which means so much latitude to the committee.

Section 36-A.—Substitute the words "Two years" instead of the words "Three years".

My reason for curtailing the period is that two years are more than sufficient time for the board and the public should not be kept up hanging for a number of years.

Section 61.—Schedule AA—*Scale of additional compensation.*—With reference to the scale of additional compensation laid down in Schedule AA to Section 61, I would suggest the following scale instead of the one suggested in the said schedule :—

Market value.	Rate of additional compensation.
Up to and including Rs. 10,000 ..	10 per cent.
Above Rs. 10,000 and not exceeding Rs. 50,000.	10 per cent. on the first Rs. 10,000, and 6 per cent. on the balance.
Above Rs. 50,000 and not exceeding Rs. 1,00,000.	10 per cent. on the first Rs. 10,000, and 5 per cent. on the balance provided that in no case shall the total amount be less than Rs.
Above Rs. 1,00,000	10 per cent. on the first Rs. 10,000 and 4 per cent. on the balance provided that in no case shall the total amount be less than Rs.

and the minimum amounts should be calculated and should be accordingly increased.

My reason for this suggestion is that in Bombay the Engineer's and Architect's charges, as also the legal charges, have much increased during the last few years. The High Court has given 33 per cent. increase to the lawyers and still there is a move for a further increase. In view of these facts the poor people are bound to suffer. It has been the object of the Act to pay the owners of the land the price of the land but no profit, but it must be taken into consideration that charges and expenses that they have to incur must not go out from the value of their land. In Bombay it is a well known fact that an Architect would not survey a property for less than Rs. 300 even if it is a small property and if it be a big property at one to two per cent. of the value if a first class engineer or an architect is employed. Over and above that there would be several hearings and conferences for which separate charges are made. The same proportion of cost is payable to lawyers or even more. I should also like to point out that the acquisition by the public bodies is not done impartially but is done as party to party; and each side tries to get the better of the other; and therefore it behoves the landlord to protect himself. It will not be denied that in the past the Improvement Trust has gone to the extent of offering and have actually given $\frac{1}{2}$ per cent. to the valuer of the landlord if such valuer has induced the landlord to accept the Improvement Trust valuation. This fact is very important and the landlord and specially the poor landlord must be protected.

Section 77, clause (5), line 109—"99 years" should be changed to "999 years". My reason for this change is that the period of 99 years is often found to be not sufficient and therefore it has often happened that the land leased out does not fetch full value. Besides, there is no reason why the Board should be bound down to 99 years; the Board must have full powers as the property is being vested in them, i.e., Municipal Corporation. Further, the Municipal Act does not lay down any such limit regarding the leasing out of the municipal developed lands and therefore full value is realised. I do not understand why difference is sought to be made when as a matter of fact municipal developed lands and the board's developed lands will now belong to the corporation. It is necessary and essential that as much as is possible should be done to make both the administrations into one for the sake of co-ordination and economy but it is regrettable that instead of doing so attempts are being made in the opposite direction and even outsiders are attempted to be thrust into its management as members of its committee. It must not be forgotten that the Trust was created against the wishes of the people and was managed by a Board appointed by Government but at the cost of the people and although this work was within the legitimate province of the corporation. It should also be remembered that for over 25 years the corporation was made to contribute annually 16 lacs towards it and now it will be the corporation which will be responsible for all its enormous liabilities of crores of rupees. I hope now that the legitimate work of the corporation is being given back to them with all the liabilities, no attempt will be made to restrict the powers of the people's corporation which enjoys full confidence and a high reputation.

Bombay, 25th September 1925. (Signed) HOUSEINBOY A. LALLJEE

(Minute of dissent by Mr. Punjabhai Thakersi, M.L.C.)

Chapter II, Section 9, clause (d), line 44 :

"Twenty Trustees" should form the quorum instead of "Thirty Trustees".

My reason for this change is that in the Municipal Act, a quorum of 20 members is provided for and there is no reason why 30 Trustees should form quorum for those meetings.

Section 9.—After clause (i) :

An additional clause should be inserted, viz., clause (j) giving the right to the public to attend the meetings unless otherwise decided by the presiding authority or by the vote of the meeting.

My reason for this addition is that it has been so provided in the Municipal Act and because the Board of Trustees will be the Corporation.

Section 10.—The Composition of the "Improvements Committee".

I agree with the original proposal that the Corporation shall appoint 15 persons to be members. I am entirely against giving any special representation to the Millowners' Association, The Indian Merchants' Chamber and the Bombay Chamber of Commerce. The plea put forward that the

Members of these associations are essential is in my opinion groundless. The Corporation, as it is at present constituted, has no less than 30 members out of 106, who belong to one or other of these associations; besides each of these associations has also members representing them in the Corporation. The financing work of the Corporation as also other important work of the Corporation have been most satisfactorily carried out by the Corporation and there is no special reason why these associations should have a right on the Committee when they are already represented on the Corporation. It is a well-known fact that the members representing these associations on the Corporation have been taking little interest in the general work of the Corporation and their attendance as also their work if scrutinised will bear out what I state above. Besides if members of these associations are appointed, they, not being members of the Corporation, are not expected to know the views of the Corporation. I am sorry I have to make these remarks but it seems that an undue advantage at the cost of the Corporation which is being saddled with this enormous work is being taken. I must in all fairness state the true facts. I admit and must say that those of the members of the Corporation who are also the members of these associations have been always taking keen interest and therefore it is not at all fair to these members that special persons from these bodies should be allowed. Sure enough 30 members belonging to these associations will be much more able to do all they can for these associations. It may be argued that members coming to the Corporation from different constituencies will look to the interest of their constituencies; but I do not agree with such a view at all for the simple reason that I have always found that the members of the Corporation have looked to the interest of the city as a whole once they become members of the Corporation. I would certainly object to a principle if it is going to be established that the separate electorate is intended with the idea of only looking to the interest of one or other constituencies and not of the Corporation or the city as a whole. I hope and trust such a policy shall not be countenanced. These three associations as I have stated above have their representatives on the Corporation and it behoves them as also their associations to see to the work of the Board with as much care as they wish to. They have an opportunity and it is no use creating members of a Committee who will not be members of the Corporation and therefore will have no interest in the work of the Corporation or the city as a whole. They will come with a set object as stated above and as such they should not be countenanced. I do not object to the three official members because they are in charge of administrative departments and as such their departments have to work in co-operation with the Corporation. I do not take them as experts because in the municipal administration as also in the Improvement Trust administration we have eminent experts and we have also in the Municipal Corporation eminent business men and financiers. The Municipal Corporation is responsible for the Improvement Trust and on the principle of "No representation without responsibilities and liabilities", I emphatically desire that none but the members of the Corporation should be on the "Improvements Committee", and that the number 15, as originally proposed, should remain.

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and the minimum amounts should be calculated and should be accordingly increased.

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the last few years. The High Court has given 33 per cent. increase to the lawyers and still there is a move for a further increase. In view of these facts the poor people are bound to suffer. It has been the object of the Act to pay the owners of the land the price of the land but no profit; but it must be taken into consideration that charges and expenses that they have to incur must not go out from the value of their land. In Bombay it is a well known fact that an architect would not survey a property for less than Rs. 300 even if it is a small property and if it be a big property at 2 per cent. of the value if a first class engineer or an architect is employed. Over and above that there would be several hearings and conferences for which separate charges are made. The same proportion of cost is payable to lawyers or even more. I should also like to point out that the acquisition by the public bodies is not done impartially but is done as party to party; and each side tries to get the better of the other; and therefore it behoves the landlord to protect himself. It will not be denied that in the past the Improvement Trust has gone to the extent of offering and have actually given half per cent. to the valuer of the landlord if such valuer has reduced the landlord to accept the Improvement Trust valuation. The fact is very important and the landlord and specially the poor landlord must be protected.

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(Signed) PUNJABHAI THAKERSI.

BILL No. XVII OF 1925.

A Bill to transfer the powers and duties of the Trustees for the Improvement of the City of Bombay to, and to vest the property and rights vested in the said Trustees in the Municipal Corporation of the City of Bombay.

(As amended by the Select Committee.)

WHEREAS the City of Bombay Improvement Act, 1898, was enacted Bom. IV. of with a view to make provision for the improvement and for the future ^{1898.} expansion of the City of Bombay by forming new and altering existing streets, by removing or altering insanitary buildings in certain areas, by providing open spaces for better ventilation and for recreation, by constructing new sanitary dwellings for certain classes of the inhabitants of the said city and for the ~~presidency~~ *Bombay City* police, by laying out vacant lands and by divers other means;

And whereas a Board of Trustees endowed with special powers was constituted under the said Act for the aforesaid purposes and certain property and rights were vested in the said Board;

And whereas it is now deemed expedient that the powers conferred upon the said Board should be transferred to the municipal corporation of the city of Bombay and that the said property and ~~certain of the said~~ *all existing rights of the said board* should vest in the said corporation and that the duty of carrying out the aforesaid purposes should, subject to the conditions and limitations hereinafter specified, be vested in the said corporation;

And whereas it is proposed that certain lands shall be vested in the corporation in the manner hereinafter appearing;

And whereas the plans of such last mentioned lands have been deposited with the Collector of Bombay and are hereinafter referred to as the deposited plans;

And whereas the previous sanction of the Governor General required ^{5 & 6 Geo. V.} by section 80A (3) of the Government of India Act has been obtained ^{c. 61} for the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the City of Bombay Improvement Trust
Short title. Transfer Act, 192 .
2. (a) This Act extends only to the City of
Extent and operation. Bombay; and
(b) it shall come into operation from such date as the Government may, by notification in the *Bombay Government Gazette*, appoint.

- XIII of 1885. *Saving the provisions of the Indian Telegraph Act and the Indian Railways Act.*
- IX of 1890. *Railways Act.*
- Bom. IV of 1898. *1. The City of Bombay Improvement Act, 1898, is hereby repealed.*
3. Nothing in this Act shall be deemed to affect the provisions of the Indian Telegraph Act, 1885, or the Indian Railways Act, 1890.

Provided that—

Cf. Bom. III of 1901, s. 2. (a) the said repeal shall not affect the validity or invalidity of anything already done under the said enactment;

(b) all appointments, rules, orders and bye-laws made, notifications and notices issued, rents, premia and fees imposed, contracts entered into and suits and other proceedings instituted under the said Act shall, so far as may be, be deemed to have been respectively appointed, made, issued, imposed, entered into and instituted under this Act.

Nothing in this Act shall affect any present right of appeal which may have accrued to any party before the date on which this Act comes into operation.

Cf. Bom. IV of 1898, s. 2. 5. In this Act, unless there be something repugnant in the subject or context, words shall be deemed to have the meaning ascribed to such words under the City

Bom. III of 1888. *Definitions.* of Bombay Municipal Act, 1888, hereinafter referred to as "the Municipal Act".

Provided that the definition of the word "street" shall be read as if the words following the words "thoroughfare or not" were omitted:

"Street."

Provided also that the term "public securities" shall include securities issued under this Act and under *Bombay Act IV of 1898* :

"Public Securities."

Provided also that in the construction of the provisions of Chapter III of this Act and of sections 77 and 78, the word "land" shall, unless there be something repugnant in the subject or context, be deemed to have the meaning ascribed to it in clause (I) of section 61 of this Act.

"Chief Officer" means the Chief Executive Officer of the Board appointed under section 25 and includes an acting Chief Officer appointed under sub-section

(2) of section 28.

CHAPTER II.

OF THE BOARD OF TRUSTEES—CONSTITUTION OF BOARD.

Cf. Bom. IV of 1898, s. 3. 6. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter

Corporation charged with execution of this Act.

contained, be vested in the Municipal Corporation of the City of Bombay which shall, for the purposes of this Act, be called "The Trustees for the Improvement of the City

of Bombay" hereinafter referred to as "the Board", and such Board shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name aforesaid.

7. (1) The Municipal Commissioner and the Chief Officer shall have the same right of being present at a meeting of the Board and of taking part in the discussions thereat as any member of the Board but they shall not be at liberty to vote upon, or to make any proposition at such meeting. *Cf. Bom. III of 1888, s. 36.*

(2) The President of the Corporation shall be the President of the Board.

8. The Board of Trustees in existence when this Act comes into force shall, so far as is not inconsistent with the provisions of this Act, continue to exercise all the powers and to perform all the duties vested in or imposed on them under the City of Bombay Improvement Act, 1898, until the Improvements Committee to be formed in accordance with the provisions of this Act shall have been so formed. *Bom. IV of 1898.*

The Chairman appointed under the City of Bombay Improvement Act, 1898, shall continue to officiate as Chief Officer under this Act till the date on which the Chief Officer to be appointed under section 25 shall enter upon his duties. *Bom. IV of 1898.*

PROCEEDINGS OF THE BOARD.

9. The following provisions shall be observed with respect to the proceedings of the Board, namely:— *Cf. Bom. IV of 1898, s. 18.*

(1) during any vacancy in the Board the continuing Trustees may act as if no vacancy had occurred;

(2) the Board shall ~~meet together and shall, from time to time, make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to have power to make rules regarding the transaction of business, as they may think fit,~~ subject to the following provisions, namely:—

(a) an ordinary meeting shall be held at least once in every quarter. The first meeting after the ~~general elections~~ *corporation is constituted* shall be held in the month of April on a day not later than the 20th day of that month to be fixed by the President;

(b) the President may, whenever he thinks fit, and shall, upon the written request of not less than twenty Trustees, *or of four members of the Improvements Committee,* call a special meeting;

(c) three clear days' notice of all ordinary and special meetings shall be given to all Trustees; every such notice shall specify the

time and place at which the meeting is to be held and shall be sent by post to the last known addresses of the Trustees ;

(d) no business shall be transacted at any meeting unless at least thirty Trustees are present from the beginning to the end of such meeting ;

provided that when any meeting is adjourned for want of a quorum of thirty trustees, no quorum shall be necessary for the transaction, at the adjourned meeting, of the business undisposed of ;

(e) every meeting shall, if the President be present, be presided over by him ; if he be absent by such one of the Trustees present as may be chosen by the meeting ;

(f) all questions shall be decided by a majority of votes of the Trustees present, the President of the meeting having a second or casting vote in all cases of equality of votes ;

(g) a declaration by the presiding authority that a proposition has been carried and an entry to that effect in the minute book shall, unless a poll be demanded at the time of such declaration by not less than four Trustees, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition ;

(h) when a poll is taken *so demanded* the vote of each Trustee present and voting upon the proposition shall be taken by tellers appointed by the presiding authority and the names of the Trustees voting respectively for or against the proposition shall be recorded in the minute book ;

(i) minutes shall be kept of the names of the Trustees present and of the proceedings of each meeting in a book to be provided for this purpose which shall be signed at the next ensuing meeting by the President of such meeting and shall be open to inspection by any Trustee during office hours.

THE IMPROVEMENTS COMMITTEE.

11.—Bom
Vol 1898,
4.

10.—(1) ~~The Board, shall at their first meeting after this Act comes into force, and thereafter at their first meeting after each general election of councillors of the corporation appoint fifteen persons to be members of the Improvements Committee (hereinafter called "the Committee") of whom eleven shall be elected by the Board from among their own members and three shall be co-opted from a panel consisting of the Director of Development, Bombay, the Chairman of the Bombay Port Trust, the Collector of Bombay, and the Executive Engineer, Presidency District. - The elections and co-option of members shall be made by the Board by ballot under rules to be framed by them in this behalf~~

(2) ~~The Municipal Commissioner shall be an ex-officio member of the Committee but he shall not be at liberty to vote upon any proposition at any meeting of the Committee.~~

10. (1) *The Improvements Committee shall consist of 18 members, that Constitution of Improvements Committee. is to say, of 1 ex-officio member, 11 elected members, and 3 nominated members.*

(a) *The Municipal Commissioner shall be the ex-officio member.*

(b) *Of the elected members 11 shall be elected by the Corporation, 1 by the Bombay Chamber of Commerce, 1 by the Indian Merchants' Chamber, and 1 by the Millowners' Association out of their own bodies respectively.*

(c) *The nominated members shall be appointed by Government by notification and shall be chosen from among the following :—*

(i) *the Director of Development, Bombay,*

(ii) *the Chairman of the Bombay Port Trust,*

(iii) *the Collector of Bombay, and*

(iv) *the Executive Engineer, Presidency District,*

(d) *The election of members by the Corporation, the Chamber of Commerce, the Indian Merchants' Chamber and the Millowners' Association shall be in accordance with regulations which those bodies may respectively frame, provided that the election by the Corporation shall be by ballot.*

(2) *The Municipal Commissioner shall not be at liberty to vote upon or to put forward any proposition at any meeting of the Committee.*

11. (1) *The Committee shall at their first meeting in each official year, appoint one of their own number not being an ex-officio or co-opted member a member elected by the Board to be their Chairman until their first meeting in the next following official year.* Cf. Bom. III of 1888, s. 44.

(2) *A member of the Committee who ceases to be Chairman shall be re-eligible.*

(3) *If any casual vacancy occurs in the office of Chairman the Committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number not being an ex-officio or co-opted member to fill such vacancy and every Chairman so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.* Cf. Bom. III of 1888, s. 44 (3).

12. (1) *One-half Five of the members of the Committee elected by the Board, the selection of the said members being made by lot at such time previous to the first day of March and in such manner as the Chairman shall determine, shall retire from office at noon on the twentieth day of April next following the date of their election.* Cf. Bom. III of 1888, s. 45.

(2) *The remaining six members of the Committee shall retire from office at noon on the twentieth day of April next following the twentieth day of April aforesaid.*

In every other case the nominated and elected members shall hold office for a term of three years.

Cf. Bom. III of 1888, s. 46. 13. The Board shall, at their ordinary meeting in the month of April, elect fresh members of the Committee to fill the offices of those previously elected by them who retire from time to time as aforesaid.

Cf. Bom. III of 1888, s. 47. 14. ~~In the event of non-acceptance of office by a person elected or co-opted to be a member of the Committee or on the death, resignation or disqualification of a member of the said Committee or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or co-option by the Board of a person thereto who shall hold office so long only as the member in whose place he is elected or co-opted would have been entitled to hold it if the vacancy had not occurred.~~

14. *Any casual vacancy in the office of a member occasioned by the non-acceptance of office, death, resignation or disqualification of such member shall be filled up as soon as conveniently may be, by Government if the office vacated was that of a nominated member, or by the Corporation, or the Bombay Chamber of Commerce, or Indian Merchants' Chamber or Bombay Millowners' Association, respectively, if it was that of an elected member, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of members: provided that the member so chosen shall retain his office so long only as the vacating member would have retained the same, if such vacancy had not occurred.*

Cf. Bom. III of 1888, s. 48. 15. The Committee in existence on the day for the retirement of the Trustees shall continue to hold office until such time as a new Committee is appointed under section 10 notwithstanding that the members of the said Committee or some of them may no longer be Trustees.

Cf. Bom. IV of 1898, s. 15 (6). 16. Any member of the Committee who absents himself during three successive months from the meetings of the Committee, except from temporary illness or other cause to be approved by the Committee, shall cease to be a member and his office shall thereupon be vacant.

DISQUALIFICATION OF TRUSTEES AND OF MEMBERS OF THE COMMITTEE.

Cf. Bom. IV of 1898, s. 14. 17. (1) A person shall be disqualified to be a Trustee or a member of the Committee who

(a) holds any office or place of profit under the Board; or -

(b) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the Board :

Provided that a person shall not be so disqualified, or be deemed to have any share or interest in any such contract or employment, by reason only of his having a share or interest in

(a) any lease, sale, exchange or purchase of immovable property or any agreement for the same ; or

(b) any agreement for the loan of money, or any security for the payment of money only ; or

(c) any newspaper in which any advertisement relating to the affairs of the Board is inserted ; or

(d) any joint stock company which shall contract with, or be employed by, or on behalf of the Board ; or

(e) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades.

Any person who ceases to be a Trustee shall cease to be a member of the Corporation.

(2) Any person who—

*Cf. Bom. IV
of 1898,
s. 15.*

(a) becomes disqualified for any of the reasons mentioned in sub-section (1), or

(b) is absent from or unable to attend the meetings of the Committee for a period exceeding eight consecutive months, or is absent without the permission of the Committee from all the meetings of the Committee for a period of three months, or

(c) acts in contravention of the provisions of sub-section (3) shall cease to be a member of the Committee and his office shall thereupon become vacant.

(3) A Trustee or a member of the Committee shall not at any meeting of the Board or of the Committee or of any sub-committee thereof take part in the discussion of, or vote on, any matter in which he has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the Board or in which he is interested either professionally on behalf of a client or as agent for any person such as is described in the proviso to sub-section (1).

18. Every member of the Committee who shall attend a meeting of the said Committee or of a sub-committee at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof, shall be entitled to a fee of—

*Cf. Bom. IV
of 1898, s.
17.*

Rs. 30 for every ordinary meeting of the Committee, provided that if such meeting is adjourned or more than one ordinary meeting is held in any one week, no more than Rs. 30 shall be paid to any member for his attendance at all such meetings during that one week ;

Rs. 30 for every special meeting of the Committee convened under clause (b) of sub-section (2) of section 19 ;

Rs. 15 for every meeting of a sub-committee of which such member attending is a member, convened under sub-section (2) of section 20 : provided that the aggregate amount of fees payable to any member in respect of meetings held during any month shall not exceed Rs. 200 ~~or such sum as may be fixed by any by law from time to time made in this behalf by the Board.~~

PROCEEDINGS OF THE COMMITTEE.

27. Bom. IV 19. The following provisions shall be observed with respect of 1898, s. 18. Provisions concerning to the proceedings of the committee, namely :—

(1) during any vacancy in the committee the continuing members may act as if no vacancy had occurred

(2) the committee shall meet together and shall, from time to time, make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they may think fit, subject to the following provisions, namely :—

(a) (i) an ordinary meeting shall be held once at least in every month ;

(ii) the first meeting of the committee shall be held on a day and at a time to be fixed by the President and, if not held on that day, shall be held on some subsequent day to be fixed by the President. All subsequent meetings shall be called by the Chairman ;

(b) the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than four members, call a special meeting ;

(c) no business shall be transacted at any meeting unless at least eight members are present from the beginning to the end of such meeting ;

(d) every meeting shall, if the Chairman be present, be presided over by him ; if he be absent, by such one of the members present as may be chosen by the meeting ;

(e) All questions shall be decided by a majority of votes of the members present, the Chairman of the meeting having a second or casting vote in all cases of equality of votes ;

(f) if a poll be demanded, the names of the members voting and the nature of their votes and also the names of those abstaining from voting shall be recorded by the Chairman of the meeting ;

(g) minutes shall be kept of the names of the members present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed at the next ensuing meeting, by the Chairman of such meeting, and shall be open to inspection by any member during office hours. A copy of such minutes shall be supplied to each member of the Board.

20. (1) The Committee may, from time to time, appoint sub-committees consisting of such members not less than six in number as they think fit and may— *Cf. Bom. IV of 1893, s. 18.*

(a) refer to such sub-committees, for enquiry and report any subject relating to the purposes of this Act,

(b) delegate to such sub-committees by a specific resolution in this behalf, and subject to any bye-laws made under clause (a) of section 110 any of their powers or duties.

Any sub-committee so appointed shall conform to any instructions that may, from time to time, be given to them by the Committee, and the Committee may at any time alter the constitution of any sub-committee so appointed or rescind any such appointment.

(2) Sub-Committees may meet and adjourn as they think proper, but the Chairman of any sub-committee and, in his absence, the Chief Officer may, whenever he thinks fit, and shall, upon the written request of not less than three members of the sub-committee, call a special meeting of such sub-committee.

(3) The Chairman of the Committee shall be the Chairman of every sub-committee of which he may be appointed a member. In the event of the Chairman of the Committee not being a member of a sub-committee, the members of such sub-committee shall elect their own Chairman. Every meeting of a sub-committee shall, if the Chairman of such sub-committee be present, be presided over by him; if he be absent, by such one of the members present as may be chosen by the meeting.

(4) Questions at any meeting of a sub-committee shall be decided by a majority of votes of the members present and in case of an equal division of votes the Chairman of the meeting shall have a second or casting vote; but no business shall be transacted at any such meeting unless at least two-thirds of the members of the sub-committee are present from the beginning to the end thereof.

(5) No act of the Board, or of the Committee or of any sub-committee or of any person acting as Trustee or member shall be deemed to be invalid by reason only of some defect in the appointment of such Board, Committee, Sub-committee, Trustee, or member or on the ground that they, or any of them, were disqualified for the office of Trustee or member.

(6) Minutes shall be kept of every meeting of a sub-committee in the same manner as prescribed in clause 2 (g) of section 19 for a meeting of the Committee.

21. (1) The Chief Officer may, on behalf of the Board and of the Committee, enter into any contract or agreement whereof the value or amount shall not exceed three thousand rupees, or a contract of tenancy (other than a demise for a term exceeding thirteen months or in perpetuity) of immovable property, the annual rental whereof at a rack rent shall not exceed three thousand rupees in such manner and form as, according to the law for the time being in force, would bind him *Cf. Bom. IV of 1893, s. 19.*

Mode of executing contracts.

if such contract or agreement were on his own behalf, and every such contract or agreement (other than a contract for a monthly tenancy) shall be reported to the Committee at the next ordinary meeting thereof.

(2) Every other contract and agreement on behalf of the Board shall require the previous approval of the Committee, shall be in writing, and shall be signed by the Chief Officer, and sealed with the common seal of the Board as hereinafter provided. No contract or agreement referred to in this sub-section, unless executed as herein provided, shall be binding on the Board or on the Committee. In special cases a contract or an agreement in writing may be dispensed with with the approval of the Committee.

(3) The Common seal of the Board, which shall remain in the custody of the Chief Officer, shall not be affixed to any contract or other instrument except in the presence of two members of the Committee who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members of the Committee shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

- Cf. Bom. IV of 1898, s. 19-A.* 22. Notwithstanding anything contained in the last preceding section, the signature of the Chief Officer may be engraved, lithographed or impressed by any mechanical process on the coupons attached to debentures issued under this Act, and such signatures so engraved, lithographed or impressed shall be as valid as if the same had been subscribed in the proper handwriting of the Chief Officer.
- Cf. Bom. IV of 1898, s. 20.* 23. The Committee may compound or compromise for or in respect of any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money or other compensation as they shall deem sufficient.
- Cf. Bom. III of 1888, s. 26.* 24. The Government may at any time call upon the Board to furnish them with any extract from any proceedings of the Board or of the Committee or from any record under the control of the Board and with any statistics concerning or connected with the administration of this Act; and the Board shall furnish the same without unreasonable delay.

THE CHIEF OFFICER.

- Cf. Bom. III of 1888, s. 74.* 25. ~~The Chief Executive Officer of the Board shall be styled the~~ Appointment of Chief Officer. ~~Chief Officer and he shall be appointed by the~~ Board, subject to confirmation of Government, for a renewable period of three years; provided that he ~~may~~ shall be removed from office for misconduct or for neglect of or incapacity for the duties

of the office if, at a meeting of the Board, not less than sixty-four trustees shall vote in favour of a proposition in this behalf.

26, The Chief Officer shall receive such monthly salary not exceeding Rs. 3,500 3,000 as the Board shall, from time to time, determine; provided that such salary shall not be less than Rs. 2,500 2,000 for the first two years of service and Rs. 3,000 2,500 for the next two years. He shall hold no other salaried office and, save in so far as he may be otherwise permitted by the Board, shall devote his whole time and attention to his duties under this Act.

Cf. Bom. IV of 1898, s. 16.

Provided that if the present Chairman be appointed Chief Officer his salary shall not exceed Rs. 3,500 and shall not be less than Rs. 3,000.

Right of Chief Officer to attend meetings.
Duties of Chief Officer.

27. The Chief Officer shall—

Cf. Bom. III of 1898, ss 36 and 49.

(1) have the same right of being present at a meeting of the Board and of the Committee or of a sub-committee and of taking part in the discussions thereat as a member of the said Board or Committee or sub-committee; but he shall not vote upon, or make any proposition at such meeting. He shall attend every meeting of the Board, Committee, and sub-committee unless prevented by sickness or other reasonable cause;

(2) exercise general supervision in matters concerning the accounts and records of the Board, exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration and shall be directly responsible to the Board and the Committee for the due performance thereof, and to the extent specified in sub-section (2) of section 109 shall dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances.

Cf. Bom. IV of 1898, s 21 (2).

28. (1) Leave of absence may be granted, from time to time, to the Chief Officer by the Committee for a period not exceeding one month and for a longer period by the Board, provided that if the Chief Officer be a Government servant the rules of Government applicable to officers in foreign service shall be followed.

Cf. Bom. IV of 1898, s 22.

(2) During the absence of the Chief Officer for a period exceeding one month the Board, subject to confirmation of Government, and for a period not exceeding one month the Committee shall appoint another person to act as Chief Officer.

Any person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act on the Chief Officer and shall be subject to the same liabilities, restrictions, and conditions to which the Chief Officer is liable and shall receive such monthly salary within the limits prescribed in section 26 as the Board may determine.

(3) The Chief Officer may, with the previous approval of the Committee, by general or special order in writing delegate to any officer of the Board

any of his powers, duties or functions under this Act or any bye-law or rule made hereunder. The exercise or discharge by any officer of any powers, duties or functions delegated to him by the Chief Officer shall be subject to such conditions and limitations, if any, as may be prescribed in the said order and also to control and revision by the Chief Officer.

Unless the contrary is expressly stated in the order of delegation, the powers, duties and functions delegated by the said order shall vest in the holders for the time being of the posts specified in the order.

CHAPTER III.

DUTIES AND POWERS.

Improvement Schemes.

Cf. Bom. IV of 1898, ss. 23 and 30. The Committee may make improvement schemes.

29. Whenever the Committee are of opinion—

(1) That within certain limits in any part of the city,

(a) any buildings used, or intended or likely to be used, for human habitation, are unfit for human habitation, or

(b) the narrowness, closeness and bad arrangement or the bad condition of the streets and buildings, or groups of buildings, within such limits, or the want of light, air, ventilation, or proper conveniences, or other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings within the area of such limits, or of the neighbouring buildings; and that the evils connected with such buildings and the sanitary defects in such area cannot be effectually remedied otherwise than by a scheme for the re-arrangement and reconstruction of the streets and buildings within such area or of some of such streets, or buildings, or

(2) that for the purpose of providing building sites for the expansion of the City, or of remedying the defective ventilation of any part of the City, or of creating new or increasing the existing means of communication and facilities for traffic between various parts of the City, it is expedient to form new or to alter existing streets in any part of the City, the Committee may pass a resolution to the effect that an improvement scheme should be made and shall then proceed to make an improvement scheme for such area as may seem to them expedient.

Cf. Bom. IV of 1898, ss. 25 and 35. Particulars to be provided for in an improvement scheme.

30. The improvement scheme—

(1) shall, within the limits of the area comprised in the scheme, provide for—

(a) the acquisition of any land which will, in the opinion of the Committee, be necessary for or affected by the execution of the scheme;

(b) re-laying out all or any land including the construction and re-construction of buildings and the formation and alteration of streets ;

(c) the laying of such storm-water drains and sewers as may be required for the efficient draining and sewerage of streets so formed or altered ;

(d) the lighting of streets so formed or altered ;

(2) may, within the limits aforesaid, provide for (a) raising any land vested in or to be acquired by the Board which the Committee may deem expedient to raise for the better drainage of the locality ; (b) forming open spaces for the better ventilation of the area comprised in the scheme, or any adjoining area or of any area occupied by buildings constructed under clause (3) ; and

(3) may, within and without the limits aforesaid, provide for the construction of buildings for the accommodation of the poorer and working classes. Such accommodation shall be deemed to include buildings and works of any description that may be necessary or desirable to provide for such classes, and shall also be deemed to include shops, godowns, and three-room tenements.

31. In making an improvement scheme for any area, regard shall be had to the conditions and nature of neighbouring parts of the City and of the City as a whole, and to the likelihood of improvement schemes being required for the neighbouring and other parts of the City.

32. (1) Upon the completion of an improvement scheme the Committee shall draw up a notification stating the fact of a scheme having been made, the limits of the area comprised therein and naming a place where particulars of the scheme, a map of the area comprised therein and a statement specifying the land proposed to be acquired may be seen at all reasonable hours ; and shall,

(a) communicate a copy of such notification together with full particulars of the scheme and plan and estimates of the cost of executing the scheme to the Board ;

(b) once in each of three consecutive weeks published as near as possible simultaneously in the *Bombay Government Gazette* and in some one or more and the same English and some two or more and the same vernacular newspapers circulating within the City, a copy of the said notification.

(2) During the thirty days next following the first day on which such notification is published the Committee shall serve a notice on every person whose name appears in the Commissioner's Assessment-book as primarily liable for the payment of the property taxes leviable under

the Municipal Act on any land or building proposed to be acquired by the Board in executing the scheme, stating that such land or building is proposed to be acquired by the Board for the purpose of an improvement scheme, and requiring an answer stating whether the person so served dissents or not in respect of the acquisition of such land or building, and if the person dissents the reasons of such dissent, within thirty days from the date of service of the notice.

(3) Such notice shall be signed by or by the order of the Chief Officer and shall be served —

(a) by delivery of the same personally to the person required to be served or, if such person is absent or cannot be found, to his agent, or if no agent can be found, then by leaving the same on the land or building; or

(b) by leaving the same at the usual or last known place of abode or business of such person as aforesaid; or

(c) by post addressed to the usual or last known place of abode or business of such person.

*Cf. Bom. IV
of 1898, s.
27A.*

33. (1) If any land is included in any statement specifying the land proposed to be acquired made in accordance with any notification drawn up under section 32, and if the owner of such land shall prove to the satisfaction of the Collector that at the date of such notification building operations were in progress on such land or on any part thereof and the building was structurally complete up to the first floor level the Collector shall call upon the Committee to acquire such land.

(2) On receipt of such notice the Committee shall resolve whether in their opinion it is desirable to acquire the land set out in the notice or to withdraw from the proposal to acquire and shall communicate their resolution within two months to the Board who shall within one month after receipt thereof communicate to the Committee the decision of the Board in the matter, and thereupon the Committee shall forthwith in accordance with such decision either decide to acquire such land or shall give written notice to the owner that they have withdrawn the proposal to acquire.

(3) If the Board decide to acquire the land the Committee shall give notice of such decision to the Collector and to the owner, and the Collector shall proceed as if a declaration had been made in respect of the land in question under section 6 of the Land Acquisition Act, 1894.

*Bom. I of
1894.*

(4) If the Board withdraw from the proposal to acquire any land under sub-section (2) such land shall not be included in any statement of land proposed to be acquired, made in accordance with any notification drawn up under section 32 until the expiry of two years from the date of the issue of written notice of withdrawal to the owner.

34. (1) The owner of any land included in any statement of the land proposed to be acquired made in accordance with any notification drawn up under section 32 may at any time before the publication of a declaration under section 36 and after the expiry of one year from the date of such notification by written notice setting out the particulars of such land call upon the Committee to acquire such land.

(2) On receipt of such notice the Committee shall resolve whether in their opinion it is desirable to acquire the land set out in the notice or to withdraw from the proposal to acquire, and shall communicate their resolution within two months to the Board who shall within three months after the receipt thereof communicate to the Committee the decision of the Board in the matter, and thereupon the Committee shall forthwith in accordance with such decision either decide to acquire such land or shall give written notice to the owner that they have withdrawn the proposal to acquire.

(3) If the Board decide to acquire the land the Committee shall give notice of such decision to the Collector and to the owner, and the Collector shall proceed as if a declaration had been made in respect of the land in question under section 6 of the Land Acquisition Act, 1894.

Cf. Bom. I of 1894.

(4) If the Board withdraw from the proposal to acquire any land under sub-section (2) such land shall not be included in any statement of land proposed to be acquired made in accordance with any notification drawn under section 32 until the expiry of two years from the date of the issue of written notice of withdrawal to the owner.

35. (1) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the scheme, the Committee shall, after consideration of any answer received under section 32 and after inserting in the scheme such modifications as they may think fit, submit the scheme to the Board for approval.

Cf. Bom. IV. of 1898, s. 28

The Committee to forward the scheme to Government for sanction after approval by the Board.

(2) On the approval of the scheme by the Board, the Committee shall apply to Government for sanction to the scheme.

(3) The application for sanction shall be accompanied by—

- (a) a description with full particulars of the scheme ;
- (b) complete plans and estimates of the cost of executing the scheme ;
- (c) a statement specifying the land proposed to be acquired ;

(d) a list of the names of the persons, if any, who in answer to the notices mentioned in sub-section (2) of section 32 dissented, with the reasons, if any, stated by such persons for dissent, in respect of the acquisition of their land.

Cf. Bom. IV
of 1898, s. 29.

36. (1) (a) On receipt of the sanction of Government, the Chief Officer shall forward a declaration for notification under the signature of a Secretary to Government, stating the fact of such sanction and that the land proposed to be acquired by the Board for the purposes of the scheme is required for a public purpose.

(b) The declaration shall be published in the *Bombay Government Gazette* and shall state the limits within which the land proposed to be acquired is situate, the purpose for which it is needed, its approximate area, and the time and place where a plan of the land may be inspected.

(c) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Committee shall, upon the publication of the said declaration, proceed to execute the scheme.

(2) (a) If at any time after the publication of the said declaration it appears expedient to the Committee the Committee may alter the scheme to the Committee that an improvement can be made in any part of the scheme the Committee may alter the scheme for the purpose of making such improvement, and shall, subject to the provisions contained in the next three clauses of this sub-section, forthwith proceed to execute the scheme as altered.

(b) If the scheme as altered involves the abandonment of the acquisition of any land or the acquisition by agreement of any land other than that specified in the statement accompanying the scheme under section 35, the Committee shall not, without the previous approval of the Board, proceed to execute the scheme as altered.

(c) If the estimated outlay on the scheme as altered exceeds by more than ten per cent. the estimated outlay on the scheme as sanctioned the Committee shall not, without the previous sanction of the Board and of Government proceed to execute the scheme as altered.

(d) If the scheme as altered involves the acquisition, otherwise than by agreement, of any land other than that specified in the statement accompanying the scheme under section 35, the provisions of sections 32 and 35 and of sub-section (1) shall apply to the part of the scheme so altered, in the same manner as if such altered part were the scheme.

(e) If at any time it appears probable to the Committee that the outlay on the scheme will exceed the sanctioned estimate by more than ten per cent. the Committee shall, as soon as may be, submit a revised estimate for the approval of the Board and of Government.

36-A. If, within three years from the date of the declaration aforesaid, the Board fail to acquire the land or any part of the land proposed to be acquired for the purposes of the scheme, the owner of any land included in the declaration may, by written notice setting out the particulars of such land, call upon the Committee to acquire such land or to withdraw from the proposal to acquire it. Thereafter the procedure prescribed in section 34 sub-sections (2) to (4) shall be followed.

If the Board fails to acquire land within three years from the date of declaration of the Scheme, the owner may call upon the Committee to acquire such land or withdraw from the proposal.

37. When an official representation as hereinafter mentioned is made to the Committee that within certain limits in any part of the City an improvement scheme should be made, the Committee shall take such representation into their consideration and if satisfied that a scheme ought to be made and also of the sufficiency of their resources shall pass a resolution that an improvement scheme should be made for such area, and after passing such resolution, they shall forthwith proceed to make a scheme for the improvement of such area.

The Committee on being satisfied by official representation of unhealthiness of an area to make scheme for its improvement.

any part of the City an improvement scheme should be made, the Committee shall take such representation into their consideration and if satisfied that a scheme ought to be made and also of the sufficiency of their resources shall pass a resolution that an improvement scheme should be made for such area, and after passing such resolution, they shall forthwith proceed to make a scheme for the improvement of such area.

Provided that any number of such areas may be included in one improvement scheme, and provided also, that the improvement scheme may include any neighbouring land if the Committee are of opinion that such inclusion is expedient.

38. When an official representation as mentioned has been made to the Committee and the Committee are of opinion that it is inexpedient forthwith to proceed to make a scheme for the area indicated in such representation. they shall record their reasons for such opinion and inform the Board accordingly, and the Board shall thereupon take such opinion into their consideration and may require the Committee to frame a scheme for such area as the Board may think fit, and the Committee shall be bound to carry out such requisition, and on the completion of the making of such a scheme, the provisions of sections 32 to 36 inclusive shall be applicable to the scheme in the same manner as if the scheme were an improvement scheme made under section 29.

The Board may direct the Committee to make a scheme.

the Committee and the Committee are of opinion that it is inexpedient forthwith to proceed to make a scheme for the area indicated in such representation. they shall record their reasons for such opinion and inform the Board accordingly, and the Board shall thereupon take such opinion into their consideration and may require the Committee to frame a scheme for such area as the Board may think fit, and the Committee shall be bound to carry out such requisition, and on the completion of the making of such a scheme, the provisions of sections 32 to 36 inclusive shall be applicable to the scheme in the same manner as if the scheme were an improvement scheme made under section 29.

39. An official representation for the purposes of this Act shall mean a representation made to the Committee by the Board on a resolution being passed by the Board in that behalf.

Meaning of "official representation."

a representation made to the Committee by the Board on a resolution being passed by the Board in that behalf.

Poorer Classes Accommodation Schemes.

40. (1) Any person employing members of the poorer classes in the course of his business may make an application to the Committee stating that he wishes to provide accommodation for the use of all or some of such members and desiring the Committee to make a scheme for such purpose. Such person is hereinafter called 'the employer', which term includes his heirs, executors, administrators, assigns and successors.

Application by employer of Poorer Classes Accommodation Scheme.

course of his business may make an application to the Committee stating that he wishes to provide accommodation for the use of all or some of such members and desiring the Committee to make a scheme for such purpose. Such person is hereinafter called 'the employer', which term includes his heirs, executors, administrators, assigns and successors.

(2) The Committee on consideration of the said application, if they are of opinion that it is expedient to provide the said accommodation, may pass a resolution to that effect and proceed to make a scheme for that purpose.

(3) The poorer classes accommodation scheme shall provide for—

(a) the construction of dwellings consisting of tenements containing not more than three rooms

(i) by the Board,

Cf. Bom. IV of 1898, s. 23.

Cf. Bom. IV of 1898, s. 23A.

Cf. Bom. IV of 1898, s. 24.

Cf. Bom. IV of 1898, s. 32B.

(ii) by the employer under the supervision of the Committee and in accordance with plans and specifications approved by the Committee, and

(b) the letting on lease to the employer of the dwellings so constructed and of the other accommodation provided in the scheme.

(4) Such scheme may provide for all matters incidental to the scheme, including the acquisition, raising, lowering or levelling of land required for the execution of the scheme and the provision of recreation grounds and of buildings and works of any description that may be necessary or desirable in connection with the scheme.

Cf. Bom. IV
of 1898, s.
32C.

41. The poorer classes accommodation scheme may provide for the accommodation being on land—

(a) acquired by the Board or vesting absolutely in the Board; or

(b) vesting in the employer either absolutely or for a sufficient number of years:

Provided that the scheme shall not provide for the accommodation being on land alleged to vest in the employer until the employer has proved to the satisfaction of the Committee that he has such title to the land as shall be good and sufficient for the purposes of the scheme.

Cf. Bom. IV
of 1898, s.
32D.

42. Upon the completion of a poorer classes accommodation scheme, the provisions of sections 32 to 36 inclusive shall, with all necessary modifications, be applicable to the scheme in the same manner as if the scheme were an improvement scheme.

Cf. Bom. IV
of 1898, s.
32E.

43. When such scheme includes land forming part of any of the lands specified in Schedule C or Schedule D, the Board shall, on the scheme being sanctioned by Government, pay in cash to Government or to the Corporation, as the case may be, a sum equal to the market value of the interest of Government or the Corporation in the land as determined by the

I of 1894. Collector under the Land Acquisition Act, 1894, and thereupon the right of Government or the Corporation to resume such land under sub-section (9) of section 77 shall cease.

Cf. Bom. IV
of 1898, s.
32F.

44. (1) (a) Where the land vests in or is to be acquired by the Board the employer shall, on the scheme being sanctioned by Government and before it is declared under section 36, deposit in cash with the Board as security a sum equal to twenty per cent. of the estimated cost of the scheme to the Board;

(b) where the land vests in the employer the construction of the buildings or works in connection with the scheme shall not be commenced until the employer has submitted to the Committee a proposal in writing that the land shall be transferred to the Board for the purpose of a poorer classes accommodation scheme and until the Committee shall have served a notice in writing upon the employer signifying their acceptance of such proposal; provided that if in the opinion of the Committee the

value of the land to be transferred falls short of twenty per cent. of the estimated cost of the scheme to the Board the shortage shall be made good by the employer by a deposit in cash.

(2) On the service upon the employer of the notice referred to in clause (b) of sub-section (1), all the estate, right, title and interest of the employer in and to the land referred to in the proposal shall forthwith vest in the Board.

(3) Save as provided in clause (a) of sub-section (1) the employer shall be entitled at any time after payment of the deposit and prior to the grant of the lease under the next following section to pay to the Board the whole or any part of their cost of the scheme.

Term of lease and amount of rent. 45. (1) The Committee shall then proceed to execute the scheme. Cf. Bom. IV of 1898, s. 32G.

(2) Upon completion of the execution of the scheme the Committee shall make up an account showing the cost to the Board of the scheme, after giving credit to the employer of the sums, if any, already deposited or paid by him under the last preceding section. The cost shall include—

(a) the cost of the land if, and so far as, the land has not been provided by the employer,

(b) the cost of the buildings and works,

(c) preliminary expenses and an allowance for management and establishment up to the date of completion of buildings and works, and

(d) compound interest with half-yearly rests on all sums charged to the scheme under clauses (a), (b) and (c).

The rate or rates of interest shall be fixed by the Committee with reference to the cost of raising the capital required for the scheme from year to year. In any year in which the Board raise a loan the rate for the capital expended in that year shall be the same as the rate at which the loan is actually raised by the Board in that year. In case the sanctioned budget estimate of the Board for any particular year does not provide for the raising of a loan during that year the Committee shall intimate to the employer the rate proposed to be fixed by them on the expenditure of that year so as to enable the employer, should he so desire, to exercise the option of providing the capital sum himself, under the last preceding section.

(3) The cost of the land for the purpose of this section shall be deemed to be —

(a) if and so far as the land has been acquired for the scheme, the actual cost of its acquisition ;

(b) in all other cases the market value of the land at the date of the notification of the scheme under section 32.

(4) Upon completion of the aforesaid account the Board shall grant a repairing lease of the premises to the employer for a term of not less than 28 and not more than 50 years as may be agreed upon between the Committee and the employer.

(5) The lessee shall during the said term pay to the Board as rent a sum equal to the total of

(a) interest on the cost of the scheme to the Board based on the rate or rates fixed by the Committee under clause (d) of sub-section (2); and

(b) sinking fund charges at such rate as may be fixed by the Committee and so calculated that at the end of the term of the lease the aggregate in the sinking fund shall amount to the total cost of the scheme to the Board.

Provided that in the event of the employer having paid to the Board under the last preceding section the whole of the cost of the scheme, the rent shall be Re. 1 per annum.

Cf. Bom. IV 46. The lease shall commence from such date subsequent to the completion of the execution of the scheme as may be fixed by the Committee and shall be subject to the following among other conditions :—

(a) *The lessee shall keep during the term of the lease and leave at the end thereof the demised premises together with their fixtures in good and substantial repair and condition.*

(b) *The lessee shall insure the demised premises against loss or damage by fire.*

(c) (a) the lessee shall be liable for the payment of all rates and taxes ;

(d) (b) the lessee shall sublet the rooms and tenements prescribed by the Committee to be used as dwellings only to persons employed by him in the course of his business or their families except in so far as there may not be sufficient numbers of such persons willing to occupy the same and in any case only to members of the poorer classes. No such room or tenement shall be used otherwise than as a dwelling except with the previous consent in writing of the Committee.

(e) (e) The maximum rent of each room or tenement shall be fixed by the Committee after consulting the lessee and such maximum rent shall be written or painted up by the lessee in a conspicuous position in each such room or tenement. Such maximum rent shall not be subject to alteration save with the consent of the Committee.

(f) (d) The lessee shall not demand or receive in respect of any such room or tenement any premium or any rent in excess of the maximum rent fixed and in force for the time being ;

(g) (e) The lessee shall not assign or sublet the demised premises or any part thereof without the previous consent in writing of the Committee. Any assignee or sub-lessee shall be bound by the conditions contained in this Act and in the lease.

47. The lessee may at any time with the consent of the Committee
 Lessee may commute the rent payable under the lease and in
 the rent. such event the rent shall be Re. 1 per annum for
 the remainder of the term.

48. The Committee shall not without the previous sanction of the Board and of Government permit the lessee to make any substantial variation in the user of the premises so as to reduce the accommodation prescribed by the Committee to be used as dwellings.

49. (1) On default being made by the lessee in any of the conditions of the lease, the Board may re-enter upon the demised premises or any part thereof in the name of the whole and immediately thereupon the lease shall absolutely determine.

(2) Where no default is made by the lessee in the conditions of the lease, then on determination of the lease at the end of the term thereof, the Board shall convey the premises to the lessee at his cost and free of all restrictions and liabilities imposed by the lease and by this Act or by the City of Bombay Improvement Act, 1898.

Cf. Bom. IV of 1898, s. 321.
Bom. IV of 1898.

Police Accommodation Schemes.

50. (1) When a representation is made by Government to the Board that within any part of the City accommodation is required for housing any part of the Police of the City, the Board shall take such representation into their consideration, and, if satisfied of the sufficiency of their resources and that it is otherwise expedient, shall pass a resolution to the effect that a scheme for providing such accommodation ought to be made, and shall direct the Committee to forthwith proceed to make a Police accommodation scheme.

Cf. Bom. IV of 1898, s. 38.

(2) The Police accommodation scheme may provide for constructing dwellings and accessory buildings (including stables for horses) for any or all classes of such Police, and for acquiring, raising and levelling any land required for the execution of the scheme.

51. Upon completion of a Police accommodation scheme, the provisions of sections 32 to 36 shall, with all necessary modifications, be applicable to the scheme in the same manner as if the scheme were an improvement scheme.

Cf. Bom. IV of 1898, s. 39.

52. (1) When such scheme is sanctioned by Government, in the case of land specified in Schedule C or Schedule D or land reclaimed within the limits specified in Schedule E Government or the Corporation, as the case may be, shall resume the land.

Cf. Bom. IV of 1898, s. 40.

In the case of land specified in Schedule C or land reclaimed within the limits specified in Schedule E the land shall thereupon vest in the Board.

~~In the case of land specified in Schedule D the Board shall pay to the Corporation the market value of the land as on the date of resumption as aforesaid, as determined by the Collector under the Land Acquisition Act, 1894. The land shall thereupon vest in the Board.~~

I. of 1894.

(2) The Committee shall then proceed to execute the Police Accommodation Scheme.

(3) Any building constructed under this section shall with the site be leased to Government for police purposes on a repairing lease for a term of sixty years from the date of the completion of the building, and Government shall, during the period of such lease, pay yearly to the Board by way of rent a sum equal to the total of—

(a) the annual interest payable by the Board on all moneys, which they have spent on the scheme, and

(b) sinking fund charges so calculated that at the end of the term of the lease the aggregate in the sinking fund shall amount to the total sum spent on the scheme.

Such total sum shall include :—

(i) all moneys spent on Interest and Sinking Fund charges up to the date of the commencement of the lease ;

(ii) if and so far as the land included in the scheme is not part of the land specified in Schedule C or reclaimed within the limits specified in Schedule E, the cost of such land ;

(iii) preliminary expenses and an allowance for management and supervision up to the date of the commencement of the lease.

(4) The cost of such land for the purposes of this section shall be deemed to be :—

(a) if and so far as the land has been acquired for the scheme, the actual cost of its acquisition, and

~~(b) if and so far as the land is vested in the Board as being part of the lands specified in Schedule D, the sum paid by the Board to the Corporation under sub-section (1), and~~

(b) (e) in all other cases the market value of the land at the date of the declaration of the scheme.

(5) On the expiration of the lease the building and the land forming the site thereof shall vest absolutely in His Majesty.

Schemes hitherto sanctioned.

53. (1) From the date on which this Act comes into operation there shall vest in the Board all the rights and liabilities of the Board dissolved by this Act in respect of any Improvement scheme, Street scheme, Deferred Street scheme, Poorer Classes Accommodation scheme, Reclamation scheme or Police Accommodation scheme duly sanctioned or executed before the said date in accordance with the City of Bombay Improvement Act, 1898.

(2) The Board shall subject to the provisions of this Act, proceed with due diligence in the execution of any scheme specified in sub-section (1) which remains unexecuted on the date specified in the said sub-section until the completion of the scheme.

Vesting of Streets, etc.

54. (1) Whenever under any scheme of the Board the whole or any part of an existing public street vested in the Corporation is required for the purpose of such scheme, or whenever the whole or any part of any vacant land vested in the Corporation is required to be included in the site of any street to be formed or altered by the Committee under

Municipal street required for scheme and vacant municipal land required for street to be vested in the Board.

such scheme, the Committee shall give notice to the Commissioner, which notice shall be signed by the Chief Officer with the sanction of the Committee and put up in or near so much of such existing street or vacant land as is required by the Board, that the whole or a part, as the case may be, of such existing street or vacant land (hereinafter called the 'part required') is required by them as aforesaid, and the part required shall thereupon, subject to the provisions of sub-section (2) of section 59, be vested in the Board free of all rights and incumbrances: provided that nothing in this section contained shall be deemed to affect the rights or powers of any municipal authority, under Chapters IX and X respectively of the Municipal Act, in or over any municipal drain or water work:

Provided further that

(i) the Committee shall not take over the part required until three months have elapsed after the publication on or near the part required of a notice to the effect that the said part is required by the Board and until the objections, if any, made in writing to the proposal and received before the date prescribed in this behalf in the notice have been considered and decided;

(ii) unless the part required can be entirely closed without damage or substantial inconvenience to the properties adjacent thereto or to the residents in the neighbourhood, the Board shall provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the part required and shall pay such compensation for loss of or damage to any private rights occasioned by the closing of the part required as may appear reasonable after taking into consideration such other means of access, and shall pass a resolution in such behalf and communicate it to the party concerned.

(2) If any question or dispute arises between the Committee and any person entitled to use the part required otherwise than as a mere licensee as to whether the part required can be entirely closed without damage or substantial inconvenience to the properties adjacent thereto or to the residents in the neighbourhood, or whether the other means of access substituted or proposed to be substituted, or whether the compensation paid or proposed to be paid, by the Board under the provisos to sub-section (1) are reasonably sufficient, it shall be determined by the Collector:

Provided that such question or dispute shall be referred to the Collector for determination within three months of the communication of the

resolution of the Committee upon which such question or dispute has arisen. Otherwise the decision embodied in such resolution of the Committee shall be final.

For the purposes of this section vacant land shall mean land not built upon.

f. Bom. IV
1898, s. 41-

55. In respect of any such part required which is or forms part of land acquired by the Corporation subsequently to the 9th November 1898 under the provisions of section 298 of the Municipal Act and not forming part of any open space or street to be formed by the Board under such scheme, the Board shall pay to the Corporation the actual cost incurred by the Corporation in acquiring such land, or such portion thereof as shall bear to the whole actual cost so incurred, the same proportion that the area of the part required bears to the whole area of the land so acquired.

f. Bom. IV
1898, s. 42.

56. The provisions of sections 289 to 296 (both inclusive) and 308 to 329 (both inclusive) and section 489, of the Municipal Act shall, so far as may be consistent with the tenor of this Act, apply to streets or parts thereof which may become vested in the Board under this Act, during such periods as the same shall respectively remain so vested, and for the purposes of this Act, the several municipal authorities referred to in any of the said sections of the Municipal Act shall respectively mean the Committee who, in respect of any streets, or parts of streets so vested, may alone exercise and perform all or any of the powers and functions which by any of the said sections might have been exercised or performed by any municipal authority either with or without the sanction, authority or approval of any other municipal authority. The expression "municipal officer or servant" occurring in any of the said sections of the Municipal Act shall mean officer or servant of the Board.

f. Bom. IV
1898, s. 43.

57. The provisions of section 334 of the Municipal Act shall, so far as may be consistent with the tenor of this Act, apply to any streets or parts thereof which may become vested in the Board under this Act, during such periods as the same may respectively remain so vested, and, for the purposes of this Act the expression "Commissioner" occurring in the said section of the Municipal Act shall mean the Committee who, during such periods as aforesaid, shall alone exercise and perform all or any of the powers and functions which might, under the said section of the Municipal Act, have been exercised or performed by the Commissioner; and the expression "Municipal fund" shall mean the funds of the Board.

f. Bom. IV
of 1898, s. 44.

Bom. I of
1874.

58. The provisions of sections 3, 4, 10, 11, 12, 13, 14, 15, 27, 28 and 29 of the Bombay Tramways Act, 1874, shall, so far as may be consistent with the tenor of this Act, apply to public streets or parts thereof which may become vested in the Board under this

Act, during such periods as the same shall respectively remain so vested and, for the purposes of this Act, the expressions "Municipal Commissioner", "Commissioner" and "Corporation" occurring in any of the said sections of the said Act shall mean respectively the Committee, and the expressions "Executive Engineer of the said Corporation" and "Executive Engineer" shall mean respectively the Engineer of the Board.

59. (1) No new street, if made for carriage traffic, shall be less than *Cf. Bom. 1*
 Minimum width of new 40 feet in width, nor, if made for foot traffic only, of 1898, s. 4
 streets. shall be less than 20 feet in width :

Provided that where in an improvement scheme or otherwise, wherever continuously for the whole length of a street provision is made for garden or open space on one or both sides of such street, on such terms as to preclude such space being built over, when the total space between the buildings, on opposite sides of the street, including such garden or open space, is not less than 40 feet, the street between such buildings need not, if made for carriage traffic be more, and shall not be less, than 20 feet in width, and, if made for foot traffic only, need not be more, and shall not be less, than 10 feet in width.

(2) The Commissioner shall, on being satisfied that any street formed by the Board has been duly levelled, paved, metalled, flagged, channelled, drained and sewered in the manner provided for in the plans of any scheme duly sanctioned in accordance with this Act and that such lamps, lamp posts and other apparatus as are in his opinion necessary for the proper lighting thereof and, in his opinion, should be provided by the Board have been so provided, declare such street to be a public street, and such street shall thereupon vest or re-vest, as the case may be, in the Corporation, and the Corporation shall thenceforward maintain, keep in repair, light and cleanse such street.

(3) Service passages for sanitary purposes need not be more and usually shall not be less than 10 feet in width, and, in the case of such passages, the Committee may enter into an agreement with the Commissioner or any other person as to the supervision, repair, lighting and general management thereof, but such service passages shall not be considered to be streets for the purposes of this Act.

(4) Any open space reserved for ventilation in any part of the City, and provided by the Board as part of any scheme sanctioned under this chapter shall be transferred, on completion, to the Commissioner for maintenance at the expense of the Corporation, and shall thereupon vest in the Corporation: Provided that the Commissioner may if necessary, require the Board, previous to the said transfer, to enclose, and, if necessary, provide lamps or other apparatus for lighting any such open space.

(5) Any dispute which arises between the Board and the Commissioner in respect of any of the provisions of this section shall be determined by the Corporation whose decision shall be final.

Acquisition of Land.

Cf. Bom. IV of 1898, s. 46. 60. Subject to the provisions of this Act, it shall be lawful for the Board to acquire land by agreement. *Committee on behalf of the Board* to agree with the owners of any land or of any interest in land needed by the Board for the purposes of this Act, or with the owners of any right which may have been created by legislative enactment over any street forming part of the land so needed, for the purchase of such land or of any interests in such land, or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.

Cf. Bom. IV of 1898, s. 47. 61. Notwithstanding anything contained in the Land Acquisition Act 1894 (in this and the next succeeding sections referred to as "the said Act"), the said Act shall not, except to the extent set forth in Schedule A, apply to the acquisition of land under this Act, but the said Act shall, to the extent set forth in the said schedule, regulate and apply to the acquisition of land otherwise than by agreement, and shall for that purpose be deemed to form part of this chapter in the same manner as if enacted in the body hereof subject to the provisions of this chapter and to the provisions following, namely:—

(1) a reference to any section of the said Act shall be deemed to be a reference to such section, as modified by the provisions of this chapter and the expression "land", as used in the said Act, shall in addition to the meaning included therein under clause (a) of section 3 of the said Act be deemed, for the purposes of this Act, to include rights created by legislative enactment over any street; and clause (b) of section 3 of the said Act shall, for the purposes of this Act, be read as if the words and parentheses "(including the Crown)" were inserted after the words "includes all persons", and the words "or if he is the owner of any right created by legislative enactment over any street forming part of the land" were added after the words "affecting the land";

(2) in the construction of sub-section (2) of section 4 of the said Act and the provisions of this chapter, the provisions of the said sub-section shall, for the purposes of this Act, be applicable immediately upon the passing of a resolution under section 29, 40 or 50 and the expression "Local Government" shall be deemed to include the Board, and the words "such locality" shall be deemed to mean the locality referred to in any such resolution;

(3) in the construction of the sections of the said Act deemed to form part of this chapter and the provisions of this Chapter, the publication of a declaration under section 36 or 42 shall be deemed to be the publication of a declaration under section 6 of the said Act; provided that the date of publication of the notification under section 32, 42, or 51 shall be deemed to be the date of the publication of the declaration

under section 6 of the said Act for the purposes of section 23 first and sixthly and section 24 fourthly and seventhly of the said Act :

Provided also that where land is acquired under section 33 or sub-section (2) of section 34 the date of the notification under section 32 shall be deemed to be the date of publication of a declaration under section 6 of the said Act :

Provided further that the provisions of sub-section (2) of section 23 of the said Act shall apply when land, other than land, forming part of any sanctioned scheme prepared in accordance with the provisions of section 29 is acquired specifically under this Act for the purpose of a poorer classes accommodation scheme or of a police accommodation scheme; and that in all other cases in which the land is notified, for acquisition after the date on which this Act comes into operation, additional compensation in consideration of the compulsory nature of the acquisition shall be awarded on the scale set out in Schedule AA.

(4) In the construction of sub-section (2) of section 50 of the said Act and the provisions of this chapter the Board shall be deemed to be the local authority or company, concerned.

62. In determining the amount of compensation to be awarded for Cf. Bom. IV of 1898, s. 49. any land or building acquired under this Act Bom. I of 1894. Special provision as to compensation. the following further provisions shall apply:—

(1) the Court shall take into consideration any increase to the value of any other land or building belonging to the person interested likely to accrue from the acquisition of the land or from the acquisition, alteration or demolition of the building;

(2) when any addition to, or improvement of, the land or building has been made after the date of the publication under section 32, 42 or 51 of a notification relating to the land or building, such addition or improvement shall not (unless it was necessary for the maintenance of the building in a proper state of repair) be included nor in the case of any interest acquired after the said date shall any separate estimate of the value thereof be made, so as to increase the amount of compensation to be paid for the land or building;

(3) in estimating the market value of the land or building at the date of the publication of a notification relating thereto under section 32, 42 or 51 the Court shall have due regard to the nature and the condition of the property and the probable duration of the building if any in its existing state and to the state of repair thereof and to the provisions of clauses (4), (5) and (6) of this section;

(4) if in the opinion of the Court the rental of the land or building has been enhanced by reason of its being used for an illegal purpose, or being so overcrowded as to be dangerous or injurious to the health of the inmates, the rental shall not be deemed to be greater than the rental which would be obtainable if the land or building were used for legal purposes only, or were occupied by such a number of persons only as it was suitable to accommodate without risk of such overcrowding;

Explanation.—For the purposes of this clause overcrowding shall be interpreted as in sub-sections (4) and (5) of section 379-A of the Municipal Act;

(5) if in the opinion of the Court the building is in a state of defective sanitation or is not in reasonably good repair the amount of compensation shall not exceed the estimated value of the property after the building has been put into a sanitary condition, or into reasonably good repair, less the estimated expense of putting it into such condition, or repair;

(6) if in the opinion of the Court the building being used or intended or likely to be used for human habitation is not reasonably capable of being made fit for human habitation, the amount of compensation for the building shall not exceed the value of the materials, less the cost of demolition.

Cf. Bom. IV
of 1898, s. 50.

63. When the Collector has made an award under section 11 of the said Act, as applied by this chapter, he may take possession of the land which shall thereupon vest absolutely in His Majesty free from all encumbrances, and the Collector shall, upon payment of the cost of the acquisition, make over charge of the land to the Committee and, the land shall thereupon vest in the Board subject to the liability of the Committee to pay on behalf of the Board any further costs which may be incurred on account of the acquisition of the land.

Bom. IV of
1898.

64. Notwithstanding anything contained in sections 60, 61, 62 and 63 Provision regarding in respect of all references and appeals made to the pending cases. Tribunal of Appeal or the High Court under the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation the said Tribunal of Appeal or the High Court, as the case may be, shall continue to perform the functions assigned to it under the said Act and every such appeal shall, so far as may be, be decided in accordance with the provisions of the said Act as if this Act had not been passed.

Provided that the certificate of the President mentioned in section 48 (ii) shall not be necessary for an appeal to the High Court perferred after the date on which this Act comes into operation, and that all references pending before the Tribunal of Appeal on the date when this Act comes into operation shall be disposed of within eighteen months.

Resumption of Lands from the Board.

Cf. Bom. IV
of 1898, s. 51.

65. Whenever any land specified in Schedule C or Schedule D is resumed by Government or the Corporation, respectively, under the provisions of this Act, the market value of the land as at the date of resumption, as determined by the Collector, or in appeal by the High Court, shall be paid to the Board by Government or by the Corporation as the case may be.

CHAPTER IV.

BORROWING POWERS.

66. The Board may, from time to time borrow or re-borrow and take up at interest from the Secretary of State for India in Council, or, with the previous sanction of Government, from any other person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred or to be incurred by them in the execution of this Act, inclusive of any debit balance which shall be chargeable to Capital under section 86 :

Cf. Bom. IV of 1898, s. 25.

Power to borrow from the Secretary of State for India in Council or other persons.

for India in Council, or, with the previous sanction of Government, from any other person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred or to be incurred by them in the execution of this Act, inclusive of any debit balance which shall be chargeable to Capital under section 86 :

Provided that no loan exceeding in amount twenty-five lakhs of rupees shall be raised by the Board, unless the terms, including the date of flotation, of such loan have been approved by the Government of India.

67. Whenever the sanction of Government has been obtained to the raising of money by the Board from any person other than the Secretary of State for India in Council Government shall, subject to the provision of the last preceding section, direct and appoint the manner in which and the time at which such money shall be raised.

Cf. Bom. IV of 1898, s. 53.

Government to direct manner in which money shall be borrowed from other persons.

raising of money by the Board from any person other than the Secretary of State for India in Council Government shall, subject to the provision of the last preceding section, direct and appoint the manner in which and the time at which such money shall be raised.

68. (1) The Board shall either pay off the money borrowed under the provisions of the last two preceding sections by equal yearly or half-yearly instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund and accumulate in the way of compound interest, by investing the same in the purchase of public securities such sum or sums as will, with accumulations in the way of compound interest, be sufficient after payment of all expenses to pay off the moneys so borrowed within the period sanctioned for the loan or within such other period as may be approved by Government.

Cf. Bom. IV of 1898, s. 55.

Provision for sinking fund to repay money borrowed.

the provisions of the last two preceding sections by equal yearly or half-yearly instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund and accumulate in the way of compound interest, by investing the same in the purchase of public securities such sum or sums as will, with accumulations in the way of compound interest, be sufficient after payment of all expenses to pay off the moneys so borrowed within the period sanctioned for the loan or within such other period as may be approved by Government.

(2) In respect of any sinking funds which by this Act the Board are directed or empowered to invest in public securities, and in respect of any surplus moneys which by this Act the Board are empowered to invest in like securities, it shall be lawful for the Board to reserve and set apart for the purposes of any such investment any debentures to be issued on account of any loan for which the sanction of Government shall have been duly obtained under section 66, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(3) The issue of any such debentures direct to and in the name of "The Trustees for the Improvement of the City of Bombay" shall not operate to extinguish or cancel such debentures but every debenture so issued shall be valid in all respects as if issued to, and in the name of, another person.

(4) The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture issued by the Board shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.

Cf. Bom. IV of 1898, s. 65.

69. The investment every year or every half year of any sum set apart as part of the principal of a sinking fund shall be made within fifteen days after the day on which the payment of interest is due by the Board in respect of the loan for repayment of which such sinking fund is established; and the investment of any sum received by the Board on account of interest on moneys forming part of a sinking fund already invested, shall be made within one month from the day on which such interest is received.

Dates fixed for investment of sinking funds in public securities.

Cf. Bom. IV of 1898, s. 57.

70. Except with the previous sanction of Government—

(1) the period for the repayment of any loan shall not exceed sixty years, and

(2) when money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned.

Cf. Bom. IV of 1898, s. 58.

71. (1) When money is raised by the Board on debentures, the debentures shall be in the form of Schedule B, or in such other form as the Board, with the previous consent of Government shall, from time to time, determine.

(2) The holder of any debenture in the form of Schedule B, or in any form duly authorised under this section, or under *Bombay Act IV of 1898* may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a debenture in any other form so authorised.

(3) Every debenture issued by the Board shall be transferable,—
 (a) if it is in the form of Schedule B, by endorsement, and
 (b) if it is in any other form, in such manner as shall be therein expressed.

(4) The right to sue in respect of the moneys secured by debentures issued under this section or under *Bombay Act IV of 1898* shall vest in the respective holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.

Cf. Bom. IV of 1898, s. 58-A.

IX of 1872.

72. (1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872, when any debenture or security issued under the provision of this Act or under *Bombay Act IV of 1898* is payable to two or more persons jointly, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the debenture or security jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the debenture or security was jointly payable occurred on occurs before or after this section comes into force.

73. Notwithstanding anything in section 45 of the Indian Contract Act, 1872, where two or more persons are joint holders of any debenture or security issued under the provisions of this Act, or under Bombay Act IV of 1898 any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security unless notice to the contrary has been given to the Board by any other of those persons.

74. Notwithstanding anything contained in section 66 the Board may take from any bank credit on a cash account to be opened and kept with such Bank in the name of the Board to the extent of any loan sanctioned under section 66, and may, with the sanction of Government grant mortgages, subject to the provisions of this Act, of lands and property vested or vesting in or belonging to the Board, or any part thereof, in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon.

75. Notwithstanding anything contained in section 66 the Board may also borrow, for the purpose of this Act, from any bank or banks prescribed by Government under section 104, against any Government promissory notes or other securities in which for the time being the Board's cash balance may be invested.

76. In the case of all loans raised by the Board of Trustees under and in accordance with the provisions of the City of Bombay Improvement Act, 1898, before this Act comes into force the following provisions shall apply:—

- (i) if when such loans were raised the loans were made repayable from sinking funds, the Board shall establish sinking funds for the repayment of such loans and shall pay into such funds such sums on such dates as may have been fixed when the loans were raised ;
- (ii) all securities and cash held by the Board of Trustees in existence when this Act comes into force in sinking funds established for the repayment of such loans shall be transferred to the Board and shall be held by them as part of the sinking funds established under clause (i) ;
- (iii) the provisions of section 68 shall apply to such sinking funds ;
- (iv) if when any such loans were raised the loans were made repayable by equal payments of principal and interest or by equal payments of principal or by annual drawings, the Board shall make such payments or annual drawings, on such dates and in such manner as may have been fixed when the loans were raised ;
- (v) the provisions of section 93 shall apply to such loans,

PROPERTY AND LIABILITIES.

Cf Bom. IV
of 1898 n. 60.

77. (1) Subject to the provisions hereinafter contained and to all charges and liabilities affecting the same there shall vest in the Board from the date on which this Act comes into operation all the immovable and other property of the Board dissolved by this Act, to be held in trust for the purposes of this Act, including all the estate, right, title and interest of the Board dissolved by this Act in and to the lands specified in Schedule C and Schedule D, and in the reclaimed lands specified in Schedule E and shown on the deposited plans.

(2) (a) In respect of the lands referred to as the Flats, specified in Schedule C as plots 1 (b), 1 (c) and 1 (d), the Board may, subject to the power of resumption reserved by sub-section (9) at any time lay out the whole or any part or parts of these plots as recreation grounds or parks for the free use of the public, or appropriate the whole or any part of the said plots to building purposes.

(b) The lands specified as plot 1 (n) (j) shall, subject as aforesaid, be permanently appropriated as an open space, but such appropriation shall not preclude the Board from letting the said lands from time to time on lease for a term not exceeding one year, or with the previous sanction of Government and on such conditions as may be approved by Government for a term not exceeding 30 years, for the purpose of a race-course or for any purpose of public recreation or amusement.

(c) All the lands specified as plots 1 (a) and 1 (e) to 1 (m) 1 (i) both inclusive and 1 (k) both inclusive, shall vest absolutely in the Board.

(3) The lands respectively referred to in Schedule C as the Co-opeage Plot and the Marine Lines Maidan shall be permanently maintained as open spaces, provided that any part of the said lands may at any time be occupied by Government for any temporary purpose, subject to the provisions of any by-laws made by the Board, *Committee* under clause (b) of sub-section (1) of section 110.

(4) The *Committee on behalf of the Board* shall be responsible for the maintenance and management of any area forming part of the lands referred to in sub-sections (2) and (3), which may, from time to time, remain unsurrendered, unappropriated to building purposes or unresumed as aforesaid, and shall do, or cause to be done, all acts necessary for the preservation of all existing rights in and over such area and subject to the provisions of this Act, the Board *Committee* shall have power to let the whole or any part of such area for any temporary purpose on sufferance lease, at such nominal or other rent as the Board *Committee* may approve.

(5) All the estate, right, title and interest of the Board to and in any land specified in Schedules C and E vested in the Board, under this section with the exception of the lands specified in clause (c) of sub-section (2) shall, subject to the provisions of this section, remain so vested until such time as the whole of the lands so specified except those appropriated

as open spaces, shall have been let on a building lease by the Board or as to any part thereof until such time as such part shall have been so let, and thereafter as to the whole, except as aforesaid, or any such part, for a further period, which shall be determined,

- (a) where the lease granted by the Board is a non-renewable lease, upon the expiration of such lease ;
- (b) where the lease granted by the Board contains a clause for the renewal of the lease,
 - (i) when a renewed lease shall have been entered into, upon the expiration of such renewed lease ;
 - (ii) when a renewed lease shall not have been entered into, upon the expiration of a period equivalent to the maximum term for which the lease granted was expressed to be renewable :

Provided that no unrenewable lease shall be granted for a period of more than 99 years, and that in no case shall the aggregate duration of the term of a renewable lease and of the term for which such lease shall be renewed or be expressed to be renewable, exceed 99 years.

(6) All lands specified in Schedule D shall vest absolutely in the Board.

(7) It shall be lawful for the Board *Committee* from time to time with the sanction of Government in the case of land specified in Schedule C, and with the sanction of the Corporation in the case of land specified in Schedule D, to take any land out of the said Schedules in exchange for any freehold land, the property of the Board, which they wish to bring on to the said schedules. An exchange made under this section shall operate to transfer the land taken out of the schedules to the Board free from all conditions of resumption and reversion created by this Act and free from all encumbrances and to vest the land brought on to the schedules in the Board as if it were part of the property originally entered in Schedule C or Schedule D, as the case may be, to the said Act.

(8) Without prejudice, and in addition to the powers conferred on the Board by section 79, it shall be lawful for the Board to take over and hold any other lands within the City of Bombay of which they may be put in possession by the Secretary of State for India in Council or by the Corporation, to the intent that such lands shall vest in the Board in the same manner and subject to the same conditions as if such lands, if taken over from the Secretary of State for India in Council, were included in Schedule C, or, if taken over from the Corporation, were included in Schedule D, and such vesting shall in every such case take effect, upon delivery to the Board of possession of the land.

(9) Any land, other than land specified in clause (c) of sub-section (2) and the lands referred to in Schedule C as the Cooperage Plot and the Marine Lines Maidan and also other than land leased or agreed to be leased by the Board, specified in Schedule C, which shall be required by Government for a public purpose, or specified in Schedule D which shall be required by the Corporation for a public purpose, may at any time, after giving six months' notice to the Board, be resumed by Government or by the Corporation as the case may be.

(10) Government may, with the concurrence of the municipality in the case of land specified in Schedule D, by notification in the *Bombay Government Gazette* from time to time add to or amend the entries in Schedule C or Schedule D so far as may be necessary in consequence of any exchange, resumption, acquisition or other transfer of land, and correct mistakes in the said schedules or in the deposited plans, and upon such notification the said schedules or plans shall be read subject to such addition, amendment or correction. Such notification shall in the case of any alteration of Schedule C or Schedule D include a notification of the whole schedule or schedules as so altered.

7. Bom. IV
of 1898, s. 62.

78. Upon the determination of the further period mentioned in sub-section (5) of section 77 the property vested in the Board, under the said section in any part of the lands specified in Schedule C [except those appropriated as open spaces, and the plots 1 (a) and 1 (e) to 1 (m) 1 (i) both inclusive and 1 (k) of the Flats], and of the lands specified in Schedule E, shall be forthwith divested and such part of such lands shall vest or revest absolutely in His Majesty.

General Powers as to Property.

7. Bom. IV
of 1898, s. 63.

79. (1) The Board shall, for the purposes of this Act, have power to acquire and hold movable and immovable property, whether within or without the City.

(2) The Committee on behalf of the Board shall, subject to the provisions of this Act, have power—

- (a) to maintain, repair, alter, manage, demolish and let on hire, or lease any movable or immovable property which may have become vested in or been acquired by the Board;
- (b) to sell or otherwise convey any movable or immovable property which may have become vested in or been acquired by the Board other than the lands specified in Schedules C and E with the exception of the lands referred to in clause (c) of sub-section (2) of section 77 ~~except with the sanction of Government~~;
- (c) to delegate to the Chief Officer, subject to such conditions and limitations as the Committee may impose, any of the powers, duties and functions required for the management of all immovable and other property vesting or to vest hereafter in the Board under the provisions of this Act, and the powers, duties and functions so vested in the chief officer may be exercised, performed or discharged, under his control and subject to his revision and to such conditions and limitations, if any as he shall think fit to prescribe, by any officer of the Board, whom he generally or specially empowers in writing in this behalf; and the expression "Chief Officer" shall, to the extent to which any officer of the Board is so empowered, be deemed to include such Officer.

80. The Board shall have power, subject to the provisions of section *Cf. Bom. IV of 1898, s. 65.* 74 77 to apply any of the lands specified in Schedules C, D and E for the purposes of any scheme under this Act.

Power to apply certain lands vested in the Board to the purposes of any scheme under this Act.

81. (1) When the Corporation are satisfied that there is no longer any necessity for the continuance of the Board of Trustees, they shall make a representation to Government in that behalf and Government may, by notification in the *Bombay Government Gazette*, with the previous sanction of the Government of India, dissolve the Board from a date to be specified in the notification.

Provision for dissolving the Board and effect of dissolution.

Cf. Bom. IV of 1898, s. 71A.

(2) Thereupon, notwithstanding anything contained in any section of the said Act,

(a) all the right, title and interest of the Board on that date in the lands specified in Schedules C, D, E and F shall vest in the Corporation ;

(b) the Corporation shall take over all the assets and liabilities of the Board.

CHAPTER VI.

REVENUE AND EXPENDITURE.

Contribution from Municipal Fund.

82. The Commissioner shall pay from the Municipal Fund to the Board on the first day of May in each year a lump sum equal to double the amount of the actual net realizations of the Corporation in the preceding financial year, under the head of General Tax or payments made in lieu of General Tax (including arrears and payments in advance), divided by the rate fixed for the General Tax for the said financial year.

Amount of payment to be made by the Commissioner to the Board on the first day of May.

Cf. Bom. IV of 1898, s. 72.

Municipal Taxes.

83. The rateable value of all buildings and lands in the City vesting in the Trustees for the Improvement of the City of Bombay, in respect of which property taxes would be primarily leviable from the said Trustees, shall with respect to each Trust Estate, be determined by the Municipal Commissioner in accordance with the provisions of section 154 of the Municipal Act, and the said Commissioner shall allow from time to time, having regard to the provisions of sub-section (2) of section 153 and section 175 of the Municipal Act, such deduction as he may deem fit on account of vacancy, not being less than the actual percentage of vacancy as ascertained from the Trust's accounts of the preceding year.

Assessment of municipal taxes in respect of property of the Board.

Payments by Government.

- Cf. Bom. IV of 1898, s. 7.* 84. Government shall pay to the Board, from the date on which this Act comes into force and until the ninth day of November 1897 all rents and profits derived by Government from the lands specified or referred to in Schedule F.
- Payment to be made by Government.

Division of Accounts.

- Cf. Bom. IV of 1898, ss. 66 and 79.* 85. The Board shall keep a Capital Account and a General Account.
- Accounts: Application of proceeds of sale and exchange of property.

There shall be credited to the Capital Account—

- (a) all moneys received on account of loans taken by the Board other than monies temporarily borrowed in accordance with section 75 ;
- (b) the proceeds of the sale or exchange of, or the compensation awarded under the Land Acquisition Act, 1894, for the acquisition by Government of any portion of the lands or buildings vested or vesting in the Board under this Act ;
- (c) the proceeds of the sale or exchange of any movable property of the Board purchased by debit to the Capital account ;
- (d) fines or premia levied on granting leases, and sums paid in composition or part composition of rents under leases ;
- (e) any surplus which the General Account shall disclose at the end of each financial year ;
- (f) any other sums granted by Government and directed by them to be credited thereto ;
- (g) any other sums which the Board Committee direct to be credited thereto.

- Cf. Calcutta Improvement Trust Act, s. 132, and Bom. IV of 1898, ss. 64 and 79 (2).* 86. The moneys credited to the Capital Account shall be held by the Board in trust and shall be applied to—
- Application of moneys credited to Capital Account

- (1) meeting the costs of framing and executing schemes in accordance with this Act, including the costs of acquiring lands and the cost of constructing buildings required for carrying out any of the purposes of this Act ;
- (2) the repayment of all loans credited to the Capital Account ;
- (3) making good the deficit, if any, in the General Account, at the end of the financial year, provided that the net aggregate amount (after setting off all the surpluses on the General Account which have been credited to the Capital Account before the date on which this Act comes into force and also all the surpluses which are credited under clause (e) of section 85) which may be so debited to the Capital Account shall not exceed 15 per centum on the aggregate Capital debt of the Board ;
- (4) advancing any sums necessary for the erection, equipment and maintenance of workshops, including tools and plant and transport equipment, required generally for the execution of any scheme under this Act.

Cf. s. 79 (2), Bom. IV of 1898.

87. The scheduled values of the lands specified in Schedules C and D shall be included in the Capital Account both under receipts and expenditure, the scheduled values of the lands resumed in any year being reduced from both sides of the said account in that year.

Value of lands in Schedule C and D to be included in the Capital Account.

88. The Capital account shall show the total expenditure (including a proportionate charge for the cost of management) incurred by the Board on each scheme separately, and shall also distinguish between the expenditure incurred on—

Cf. Bom. IV of 1898, s. 75 (2).

- (a) the improvement of lands vested in the Board and specified in Schedule C;
- (b) the improvement of lands vested in the Board and specified in Schedule D;
- (c) lands referred to in Schedule E.

89. There shall be credited to the General Account—

- (1) all interest on the Board's investments other than interest on securities in which the sinking fund balances are invested;
- (2) all sums contributed from the Municipal funds and received by the Board under section 82;
- (3) all fines and damages recovered under section 117;
- (4) all rents of lands vested in the Board;
- (5) the net profit at the close of the year, if any, on sales of securities held by the Board;
- (6) all other receipts of the Board which are not required to be credited to the Capital account.

90. (1) The moneys credited to the General Account shall be held by the Board in trust and shall be applied by them in payment of the following charges, namely;

Cf. Bom. IV of 1898, s. 77.

- (a) all payments for interest and sinking fund charges due on account of any loan;
- (b) the amount of the cost of management apportioned to General Account as provided in section 92;
- (c) all sums payable by the Board in respect of rates and taxes levied under the Municipal Act upon lands and buildings vested in the Board;
- (d) all other sums due by the Board other than those required to be debited to the Capital Account.

(2) The surplus, if any, remaining at the end of each financial year after making the payments referred to in sub-section (1), shall be credited to the Capital Account.

(3) The Committee shall have power to advance any sums standing to the credit of the General Revenue Account to meet current Capital Expenditure, and the amount of any sums so advanced shall be adjusted in the accounts of the year in which such sums are advanced.

Cf. Bom. IV of 1898, s. 78. The General Account to distinguish between items included in it.

91. The General Account shall distinguish between all items included in the General Account according as such items are in respect of—

- (1) lands vested in the Board and specified in Schedule C ;
- (2) lands vested in the Board and specified in Schedule D ;
- (3) lands situate within the limits specified in Schedule E ;
- (4) other lands and buildings vesting in the Board.

Cf. Bom. IV of 1898, s. 75. The cost of Management to be first debited to General Account and thereafter to be apportioned between Capital Account and General Account.

92. The net cost of management including—

- (a) the salaries and allowances of the Trustees, the Chief Officer, Acting Chief Officer, and the scheduled staff ;
- (b) the expenses in connection with the Land Acquisition Officer ;
- (c) pensions, gratuities and contributions by the Board to the Provident Fund ;
- (d) office expenses, cost of audit, expenses of loans, losses on investments and other incidental expenses ;

shall in the first instance be debited to the General Account and shall be apportioned at the close of each financial year between the Capital Account and the General Account in such proportion as the Committee shall determine.

Guarantee for fulfilment of Liabilities.

Cf. Bom. IV of 1898, s. 80. Procedure in event of default by Board in payment of interest or investment of sinking fund charges.

93. (1) If the Board fail—

- (a) to pay any interest in respect of any loan taken in pursuance of section 66 ;
- (b) to pay or to set aside and invest any sum as required by section 68 or section 76 ;

the Accountant-General of Bombay shall make such payment or shall set aside and invest such sum as ought to have been set aside and invested under section 68 or section 76 ; and the Commissioner shall forthwith pay from the Municipal Fund to the said Accountant-General a sum equivalent to the sum so paid or invested by him ; and Government may attach the rents and other income of the Board and thereupon the provisions of sub-sections (2) and (3) of section 99 of the Municipal Act, shall with all necessary modifications be deemed to apply.

(2) Whenever the Commissioner has made any payment to the Accountant-General under sub-section (1) Government shall reimburse the Corporation out of the rents and income attached under that sub-section, and if such rents and income prove insufficient for the purpose, the Corporation may with the previous sanction of Government levy any such special tax as may be sufficient to repay to the Municipal Fund the amount

withdrawn by the Commissioner as aforesaid. Such special tax shall be in addition to the taxes from time to time leviable under the Municipal Act.

94. If the Commissioner fails to make any payment as required by section 82 or section 93 Government may attach the Municipal funds or tax leviable by the Corporation and thereupon the provisions of sub-sections (2) and (3) of section 99 of the Municipal Act, shall with all modifications be deemed to apply and Government may further require the Corporation to levy a special tax as provided in the last preceding section.

95. All moneys paid by the Commissioner under sub-section (1) of section 93 and not reimbursed by the Local Government under sub-section (2) of that section and all moneys payable under sub-section (1) of section 93 and levied under section 94 shall constitute a charge upon the property of the Board.

Annual Estimates.

96. (1) The Chief Officer shall, at a special meeting to be held in the month of January in each year, lay before the Committee an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing, in such detail and form as the Committee shall from time to time direct.

(2) Such estimate shall make provision for the due fulfilment of all the liabilities of the Board and for the efficient administration of this Act. and shall be completed and printed, and a copy thereof sent by post, or otherwise, to each member of the Committee at least ten clear days prior to the meeting before which the estimate is to be laid.

97. The Committee shall consider the estimate so submitted to them and shall approve the same either unaltered or subject to such alterations as they shall think fit.

98. The estimate, as approved by the Committee, shall be submitted to the Board before the 15th February who may, if they think fit, at any time refer the whole or any part thereof back to the Committee for further consideration, or adopt the estimate or any revised estimate submitted to them, either as it stands or subject to such alteration as they deem expedient:

Provided that if the Board do not pass the estimate before the 31st of March, the estimate approved by the Committee shall be held to be in force till the estimate is finally adopted by the Board.

99. When this Act comes into force, the latest Budget estimate duly sanctioned in accordance with Bombay Act IV of 1898 shall be considered as having been sanctioned in accordance with this Act.

*Cf. Bom. IV
of 1898, s. 87.*

100. The Committee may, at any time during the year for which any such estimate has been sanctioned, cause a Committee may prepare supplementary estimate. supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and approved by the Committee and submitted to the Board for sanction in the same manner as if it were an original annual estimate.

*Cf. Bom. IV
of 1898, s. 88.*

101. (1) Save in cases of pressing emergency no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally sanctioned by the Board, or is included in an amount payable by the Board under a decree of the High Court of Bombay.

Sum not included in estimate may not be expended. (2) If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Committee to the Board, together with an explanation of the manner in which it is proposed by the Committee to cover such extra expenditure.

Audit of Accounts.

*Cf. Bom. IV
of 1898, s. 89.*

102. (1) There shall be a pre-audit and a post-audit. The pre-audit shall be conducted by the Chief Accountant under the supervision of the Chief Officer.

(2) Whenever any difference of opinion arises between the Chief Officer and the Chief Accountant as to whether any sum is or is not covered by some estimate which has been sanctioned under section 98 or 100, the same shall be reported by the Chief Officer who shall forward the opinion of the Chief Accountant together with his own to the Committee whose decision shall be final.

103. (1) The accounts of the receipts and expenditure of the Board shall be post-audited and examined by such Accounts to be audited and examined by auditors appointed by Government. auditor as shall, from time to time, be appointed by Government.

(2) For the purposes of such audit and examination, the auditor may, by summons in writing, require the production before him of all books, deeds, contracts, vouchers, and all other documents and papers which he may deem necessary and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers, to appear before him at any such audit and examination or adjournment thereof and to make and sign a declaration with respect to the same.

(3) The auditor shall forthwith report to the Committee any material impropriety or irregularity which he may observe in the expenditure or in the recovery of moneys due to the Board or in the accounts.

(4) Within fourteen days after the audit and examination of the accounts of each half-year shall have been completed the auditor shall

forward his report upon the accounts to the Committee who shall cause an abstract of the audited accounts to be published in the *Bombay Government Gazette*. The Committee shall submit a copy of the auditor's report and of the abstract of the accounts to Government and also forward a copy of the said report and of the abstract to the President of the Board.

(5) The auditor shall be paid by the Board such remuneration as Government may from time to time determine.

Banking and Investments.

104. (1) All moneys payable to the Board shall on receipt be forth-
All moneys to be de- with paid into the Bombay Head Office of the *Cf. Bom. IV*
posited in Imperial Bank of India or other prescribed Bank. *of 1898, s. 89A.*
 Imperial Bank of India to the credit of an account which shall be styled 'The Account of the Trustees for the Improvement of the City of Bombay'.

(2) Surplus moneys at the credit of the said account may, from time to time, be deposited by the Board at interest in the Imperial Bank of India, or in such other bank or banks and subject to such conditions as may from time to time, be prescribed by the Government or may be invested in any of the securities mentioned in section 20 of the Indian Trusts Act, II of 1882.

105. Payment of any sum due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque and not in any other way.
 Mode of payment.

106. All orders for making any deposit, investment or withdrawal of a deposit and disposal of any securities, and all cheques, shall be signed—
Orders for making deposit, etc., by whom to be signed.

- (1) by the Chief Officer and the Chief Accountant, and
- (2) in the event of the illness or occasional absence from Bombay of the Chief Officer or the Chief Accountant, as the case may be, by the Chairman in his place.

CHAPTER VII.

OF THE OFFICERS AND SERVANTS OF THE BOARD.

Strength of Staff.

107. The Committee shall, from time to time, prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall set forth the amount and nature of the salaries, fees and allowances which the Committee sanction for each such officer or servant. *Cf. Bom. IV of 1898, s. 90.*
Schedule of officers and servants of the Board.

Provided always that—

- (a) artisans, porters and labourers and muccadams of porters and labourers and

(b) persons in temporary employment other than those who are in receipt of a monthly pay exceeding Rs. 150 or other than those who are engaged for a definite period of six months,

shall not be deemed to be officers and servants within the meaning of this section or of section 108 (except clauses (2) and (3) thereof) or section 109.

Cf. Bom. IV of 1898, ss. 91, 94 (1) (b); Bom. III of 1888, s. 81 (1) (b). The Committee to frame regulations for regulating grant of leave, etc.

108. The Committee may, with the approval of the Board, from time to time make regulations for—

(1) regulating the grant of leave of absence, leave allowances and acting and other allowances and the conditions of service, discipline and conduct of the officers and servants of the Board ;

(2) determining the conditions under which the officers and servants of the Board or any of them, shall on retirement or discharge or death receive pensions or gratuities or compassionate allowances and under which the widows or other relations dependent on any of the said officers and servants shall after their death receive compassionate allowances or gratuities, and the amounts of such pensions, gratuities or compassionate allowances ;

(3) authorising the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act, or to such Provident Fund, if any, as may be established by the Board for the benefit of such officers and servants ;

(4) the guidance of persons employed by them under this Act.

Powers of Appointments, etc.

Cf. Bom. IV of 1898, s. 92 and Bom. III of 1888, s. 74 (d). 109. (1) The Engineer, Estate Agent, Chief Accountant and Land Manager shall be appointed by the Board and shall be removable at any time from office for misconduct or for neglect of, or incapacity for the duties of the office on the votes of not less than $\frac{2}{3}$ two-thirds of the Trustees present at a meeting of the Board and voting in favour of a proposition in this behalf.

(2) Subject to the provisions of this section and of the regulations and of the schedule for the time being in force framed by the Committee under section 107 the power of appointing, promoting, suspending, dismissing, fining, reducing, discharging, accepting the resignation of, or granting leave to the officers and servants of the Board shall be exercised by the Chief Officer in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Committee.

(3) The power of dispensing with the services of any officer or servant of the Board having a lien on a permanent post otherwise than by reason of such officer's or servant's own misconduct, or of permitting any officer or any servant to retire on a pension, gratuity, or compassionate

allowance, shall, subject to the aforesaid provisions, be excised by the Committees alone.

(f) In this section the word " Engineer " means the engineer of the highest grade on the Board's ordinary staff.

109-A. " Any officer or servant who has been in the service of the Board constituted under Act IV of 1898 for a period of not less than five years before the date on which this Act comes into force shall be entitled within a period of two years after such date to go on leave preparatory to retirement, enjoy all leave due to him under the rules in force at the date of the passing of this Act, draw his share of the Trustees' contribution to the Provident Fund and any gratuity which may be due to him under the Rules dated the 10th January 1921. "

CHAPTER VIII.

BY-LAWS.

The Committee may make by-laws. 110. The Committee may, from time to time, make by-laws— *Cf. Bom. IV of 1898, s. 94.*

- (a) for regulating the delegation of the ~~the~~ their powers and duties of the Board to sub-committees ;
- (b) for the management and use of the lands vested in the Board under sub-sections (2) and (3) of section 77 ;
- (c) ~~for fixing the maximum amount of fees payable to any Trustee under section 18 ;~~
- (c) (d) for the management, use and regulation of dwellings constructed for the poorer or working classes under any scheme ;
- (d) (e) generally for carrying out the purposes of this Act.

111. (1) No by-law or alteration or revocation of a by-law shall have effect until the same shall have been approved by the Board and Government, and such approval shall have been published in the *Bombay Government Gazette*, and no by-law or alteration or revocation of a by-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette. *Cf. Bom. IV of 1898, s. 95.*

(2) It shall be lawful for Government at the request of the Board at any time by notification in the said Gazette to cancel any by-law or regulation made and published under the provisions of this and of the last two preceding sections.

112. The Committee may, in the by-laws made under section 110, prescribe such penalties as they shall deem fit for the infringement of the same. Provided that no penalty for any one infringement of a by-law shall exceed one hundred rupees, nor, in case of a continuing infringement shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board Committee to the person guilty of such infringement. *Cf. Bom. IV of 1898, s. 96.*

113. The Committee shall cause the said by-laws to be printed in the English, Marathi, Gujarati and Urdu languages, and to be hung up at convenient places. *Cf. Bom. IV of 1898, s. 97.*

By-laws to be printed.

Approval and publication of the by-laws.

Penalty for breach of by-laws.

CHAPTER IX.

PENALTIES.

Cf. Bom. IV of 1898, s. 98. 114. Any person who being a Trustee, or a member of the Committee or an officer or servant of the Board, shall acquire,

For being interested in contracts with the Board. directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the Board, shall be deemed to have committed the offence

XLV. of 1860. made punishable by section 168 of the Indian Penal Code :

Provided that nothing in this section shall apply to a person who is declared not to be disqualified or to be deemed to have a share or interest in any contract or employment by sub-section (2) of section 17.

Cf. Bom. IV of 1898, s. 99. 115. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian

XLV of 1860. For obtaining illegal gratification. Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain, from any person,

for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act or for showing or forbearing, to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice, to any person, with the Board or with any public servant as such, or with Government shall be liable to

XLV. of 1863. the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

Cf. Bom. IV of 1898, s. 100. 116. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books,

For refusing or neglecting to appear before an auditor of accounts, etc. deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required so to do by any auditor of

accounts under sub-section (2) of section 103 shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

Cf. Bom. IV of 1898, s. 101. 117. All offences against this Act or against any by-law made under section 110 shall be cognizable by a Presidency

Cognizance of offences under this Act. Magistrate.

All fines and damages recovered from any offender shall be paid to the Board.

CHAPTER X.

MISCELLANEOUS.

Cf. Bom. IV of 1898, s. 102. 118. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the

Provision when day appointed for any purpose is a Sunday or public holiday. business appointed to be done on such day shall be done on the next day after such Sunday or public holiday.

Measurement of distances. 119. The distances mentioned in this Act shall be measured in a straight line on a horizontal plane. *Cf. Bom. IV of 1898, s. 103.*

Limitation on suits. 120. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding. *Cf. Bom. IV of 1898, s. 104.*

Repeal of Act XIV of 1901. 121. Act XIV of 1904 (An Act to supplement certain provisions of the City of Bombay Improvement Act, 1898) is hereby repealed :— *Bom. IV of 1898.*

Provided that such repeal shall not affect any appeal made to the High Court from any award or any part of the award of the Tribunal of Appeal under sub-section (11) of section 48 of the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation, but every such appeal shall, so far as may be, be decided by the High Court in accordance with the provisions of the City of Bombay Improvement Act, 1898, as supplemented by Act XIV of 1904 as if this Act had not been passed. *Bom. IV of 1898.*

SCHEDULE A.

(See section 61.)

Portions of the Land Acquisition Act, 1894, regulating the acquisition of lands under this Act.

- Part I—Preliminary except clauses (e) and (f) of section 3.
- Part II—Acquisition, except sub-section (1) of section 4, section 6 and sub-section (2) of section 17.
- Part III—Reference to Courts and Procedure thereon, except sub-section(2) of section 23 and clauses (6)and (7) of section 24.
- Part IV—Apportionment of compensation.
- Part V—Payment.
- Part VI—Temporary occupation of land.
- Part VIII-- Miscellaneous.

SCHEDULE AA.

(See section 61.)

Scale of Additional Compensation.

Scale of Additional Compensation.

Market Value.	Rate of additional compensation.
Up to and including Rs. 10,000	6 per cent. = Rs. 600.
Above Rs. 10,000 and not exceeding Rs. 50,000	6 per cent. on the first Rs. 10,000 and 4 per cent. on the balance.
Above Rs. 50,000 and not exceeding Rs. 1,00,000.	6 per cent. on the first Rs. 10,000 and 3 per cent. on the balance provided that in no case shall the total amount be less than Rs. 2,200.
Above Rs. 1,00,000	6 per cent. on the first Rs. 10,000 and 2½ per cent. on the balance provided that in no case shall the total amount be less than Rs. 3,300.

SCHEDULE B.

(See section 71.)

FORM OF DEBENTURE.

THE TRUSTEES FOR THE IMPROVEMENT OF THE
CITY OF BOMBAY.

The 19
By virtue of "The City of Bombay Improvement Trust Transfer Act,
" we, the Trustees for the Improvement of the City of Bombay,
in consideration of the sum of Rupees paid to us by A. B.
of , promise to pay to the said or order
the said sum of Rupees after the date hereof, together with
interest at the rate of per centum per annum, payable half-
yearly on the day of and the day of

Given under our common seal this day of 19 .

Common Seal.

(Signature of two members of the
Committee and the Chief Officer).

SCHEDULE C.

(See section 77.)

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Ra.	Ra.
1 (a)	..	69 Part Lower Parcel Division.	<p style="text-align: center;">THE FLATS.</p> <p style="text-align: center;">(Deposited Plan "A")</p> Bounded on the North partly by Plot No. K of the Flats, partly by the land belonging to the B.B. & C.L. Railway Company bearing Cadastral Survey No. 43 and partly by private property bearing Cadastral Survey No. 68. On the South by Haines Road. On the East by private properties bearing Cadastral Survey Nos. 68, 65, 67 and on the West partly by Tuls Pipe Road, partly by Plot No. K of the Flats and partly by the land belonging to the B.B. & C.L. Railway Company bearing Cadastral Survey No. 43.	73,811	..	..

SCHEDULE C—contd.

(See section 77)—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Rs.	Rs.
1 (b) and 1 (d)	..	383 Part Tardao Division.	(Deposited Plan " B ".) Bounded on the North partly by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 383 (part) and partly by Clerk Road, on the South by private properties bearing Cadastral Survey Nos. 408, 403, 398, 371 and 372 and 383 (part). On the East by the Municipal main drain bearing Cadastral Survey No. 389 and on the West by the private properties bearing Cadastral Survey Nos. 399 to 409, 398, 371, 372 and 383 (part).	405,447	..	..	..
1 (c)	..	412 Tardao Division.	(Deposited Plan " C ".) Bounded on the North by Clerk Road; on the South by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 413. On the East partly by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 414 (part) and partly by the land acquired by Government for the B.B. & C.L. Railway Company and on the West by Municipal private Road bearing Cadastral Survey No. 390 beyond which is the land belonging to the Bombay Municipality bearing Cadastral Survey No. 411. Excluding the Municipal Road for Bubbish carts.	19,815	..	..	..

Appendices
SCHEDULE C—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount.
			<i>THE FLATS—contd.</i>	Sq. yds.	Sq. yds.	Rs.	Rs.
			<i>(Deposited Plan D.)</i>				
1 (e)	..	1030 Lower Parel Division.	Bounded in the North by the Worli Sluice Road, on the South and West by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 286 and on the East by the private property bearing Cadastral Survey No. 1031.	8,409	..	10,511	..
			<i>(Deposited Plan E.)</i>				
1 (f)	..	268 Lower Parel Division.	Bounded on the North by private properties bearing Cadastral Survey Nos. 473, 433, 436, 437 and 438; on the South by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 269; on the East by private properties bearing Cadastral Survey Nos. 270, 267, 268, 439, 438, 437, 436, 433 and 472 and on the West by the Worli Low Level Drainage Channel.	25,244	..	19,188	..
			<i>(Deposited Plan F.)</i>				
1 (g)	..	144 (Part) and 71 part Lower Parel Division.	Bounded on the North by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 284 (part of) on the South by Plot 1(i) of the Flats; on the East partly by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 71 (part) and partly by private properties bearing Cadastral Survey Nos. 144, 145 and on the West by Plot 1(i) of the Flats.	4,287	..	2,679	..
1 (h)	..	71 (Part) Lower Parel Division.	Bounded on the North by private properties bearing Cadastral Survey Nos. 106 and 107; on the South by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 71 (part). On the East by the Tulei Pipe Road bearing Cadastral	4,104	..	13,338	..

Appendices
SCHEDULE C—*contd.*

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Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount
			<p>THE FLATS—<i>contd.</i> (<i>Deposited Plan F.</i>) —<i>contd.</i></p> <p>Survey No. 70 and on the West by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 71 (part).</p> <p>(<i>Deposited Plan F.</i>) <i>Eastern portion.</i></p>	Sq. yds.	Sq. yds.	Rs.	Rs.
1 (i)	..	71 (Part) Lower Parcel Division.	<p>Bounded on the North partly by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 284 (part) partly by Plot 1 (g) of the Flats and partly by private properties bearing Cadastral Survey Nos. 143, 142 and 140 on the South by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 71 (part) on the East partly by private properties bearing Cadastral Survey Nos. 107, 140, 141, 142, 143 and partly by Plot 1 (g) of the Flats and on the West by the Low Level Drainage Channel.</p> <p>(<i>Deposited Plan F.</i>) <i>Western portion.</i></p>	..	..	..	..
1 (i)	..	110 (Part) Lower Parcel Division.	<p>Bounded on the North by private property bearing Cadastral Survey No. 134 and partly by private properties bearing Cadastral Survey Nos. 137, 136, 139 and partly by the Low Level Drainage Channel; on the South partly by the land belonging to the Bombay Municipality bearing Cadastral Survey No. 115 partly by the Low Level Drainage Channel and partly by private properties bearing Cadastral Survey Nos. 137, 138, 139 and 134; on the East by the Low Level Drainage Channel and on the West partly by land belonging to the</p>	42,062	..	42,062	..

Appendices
SCHEDULE C—*contd.*

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount.
			<p>THE FLATS—<i>contd.</i> (Deposited Plan F.) Western Portion—<i>contd.</i> Bombay Municipality bearing Cadastral Survey No. 110 and partly by private properties bearing Cadastral Survey Nos. 137, 139, 136 and 134.</p>	Sq. yds.	Sq. yds.	Rs.	Rs.
1 (j)	..	46 Lower Parel Division.	<p>Bounded in the North by the Municipal Storm Water Reservoir; on the South partly by Clerk Road and partly by land belonging to the Bombay Municipality bearing Cadastral Survey No. 45; on the East partly by land belonging to the Bombay Municipality bearing Cadastral Survey No. 45 partly by land acquired by Government for the B. B. & C. I. Railway Company bearing Cadastral Survey No. 46 partly by the Junction Road and partly by the Low Level Drainage Channel beyond which is Haines Road and on the West by the Municipal old drain.</p>	7,13,653	..	..	..
1 (k)	..	69 (Part) Lower Parel Division.	<p>(Deposited Plan A.) Bounded on the North by the land belonging to the B. B. & C. I. Railway Company bearing Cadastral Survey No. 43; on the South and East by Plot 1 (a) of the Flats and on the West by Tulsei Pipe Line Road.</p>	10,162	..	33,026	..
			Total ..	..	13,06,994	..	1,20,799
			<p>THE KENNEDY SEA FACE. (Deposited Plan H.)</p>				
2	..	Fort 7	<p>Bounded on the North, South and West by the foreshore of Back Bay and on the East by a public footpath.</p>	4,447	..	..	..
			Total ..	..	4,447	..	..

Appendices
SCHEDULE C—*con'd.*

1019

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey	Total area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Ra.	Ra.
3	..	4 and 13	<p style="text-align: center;">THE COOPERAGE PLOT. (Deposited Plan I.)</p> <p>Bounded on the North by the Bandstand Circle, on the South by Wodehouse Road; on the East by Cooperage Road and on the West by Queens Parade Road but excluding 38 square yards on which stands the statue of the late Mr. Justice Banade.</p>	58,267	..	..	..
4 A	..	718 to 725 1416 to 1421 1429 to 1433 and 1435.	<p style="text-align: center;">THE MARINE LINES ESTATE. (Deposited Plan J.)</p> <p>Bounded on the North by the Southside of the compound of Government Bungalow No. 41. On the East partly by the West boundary of Plot 'C' reserved for Military purposes by Government Resolution No. 2 C.W. 4, dated 3rd January 1881, and partly by the West boundary of Plot 4B (Marine Lines Maidan). On the South by a portion of the North boundary of Plot No. 4B (Marine Lines Maidan) and on the West by the Marine Lines Road (Marine Street, but excluding the two roads giving access to the Maidan from the Marine Lines Road.</p>	32,795	..	3,27,950	..
4 B	..	709	<p style="text-align: center;">THE MARINE LINES MAIDAN. (Deposited Plan J.)</p> <p>Bounded on the North partly by the South boundary of Plot 'C' reserved for Military purposes by Government Resolution No. 2 C.W. 4, dated 3rd January 1881 and partly by Cadastral Survey No. 725 of the Marine Lines Estate. On the East by the Esplanade and Mayo Roads. On the South by</p>	91,919	..	9,19,190	..

Appendices
SCHEDULE C—*cont'd.*

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Rs.	Rs.
			<p>THE MARINE LINES MAIDAN—<i>cont'd.</i></p> <p>(Deposited Plan J)—<i>cont'd.</i></p> <p>Church Gate Street on the west partly by Marine Lines Road (Marine Street) and partly by Plot 4A (Marine Lines Estate) but excluding the sites of the Gokhale and Montague statues.</p> <p>THE WILLINGTON LINES PLOT.</p> <p>(Deposited Plan K.)</p>				
5	..	14 to 16 and 18 to 29.	Bounded on the North by Mayo Road; on the South-East by Wodehouse Road; on the East by Esplanade Road, and on the West by the Cooperage Road, but <i>excluding</i> the site occupied by the Admiral's Bungalow.	44,038	..	4,40,380	..
			<p>THE WODEHOUSE ROAD PLOT.</p> <p>(Deposited Plan L.)</p>				
6 (a)	..	440 to 444	Bounded on the North-West by Wodehouse Road; on the South-East by Colaba Causeway, and on the South and South-West by Convent Street.	9,494	..	..	..
6 (b)	..	432, 436 to 439 and 1-439, 440.	Bounded on the North-West by Wodehouse Road; on the North and North-East by Convent Street; on the South-East by Colaba Causeway, and on the South-West by Ormiston Street, but <i>excluding</i> the sites occupied by	13,332	..	..	..
			<p>(1) The Elphinstone College Students' Quarters,</p> <p>(2) The Telang Memorial Quarters,</p> <p>(3) The Wesleyan Church and School under a lease dated 4th March 1895,</p>				

Appendices
SCHEDULE C—*contd.*

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Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	sq. yds.	Rs.	Rs.
			<p>THE WODEHOUSE ROAD PLOT—<i>contd.</i></p> <p>(Deposited Plan L) —<i>contd.</i></p> <p>(4) The Wodehouse Road Police Accommodation Buildings, and (5) The temple (Cadastral Survey No. 434).</p>				
6(c)	..	425 to 428	<p>Bounded on the North-West and West by Wodehouse Road; on the North-East by Ormiston Street; on the South-East partly by the property of the Bombay Municipality and partly by the property of the Bombay Electric Supply and Tramways Company, Limited, and on the South by the B. B. & C. I. and G. I. P. Railways sidings.</p> <p>Total Wodehouse Road Plot.</p>	16,574	..	..	..
			<p>THE HORNBY ROAD PLOT.</p> <p>(Deposited Plan M.)</p>				
7(n)	..	699	<p>Bounded on the North-East, South-East and South-West by property in the occupation of the Standard Life Assurance Company and on the North-West by Bastion Road.</p>	116	..	..	..
7(b)	..	700 and 701	<p>Bounded on the North-East by premises known as the Fort Reading Room; on the South-East by Hornby Road; on the South-West by property in the occupation of the Standard Life Assurance Company, and on the North-West by Bastion Road.</p>	1,339	..	..	..
7(c)	..	740,741	<p>Bounded on the North-East by the Parsi Lying in Hospital; on the South-East by Bastion Road; on the South-West by Cathedral Girls' School, and on the North-West by Prescott Road.</p>	1,881	..	..	..

SCHEDULE C—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Rs.	Rs.
			THE HORNBY ROAD PLOT—contd.				
			(Deposited Plan M) —contd.				
7(d)	..	744, 745	Bounded on the North-East by Outram Road; on the South-East by Hornby Road; on the South-West by property in the occupation of Messrs. Whiteaway Laidlaw and Company, Limited, and on the North-West by Bastion Road.	2,648	..	..	..
7(e)	..	746 to 749, 752, 753, 757 to 760, 1397 to 1399, 1407 to 1410	Bounded on the North-East by Ravelin Street; on the South-East by Hornby Road; on the South-West by Outram Road, and on the North-West by Murzban Road, but <i>excluding</i> the sites of the Cathedral High School for Boys, the Government Stores and Bastion Road (part of) and Home Street (part of) and Wallace Street.	26,124	..	..	..
7(f)	..	1406	Bounded on the North-East by the site of the Scottish Free Church; on the South-East by Murzban Road; on the South-West by Ravelin Street, and on the North-West by Waudby Road.	2,971	..	..	..
7(g)	..	1402 and 1404	Bounded on the North-West by Murzban Road; on the South-East by the sites of the Elphinstone Cricket Club Quarters and the Masonic Hall, and on the South by Ravelin Street.	762	..	..	..
7(h)	..	1389 and 1390	Bounded on the North-West by Murzban Road; on the South-East by Hornby Road; on the South-West by private property bearing Cadastral Survey No. 1391, and on the West by Bastion Road.	3,257	..	..	..

SCHEDULE C—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total area.	Value.	
						Amount.	Total Amount.
				Sq yds.	Sq. yds.	Rs.	Rs.
7(i)	..	1,385	<p>THE HORNEY ROAD PLOT—contd. (Deposited Plan M) —contd.</p> <p>Bounded on the North-East by Cruickshank Road; on the East by Hornby Road; on the South-East by Murzben Road; on the South-West by private property bearing Cadastral Survey No. 1386, and on the North-West by Waudby Road.</p> <p>Total, The Hornby Road Plot.</p>	2,521	..	..	..
8	..	1,492	<p>TRIANGULAR PLOT SOUTH OF CRAWFORD MARKET. (Deposited Plan N.)</p> <p>Bounded on the North by Market Road; on the West by Hornby Road, and on the South-East by Falton Road.</p> <p>Total ..</p>	7,707	..	1,54,140	..
9	..	1,451	<p>PLOT NORTH OF MUNICIPAL OFFICES. (Deposited Plan O)</p> <p>Bounded on the North by Gymnasium Road; on the South by Council Road; on the East by Hornby Road, and on the West by the Head Quarters of the Bombay Volunteer Rifles.</p> <p>Total ..</p>	6,811	..	2,04,330	..
10(e) 4(b)	..	380 1/380 to 11,380 393, 394, 395, 430, 1/395 to 4/395.	<p>THE CHAUPATI WEST ESTATE. (Deposited Plan P.)</p> <p>(a) and (b) Bounded on the North partly by a public passage leading to Gibb's Road and partly by land belonging to the Municipal Corporation bearing Cadastral Survey No. 437, on the South partly by the Sirri Road, partly by the Old Body Guard Lines and partly by private property bearing Cadastral Survey Nos. 376 and 382, on the East partly by Babulnath Road and partly by the Old Body Guard Lines, and on the West by an irregular line extending from where the Public passage leading to Gibb's Road meets the</p>	..	6,811	..	2,04,330

SCHEDULE C—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Rs.	Rs.
			Gibb's Road to the Sirri Road beyond which are situate properties bearing Cadastral Survey Nos. 361, 374 and 375 but excluding Dadysett Road.				
			(a) Land forming the Hill Slope.	49,749	..	..	..
			(b) Building land ..	33,451	..	3,34,510	..
10(c)	..	398 to 404, 426 to 429	Bounded on the North by Babulnath 1st Cross Road, on the South by Queen's Road Chaupati, on the West by Babulnath Road and on the East by Harvey Road, but excluding Babulnath 2nd and 3rd Cross Roads.	21,615	..	2,16,150	..
10(d)	..	425	Bounded on the North and West by Babulnath Road, on the South by Babulnath 1st Cross Road and on the East by private property bearing Cadastral Survey No. 424.	232	..	2,320	..
10(e)	..	408, 417 to 420	Bounded on the North by a 15 feet service passage bearing Cadastral Survey No. 413, on the South partly by Chaupati Road and partly by private property bearing Cadastral Survey No. 407, on the East by private properties bearing Cadastral Survey Nos. 407 and 409 and on the West by Babulnath Road.	6,232	..	62,320	..
			Total, the Chaupati Estate.	..	1,11,279	..	6,15,800
			CHAUPATI EAST ESTATE. (Near Charni Road Level) (Crossings.) (Deposited Plan Q.)				
11	..	1510, 1512, 1513, 1571.	Bounded on the North by a low level road and beyond by French Bridge, on the North-West by a passage and beyond by private property bearing Cadastral Survey No. 1514, on the East and South-East by the B.E. & C. I. Railway	4,657	..	46,570	..

SCHEDULE C—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total area.	Value.	
						Amount.	Total Amount.
						Rs.	Rs.
			Company's land, on the West by private properties bearing Cadastral Survey Nos. 1570, 1517, 1516, 1515 and 1514 and on the South-West by Queen's Road, Chauthi, but excluding the approach road to Sandhurst Bridge. Total ..	Sq. yds.	Sq. yds.	Rs.	Rs.
			THE PAREL ESTATE (Deposited Plan R.)		4,657	..	46,570
12 (A)	..	74 (part), 322, 323	Bounded on the North partly by Bhoiwada Cross Road and partly by the Bacteriological Laboratory buildings and land bearing Cadastral Survey No. 330, on the West partly by acquired land of the Board bearing Cadastral Survey No. 74 (part) and partly by the King Edward Memorial Hospital, on the South partly by the King Edward Memorial Hospital, partly by Parel Back Road, partly by private properties bearing Cadastral Survey Nos. 319 to 321, and partly by a passage bearing Cadastral Survey No. 324, on the East partly by the Bacteriological Laboratory bearing Cadastral Survey No. 330 and partly by private properties bearing Cadastral Survey Nos. 297 to 299, 302 to 304, 314, 316 to 319 and 324 and on the North-East by acquired land of the Board bearing Cadastral Survey No. 74 (part of).	1,02,873			
12 (B)	..	74 (part)	Bounded on the North-West by the Board's land bearing Cadastral Survey No. 74 (part of) and agreed to be sold to Merwanji Dadabhoj Chamarhaugwala, on the South by Dadabhoj Chamarhaugwala Street and on the East by Hospital Avenue.	790	..	..	..

SCHEDULE C—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Rs.	Rs.
			THE PAREL ESTATE —contd. (Deposited Plan R) —contd.				
12 (C)	..	74 (part)	Bounded on the North by Dadabhoy Chamarbaugwala Street, on the East by Hospital Avenue and on the South-West by the Board's land bearing Cadastral Survey No 74 (part of) and agreed to be sold to Merwanji Dadabhoy Chamarbaugwala.	115	..	..	..
12 (D)	..	334	Bounded on the North by private property bearing Cadastral Survey No. 332, on the South by private properties bearing Cadastral Survey Nos. 335, 336 and 337, on the East by a public passage, and on the West by private properties bearing Cadastral Survey Nos. 329 and 336.	403	1,308	..	..
12 (E)	..	394	Bounded on the North by a passage bearing Cadastral Survey No. 324, on the South by private property bearing Cadastral Survey No 395, on the East by private property bearing Cadastral Survey No. 400 and on the West partly by a passage bearing Cadastral Survey No. 324 and partly by private property bearing Cadastral Survey No. 395. (Deposited Plan S).	151	..	..	..
12 (F)	..	408 (part of)	Bounded on the North-East by the Bacteriological Laboratory land bearing Cadastral Survey No. 408 (part of), on the South by private property bearing Cadastral Survey No. 414, on the East by Parel Tank Road and on the West by private properties bearing Cadastral Survey Nos. 404 to 413.	5,131	5,232	..	..

SCHEDULE C—concl'd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Rs.	Rs.
12 (G)	..	245	<p>THE PARCEL ESTATE —concl'd.</p> <p>(Deposited Plan S) —concl'd.</p> <p>Bounded on the North partly by Parcel Village Road and partly by private properties bearing Cadastral Survey Nos. 246 and 241, on the South by private property bearing Cadastral Survey No. 244, on the East by private properties bearing Cadastral Survey Nos. 241, 242 and 244, and on the West by private property bearing Cadastral Survey No. 246.</p>	3,130	..	..	..
12 (H)	..	681	<p>(Deposited Plan T.)</p> <p>Bounded on the North-West by a passage bearing Cadastral Survey No. 658, on the South by Parcel Tank Road, on the North-East by private properties bearing Cadastral Survey Nos. 680, 677, 676 and 675.</p>	1,144	3,274	..	..
			Total, The Parcel Estate.	..	112,737	..	3,38,211

Appendices
SCHEDULE D.
(See section 77.)

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastra Survey.	Total Area,	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Rs.	Rs.
			THE CONNAUGHT ROAD ESTATE. <i>(Deposited Plan A.)</i> Ward E.				
1 (A)	7463 (1 to 4) 7464 (1 and 2) 7465 (1 to 3) 7466 (1 to 3) Nil. 7462 (5) 7462 (4) Nil.	700 to 705 706 695 696 699	Plot bounded on the North by property belonging to the New Great Eastern Spinning and Weaving Company bearing Cadastral Survey No. 707. On the South partly by Sussex Road, partly by a Police Accommodation Scheme bearing Cadastral Survey No. 697 and partly by private property bearing Cadastral Survey No. 698. On the East by Cork Road and on the West partly by Parel Road and partly by the aforesaid Police Accommodation Scheme, but omitting the site of Ulster Road.	9,495	9,495	51,155	51,155
(B)	Nil. 7448 (4) 7446 (2 to 4)	639 690 to 693	Plot bounded on the North by Sussex Road, on the South by private properties bearing Cadastral Survey Nos. 682 to 687, on the East by private property bearing Cadastral Survey No. 688 and on the West by private properties bearing Cadastral Survey Nos. 678 and 679.	4,267	..	25,602	..
1 (19)	7458	672 Part ..	Bounded on the North and West by a public passage, on the East by plot C bearing Cadastral Survey No. 672 (part of) and on the South by Sussex Road.	96	4,363	480	26,082
1 (C)	7449 (1 to 11) 7450 and 7451 (1 to 10)	672 (part of)	The Maratha Plague Hospital plot bounded on the North partly by a public passage and beyond by private properties bearing Cadastral Survey	13,091	13,091	65,455	65,455

SCHEDULE D—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadas-Survey.	Total Area.	Value.	
						Amount.	Total Amount.
				Sq. yds.	Sq. yds.	Rs.	Rs.
2 (B)	4184	1599	WEST AGRIPADA ESTATE—contd. (Deposited Plan B.) Ward E. Bounded on the North by private property bearing Cadastral Survey No. 1884, on the South by property of the B.E. & C.L. Railway Company bearing Cadastral Survey No. 1596, on the East by Lamington Road, and on the West by a passage, but excluding the site of Jetha Street.	2,794	..	8,382	..
(C)	1406 (2)	1899 part 1898 part 1897 part	Bounded on the North by portion of an old Water Course bearing Cadastral Survey No. 1897 (part of) and beyond by property of the Indian Manufacturing Company bearing Cadastral Survey No. 1896, on the South by private property bearing Cadastral Survey No. 1900, on the East by Lamington Road and on the West partly by Arthur Road and partly by private property bearing Cadastral Survey No. 1888 but excluding the site of Police Accommodation Scheme No. 70.	4,173	6,967	15,148	23,530
2 (D)	N4.	N4.	Land reserved for widening of Lamington Road on its East and West sides.	5,366	5,366	..	..
			Total ..	..	225,104	..	6,62,113
			Deduct area resumed by the Municipality on 20th June 1906 out of Cadastral Survey No. 1877.	..	750	..	2,250
			Total, West Agripada Estate.	..	224,444	..	6,59,863

SCHEDULE D—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount
				Sq. yds.	Sq. yds.	Rs.	Es.
THE CENTRAL AGRIPADA ESTATE.							
<i>(Deposited Plan C.)</i>							
<i>Ward E.</i>							
3 (A)	NW.	1694 part of	Bounded on the North and North-West by Church property leased to the Bombay Diocesan Council and bearing Cadastral Survey No. 1853, on the South partly by Sankil Street and partly by a Municipal School bearing Cadastral Survey No. 1661, and partly by the Salvation Army Head Quarters bearing Cadastral Survey No. 1695.	1,476	..	5,887	..
B)	4067 part	1664 and parts of 1692 1691	Rounded on the North partly by Sankil Street and partly by a Service passage bearing Cadastral Survey No. 1663, on the South partly by private property bearing Cadastral Survey No. 1665 and partly by Ghelabhoj Cross Lane, on the East by private properties bearing Cadastral Survey Nos. 1689 to 1692 and on the West partly by Morland Road and partly by private properties bearing Cadastral Survey Nos. 1665 and 1693.	2,879	4,355	10,336	16,223
	NW.	1663		..	4,355	..	16,293
Total, Central Agripada Estate.				..	4,355	..	16,293
THE EAST AGRIPADA ESTATE.							
<i>(Deposited Plan D.)</i>							
<i>Ward E.</i>							
4 (A)	7416 (1 to 6) 7413 (1 & 2) 7414 (1 & 2) 7411 (1 & 2) 7415 (1 to 3) 7412 (1 & 2)	1943 1961 to 1965	Plot bounded on the North by the Board's Mahar Chawis bearing Cadastral Survey No. 1928, on the West and South-West by Killedar Street, on the East by Pais St. ect.	35,536	..	4,28,193	..

SCHEDULE D—contd.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
				Sq. yds.		Sq. yds.	Amount.	Total Amount.
						Rs.	Rs.
4 (B)	Nil.	1840 part of	THE EAST AGRIPADA ESTATE —contd. (Deposited Plan D) Ward E —contd. Plot bounded on the North partly by land of the Board bearing Cadastral Survey No. 1840 (part of) and partly by private properties bearing Cadastral Survey Nos. 1827 to 1835 on the South by Tank Pakhad Street, on the East partly by a service passage, partly by private properties bearing Cadastral Survey Nos. 1923, 1924, 1839 and 1827 and partly by the Board's land bearing Cadastral Survey Nos. 1840 (part of) and on the West by Milk Street.	23,268	58,804	1,16,433	5,44,628
	4373 (1 & 2)	1842					
	4374	1843					
	4375	1922					
	4354 (1 to 3)						
4353 (1 & 2)							
4 (C)	4563 (1 2, 2A, 2B and 2 (C).	1844	Plot bounded on the North by Tank Pakhad Street, on the South by the Board's Plot No. 6 leased to Bai Hoor-baj and a Minor and bearing Cadastral Survey No. 1815, on the East by Water Street and on the West by the Board's Plot No. 5 leased to the Municipality and bearing Cadastral Survey No. 1810 (part of).	7,139	7,139	94,484	94,484

SCHEDULE D—contd.

(See section 77.)

Showing Lands at Matunga (Deposited Plan E.)

Plot No.	* F * Ward Number.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount.
				Sq. yds.		Rs.	
1	6643p, 6642p	10	Lands at Matunga	1,006		755	
2	6658 (1) p	"	Do.	36		83	
3	6660p, 6667p	"	Do.	866		812	
4	6643 (1) p, 6791 (1) p, 6789p, 6778p, 6767p.	"	Do.	7,984		5,988	
5	6675p, 6680p	"	Do.	268		201	
6	Do.	"	Do.	1,226		916	
7	Do.	"	Do.	2,730		2,047	
8	6826p	"	Do.	104		75	
9	6830p, 7189p	"	Do.	1,105		829	
10	7174p, 7172p, 7171 (1) p, 7234p.	"	Do.	5,240		3,930	
11	7235 (1) p, 7235 (2) p, 7235 (3) p.	"	Do.	572		429	
12	7242p, 7236p, 7237p, 7250p, 7249p.	"	Do.	2,319		1,762	
13	7238p, 7289p	"	Do.	300		225	
14	7239p, 7251p, 7252p, 7240p.	"	Do.	239		179	
15	7252p, 7254p, 7255p	"	Do.	480		360	
16	7188p, 7121 (4) p	"	Do.	4,196		6,293	
17	7121 (4) p, 7123, 7124p	"	Do.	4,672		7,008	
18	7124p, 7109, 7111p	"	Do.	2,720		2,040	
19	7116p to 7120p	"	Do.	4,535		3,401	
20	7113p	"	Do.	565		424	
21	6835 (4) p	"	Do.	92		69	
22	6835 (6) p, 6835 (5) p, 7053p, 7032p, 7049p.	"	Do.	11,154		16,731	
23	7061p	"	Do.	409		614	
24	7063p, 7061 (6)p, 7061 (5) p, 7067p.	"	Do.	3,401		5,101	
25	7064p	"	Do.	170		255	
26	7061 (1) p, 7061 (2) p, 7061 (3) p, 7062 (2) p, 7062 (1) p.	"	Do.	2,916		4,375	
	7373p, 7774p	"	Do.	617		925	
28	7384 (4) p	"	Do.	344		430	
29	7384 (4)p, 7386 (2) p, 7388 (2) p.	"	Do.	1,708		2,136	
30	7388 (2) p	"	Do.	90		68	

SCHEDULE 'D'—concl'd.

Plot No.	'F' Ward Number.	Cadastral Survey No.	Description.	Area Cadastral Survey.	Total Area.	Value.	
						Amount.	Total Amount.
				Sq. yds.		Rs.	
31	7393p, 7397p ...	10	Lands at Matunga	1,850		1,387	
32	7397p ..	"	Do.	455		455	
33	7694p ..	"	Do.	37		46	
34	7631p, 7633p, 7634p, 7635p.	"	Do.	565		477	
35	7924p, 7792p, 7828p ..	"	Do.	940		294	
36	7827p, 7826p, 7825p, 7798p.	"	Do.	2,180		681	
37	7825p ..	"	Do.	92		92	
38	7816p, 7847p, 7848p, 7831p.	"	Do.	440		165	
39	7798p, 7779p ..	"	Do.	485		728	
40	6958p, 7416p, 7417p, 7422p, 7423p, 7424p.	"	Do.	425		319	
41	7410p, 7411p, 7016p, to 7026p, 7011p.	"	Do.	2,201		1,718	
42	7027p, 7028p ..	"	Do.	369		277	
43	7031 (1) p, 7035p, 7034 (2).	"	Do.	804		2,814	
44	7031 (1) p, 7031 (2) p, 6836 (1) p.	"	Do.	1,186		1,779	
45	6836 (1) p, 6836 (2) p, 6836 (3) p.	"	Do.	2,572		3,858	
46	7132p, 7128p, 7129 p, 7141 (1) p.	"	Do.	2,093		1,570	
47	7168p ..	"	Do.	260		195	
48	6564p, 6823p ..	"	Do.	924		1,385	
49	6816p, 6819 (2) p, 6595p, 6579p, 6580p, 6800p, 6801p, 6804p, 6806p, 6791p, 6589p, 6823 (1) p, 6815p, 6813p, 6802.	"	Do.	6,125		4,594	
			Total Lands at Matunga.		86,187		90,948

SCHEDULE E.

(See section 77.)

Showing reclaimed lands vesting in the Board.

Plot No.	Ward No.	Cadastral Survey No.	Description.	Area. Cadastral Survey.	Total area.	Value.	
						Amount.	Total Amount.
				Sq. yds.		Rs.	
1		2-583 (part of)	<p>THE NEPEAN SEA ROAD PLOT..</p> <p>(Deposited Plan A.)</p> <p>Bounded on the North-east by private property bearing Cadastral Survey No. 584, on the South-east by private property forming portion of this property bearing Cadastral Survey No. 583, on the South-west by private property bearing Cadastral Survey No. 582 and on the North-West by the Foreshore.</p> <p>Total, the Nepean Sea Road Plot.</p>	2,014	..	..
2		82 to 86 87 to 90 parts of 91 to 97 98 to 102 parts of 103 to 105 106 part of 107 to 111 320 321	<p>THE COLABA RECLAMATION.</p> <p>(Deposited Plan B.)</p> <p>Bounded on the North-east by Cuffe Parade, on the South-west by Panday Road, on the North-east by the junction of Cuffe Parade and Wodehouse Road, and on the South-east partly by an irregular line beyond which are situate the remaining portions of properties bearing Cadastral Survey Nos. 106, 102, 101, 100, 98, 99, 90, 89, 88 and 87 and partly by Wodehouse Road, but excluding the sites of Khatau and Centre Roads, and of portions, Faail and Kittridge Roads.</p> <p>Total, The Colaba Reclamation.</p>	46,580			
					2,014		
					46,580		

Appendices
SCHEDULE F.

(See section 84.)

Locality.	Description of Plot.	Area.	Term of Lease.
		Sq.yds.	
The Horn by Road plot.	Bounded on the North by the John Cannon High School, on the South and East by the Cannon Road, and on the West by the Esplanade Road.	3,268 33	Ninety nine years at a ground rent of one anna per square yard per annum, renewable for a further term of 99 years.

Plot No.	Cadastral Survey No.	Locality.	Description of Plot.	Cadastral Survey area.	Terms of Lease.
			(Deposited Plan A.)	Sq.yards.	
1	707	The Hornby Road Plot.	Bounded on the North by the John Cannon High School bearing Cadastral Survey No. 706, on the South by Cannon Road, on the East by Murzban Road, and on the West by Esplanade Road.	3,250	Ninety-nine years at a ground-rent of one anna per sq. yard per annum, renew- able for a further term of 99 years.

APPENDIX G.

BILL No. XXIV OF 1925 (A BILL TO REGULATE AND CONTROL
CERTAIN CONTRACTS FOR THE PURCHASE AND SALE OF
SECURITIES IN THE CITY OF BOMBAY.)

Report of the Select Committee.

We, the undersigned members of the Select Committee appointed to consider Bill No. XXIV of 1925 (a Bill to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay) have the honour to report as follows :

We have considered the Bill, and have had the advantage of hearing the representatives of the Bombay Native Share and Stock Brokers' Association.

We have amended clause 2 of the Bill, so as to give Government the power of extending the Act to cities other than Bombay.

We have inserted a new clause 4, providing for the recognition by Government of Stock Exchanges after publication of draft Rules, and have added in clause 3 a definition of recognised Stock Exchange.

We think it inadvisable that Government should have the power to vary the rules of a Stock Exchange of its own motion. We have, therefore, deleted sub-clause (3) of clause 5, and made the necessary consequential changes in sub-clause (1): For the same reason, we have deleted sub-clause (6) of clause 5, and have provided in sub-clause (3) for the publication of Rules prior to sanction.

We have amended clause 6, so as to prevent the evasion of the Act by means of contracts between parties who are not members of a recognised Stock Exchange.

We recommend that this report and the Bill as amended be translated into Marathi, Gujarati and Urdu and that the translations be published in the *Bombay Government Gazette*.

(Signed) H. S. LAWRENCE,
" C. V. MEHTA,
" J. B. KANGA,
" V. A. GRANTHAM,
" C. N. WADIA,
" W. G. MCKEE,
" G. WILES,
" LALJI NARANJI,
" H. A. LALLJEE,
" JOSEPH BAPTISTA,

BILL No. XXIV OF 1925.

A Bill to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay and elsewhere in the Bombay Presidency.

(As amended by the Select Committee.)

5 & 6 Geo. 5 c. 61. WHEREAS it is expedient to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay and elsewhere in the Bombay Presidency in manner hereinafter appearing: And whereas the previous sanction of the Governor General required by section 80A (3) of the Government of India Act has been obtained for the passing of this Act: It is hereby enacted as follows:—

1. This Act may be called the Bombay Securities Contracts Control Act, 1925.

Extent and operation. ~~2. (1) This Act shall apply to the City of Bombay only.~~

~~(2) It shall come into operation from such date as the Governor in Council may, by notification in the Bombay Government Gazette, appoint.~~

Extent and operation. 2. (1) This Act shall apply to the whole of the Presidency of Bombay.

(2) It shall come into operation in the city of Bombay on such date as the Governor in Council may, by notification in the Bombay Government Gazette appoint: the Governor in Council may further by notification in the Bombay Government Gazette direct that the Act shall come into operation in any place in the Bombay Presidency other than the city of Bombay on such date as may be specified in such notification.

3. In this Act unless there is something repugnant* in the subject or context

(1) "Securities" include stocks, shares, bonds debentures, debenture stock and any other instruments of a like nature.

(2) "Stock Exchange" means any association, organisation or body of individuals, whether incorporated or not, established for the purpose of assisting, regulating and controlling business in buying, selling and dealing in stocks, shares, bonds, debentures, debenture stock and any other like securities.

(3) "recognised stock exchange" means a stock-exchange which is, for the time being, recognised by the Governor in Council as provided in section 4.

4. (3) "Ready delivery contract" means a contract for the purchase or sale of securities for performance of which no time is specified and which is to be performed immediately or within a reasonable time.

Explanation.—The question what is a reasonable time is in each particular case a question of fact.

4. (1) A stock-exchange desirous of being recognized for the purpose of this Act shall make an application in writing to the Governor in Council for such recognition and shall submit rules for the regulation and control of transactions, in securities other than ready delivery contracts and furnish such information in regard to such recognition as the Governor in Council may require.

(2) The Governor in Council may give or refuse such recognition provided that the rules submitted by the stock exchange under sub-section (1) shall be published in the Bombay Government Gazette one month before such recognition is given.

(3) The Governor in Council may at any time, withdraw the recognition given to a stock-exchange under sub-section (2), and such stock-exchange shall thereupon cease to be a recognized stock-exchange.

4. 5. (1) A Stock-Exchange may subject to the sanction of the Governor in Council may make and may from time to time add to, vary or rescind rules for the regulation and control of all transactions in securities (other than ready delivery contracts).

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for:—

(a) the government of the stock-exchange by a governing body and the constitution of such governing body;

(b) the powers and duties of the governing body and the manner in which its business shall be transacted;

(c) the fixing of a scale of charges;

(d) the making, settling and closing of bargains;

(e) the exercise of emergency powers in the case of corners;

(f) the regulation of dealings by members for their own account; and

(g) the settlement of disputes arising between members and the punishment of defaulting members.

(3) ~~The Governor in Council may refuse to sanction any or all the rules made by a stock exchange and may, from time to time, add to, amend, vary or rescind the rules made by a Stock Exchange and sanctioned by the Governor in Council.~~

(3) (4) ~~Rules made by a Stock Exchange under sub-section (1) and sanctioned by the Governor in Council and any addition, amendment, various or rescission made by the Governor in Council under sub-section (3) shall be published in the Bombay Government Gazette one month before they are sanctioned by the Governor in Council.~~

(4) (5) All rules made by a Stock Exchange and in existence on the date on which this Act comes into operation relating to transactions in securities other than ready delivery contracts shall be of no effect and shall not be enforceable by law on and from the date this Act comes into operation ~~except such rules as are sanctioned by the Governor in Council.~~

Nothing in this sub-section shall affect the validity of any contract entered into prior to the date on which this Act shall come into operation.

~~(6) If no rules are made under sub-section(1) within such time as may be fixed by the Governor in Council, the Governor in Council may, by notification in the Bombay Government Gazette, make rules for the regulation and control of all transactions in securities (other than ready delivery contracts).~~

6. Every contract entered into after the date on which this Act comes into operation for the purchase or sale of securities, ~~whether either party thereto is a member of a Stock Exchange or not,~~ other than a ready delivery contract, shall be void, unless ~~the same is made subject to and in accordance with the rules duly made and published sanctioned under section 4 and every such contract shall be void unless the same is made between members or through a member of a recognised stock-exchange ;~~ and no claim shall be allowed in any Civil Court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

Contracts not made
subject to rules to be
void.

APPENDIX H.

BILL No. XXV OF 1925.

A Bill further to amend the Bombay District Municipal Act, 1901.

(As published in the "Bombay Government Gazette" of the
20th October 1925.)

WHEREAS it is expedient further to amend the Bombay District Municipal Act, 1901, in manner hereinafter appearing; It is hereby enacted as follows:— Bom. III of 1901.

1. This Act may be called the Bombay District Municipal (Amendment) Act, 1925. Bom. III of 1901.
2. For clause (a) of sub-section (1) of section 15 of the Bombay District Municipal Act, 1901, the following shall be substituted, namely:— Bom. III of 1901.

"(a) who

(i) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reserved or quashed, if and so long as such sentence has not expired, or

(ii) has been removed from office under section 16, unless he has, by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf, been relieved from the disqualification arising on account of such sentence or removal from office, or"

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide that—

(1) persons sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation such sentence not having been subsequently reserved or quashed, should be relieved from the disqualification on the expiry of the sentence or by an order of the Government in that behalf;

(2) persons dismissed from Government service, such dismissal having been notified in the *Bombay Government Gazette*, and those being pleaders, whose sanad has been withdrawn by the High Court, should no longer be disqualified for being members of a municipality; and

(3) persons removed from office under section 16 should be disqualified for five years from the date of the expiry of such removal unless they are sooner relieved from the disqualification by an order of the Government in that behalf.

GHULAM HUSAIN HIDAYATULLAH.

5th October 1925.

APPENDIX I.

BILL No. XXVI OF 1925.

A Bill to amend the Bombay Village Panchayats Act, 1920.

(As published in the "Bombay Government Gazette" of the
20th October 1925.)

Bom. IX of 1920. WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1920, in manner hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1925.

Bom. IX of 1920. Amendment of section 6 of Bom. IX of 1920. 2. In section 6 of the Bombay Village Panchayats Act, 1920—

(a) for clause (d) the following clause shall be substituted, namely :—

V of 1898.

"(d) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, or has been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898, such sentence or order not having been subsequently reversed or remitted or the offender pardoned, if and so long as such sentence has not expired or if and so long as such order is in force, unless his disqualification has been removed by an order which the Governor in Council is hereby empowered to make, or,";

(b) clause (e) shall be deleted and clauses (f), (g) and (h) shall be re-lettered (e), (f) and (g), respectively;

(c) for clause (h) the following clause shall be substituted, namely :—

"(h) has been removed from office under section 15 and five years have not elapsed from the date of the expiry of such removal, unless his disqualification has been removed by an order which the district local board is hereby empowered to make";

(d) the last paragraph shall be deleted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide that—

(1) persons sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation and persons who have been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898, such sentence or order not having been subsequently reversed or remitted or the offender pardoned, should be relieved from the disqualification on the expiry of such sentence or order, or by an order of the Government in that behalf;

(2) persons who have been debarred from practising as legal practitioners by order of a competent authority should no longer be disqualified for becoming or continuing to be elected members of a village panchayat ; and

(3) persons removed from office under section 15 should be disqualified for five years from the date of the expiry of such removal unless their disqualification is sooner removed by the district local board.

GHULAM HUSSAIN HIDAYATULLAH.

5th October 1925.

BILL No. XXVII OF 1925.

A Bill further to amend the Bombay Local Boards Act, 1923.

(As published in the "Bombay Government Gazette" of the
20th October 1925.)

WHEREAS it is expedient further to amend the Bombay Local Boards Act, 1923, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Local Boards (Amendment) Act, 1925.

2. In section 9 of the Bombay Local Boards Act, 1923, Amendment of section 9 of Bom. VI of 1923.

(1) in sub-section (1)—

(a) for clauses (c) and (d) and the explanation to clause (d) the following shall be substituted, namely:—

"(c) (i) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, if and so long as such sentence has not expired, or

(ii) is a person against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1898, in proceedings instituted under section 110 of that Code, such order not having been subsequently reversed or quashed, if and so long as such order is in force, or

(iii) has been removed from office under section 31 and five years have not elapsed from the date of the expiry of such removal, unless he has, by an order of the Government notified in the *Bombay Government Gazette*, been relieved from the disqualification arising on account of such sentence, order or removal from office, or";

(b) clauses (e) and (f) shall be relettered (d) and (e) respectively.

(2) In sub-section (2) for the letter and brackets '(f)' the letter and brackets '(e)' shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide that—

(1) persons sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, should be relieved from the disqualification on the expiry of the sentence or by an order of the Government in that behalf;

(2) persons against whom an order has been passed under section 118 of the Criminal Procedure Code, 1898, in proceedings instituted under

section 110 of that Code, such order not having been subsequently reversed or quashed, should be relieved from the disqualification when such order ceases to be in force or by an order of the Government in that behalf ;

(3) persons dismissed from Government service, such dismissal having been notified in the *Bombay Government Gazette* and those, being pleaders, whose sanad has been suspended or withdrawn by the High Court or the Court of the Judicial Commissioner in Sind should no longer be disqualified for being members of a local board ; and

(4) persons removed from office under section 31 should be disqualified for five years from the date of the expiry of such removal unless they are sooner relieved from the disqualification by an order of the Government in that behalf.

GHULAM HUSSAIN Hidayatullah.

5th October 1925.

APPENDIX K.

BILL No. XXVIII OF 1925.

A Bill further to amend the City of Bombay Municipal Act, 1888.

(As published in the "Bombay Government Gazette" of the
23rd October 1925.)

WHEREAS it is expedient further to amend the City of Bombay Municipal Act, 1888, in manner hereinafter appearing; It is hereby enacted as follows :—

- Bom. III of 1888.
1. This Act may be called the City of Bombay Municipal (Amendment) Short title. Act, 1925 .
 2. In clause (b) of sub-section (I) of section 16 of the City of Bombay Municipal Act, 1888, hereinafter called the said Amendment of section 16 of Bom. III of 1888. Act, after the word "as" the words "such sentence has not expired or" shall be inserted.
 - Bom. III of 1888. 3. In section 118 of the said Act after the figures and letter Amendment of section 118 of Bom. III of 1888. "62D" the figures and letter "62E" shall be inserted.
 4. In sub-section (I) of section 518 of the said Act, after the figures Amendment of section 518 of Bom. III of 1888. and letter "62D" the figures and letter "62E" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is (1) to provide that persons sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, should be relieved from the disqualification on the expiry of the sentence or by an order of the Government in that behalf; (2) to make certain amendments in sections 118 and 518 which are rendered necessary in consequence of the insertion of new section 62E in the Act. Clauses 3 and 4 of the Bill make these consequential amendments.

GHULAM HUSSAIN HIDAYATULLAH,

October 1925.

APPENDIX L.

BILL No. XXVIII OF 1925.

A Bill further to amend the City of Bombay Municipal Act, 1888.

REPORT OF THE SELECT COMMITTEE.

We the undersigned members of the Select Committee appointed to consider Bill No. XXVIII of 1925, a Bill further to amend the City of Bombay Municipal Act, 1888, have the honour to report that we have considered the bill and are of opinion that it should be accepted.

(Signed) GHULAM HUSSAIN Hidayatullah,
(„) A. N. SURVE,
(„) HOOSENALLY M. RAHIMTOOLA,
(„) S. K. BOLE,
(„) E. CLEMENTS,
(„) A. MASTER,
(„) JOSEPH BAPTISTA,
(„) K. E. DADACHANJI,
(„) R. G. PRADHAN.

APPENDIX M.

STATEMENT OF DEMAND FOR SUPPLEMENTARY GRANTS TO
COVER THE EXCESSES SHOWN IN THE APPROPRIATION
REPORT ON THE ACCOUNTS OF THE BOMBAY
PRESIDENCY FOR THE YEAR 1923-24.

No. 4. Honourable Mr. H. S. LAWRENCE.

In his Appropriation Report on the accounts of the Bombay Presidency including Sind for the year 1923-24 the Accountant General, Bombay, has pointed out excess expenditure in the final accounts under the following heads, which requires the sanction of the Legislative Council :—

	Amount of excess.	
	Rs.	
(1) 9A-Scheduled Taxes	415
(2) 27-Ports and Pilotage	2,303
(3) 37-Miscellaneous Departments	1,10,532
(4) 51-Miscellaneous adjustments between Central and Provincial Governments	5,236

The excesses are briefly explained below.

(1) *9A-Scheduled Taxes*.—A sum of Rs. 35,000 was sanctioned by the Legislative Council for expenditure on this head. This was subsequently reduced to Rs. 18,000 in the revised estimates by the Finance Department on the recommendation of the Accountant General. The actual expenditure however amounted to Rs. 18,191. There was also an excess of Rs. 224 against "Refunds" under the same head. The Entertainments Duty Act came into force in 1923 only and there were no data for estimating the correct provision on account of refunds. The total excess is therefore Rs. 415 under this head.

(2) *27-Ports and Pilotage*.—The excess under this head was due mainly to two causes. The first was increase in the salary of the Commander of the "Jhelum" and the "Multan" from Rs. 240 to Rs. 300 per mensem and the services rendered and supplies made by the Royal Indian Marine. The extra expenditure under this amounted to Rs. 1,332. The second reason for the excess was the increased expenditure on "works". Rs. 16,000 were sanctioned by the Legislative Council for the remaking of the sea wall at Gogo, Ahmedabad District Rs. 2,200 were also made available by re-appropriation. The total amount sanctioned was therefore Rs. 18,200. The actual expenditure however amounted to Rs. 19,302. The excess of Rs. 1,102 is due to the absence of any provision in the original estimates for establishment and tools and plant charges.

(3) *37-Miscellaneous Departments*.—The excess under this head was due to a change in the classification of accounts directed by the Auditor General. A provision of Rs. 1,80,000 was made in the budget estimates for 1923-24 on account of the British Empire Exhibition under the head "35-Industries"; but under the instructions of the Auditor General the

charge in that year became debitable to "37, Miscellaneous Departments".

The sanction of the Legislative Council to the transfer of the provision from "35-Industries" to "37-Miscellaneous" could not be applied for before the close of the year and the Accountant General was asked to exhibit the excess in his Appropriation Report. The provision of Rs. 1,80,000 was reduced by the Director of Industries to Rs. 75,100 in the revised estimates, but the actual expenditure came to Rs. 1,38,329. The excess over the revised estimate was due to the fact that an amount of about Rs. 67,500 which was at first reported as savings was subsequently drawn by the Director of Industries and sent to the Superintendent of the Bombay Court in England to meet expenditure on the exhibition.

(4) *51-Miscellaneous Adjustments between Central and Provincial Governments.*—Rs. 5,236. This sum is taken as deduction from revenue and is not brought to account as expenditure. It is made up of the following items:—

	Rs.	a.	p.
(a) Share payable by the Bombay Government for the years 1921-22 and 1922-23 on account of the unrecovered balances outstanding against probationers who did not eventually join their appointments in the Indian Forest Service	1,407	15	9
(b) Share payable by the Government of Bombay out of the grants made to certain English Universities for the years 1921-22 and 1922-23 for the training of Forest probationers	3,149	7	3
(c) Income-tax assignment due to the Central Government in respect of adjustments relating to the year 1921-22	679	0	0
	<hr/>	<hr/>	<hr/>
	5,236	7	0

G. WILES,
Secretary to Government.

FINANCE DEPARTMENT,
Bombay Castle, 14th October 1925.

Demand 6.

STATEMENT OF DEMANDS FOR SUPPLEMENTARY GRANT
COVERED BY RE-APPROPRIATION.

TRANSFERRED :—The Honourable Khan Bahadur SHAIKH GHULAM
HUSSAIN HIDAYATULLAH.

(Construction of a police station and quarters for police at Ranchore in the Karachi Headquarters District.)

As there are no Government buildings of any kind at Ranchore for the accommodation of the police officers and men attached to the Ranchore Police Station, they are forced to live in hired houses all over the town. The present police station is accommodated in a small disgraceful kacha structure which is quite over-crowded and is liable to let in rain during the monsoon. The building is also most uncomfortable during the hot weather, and it is a marvel how the work is done there at all by the establishment during the hot weather. Government have therefore decided to construct at Ranchore a police station and quarters for 1 Inspector, 2 Sergeants, 2 Sub-Inspectors, 5 Head Constables and 40 Constables. The estimated cost of these buildings is Rs. 1,23,450. It is of the utmost importance that this scheme should be commenced at once in order to have the police station at least ready before the next hot weather. It is therefore proposed to start the work in the current financial year and to meet the allotment of Rs. 30,000, which is required for the work in question in the current year, from the Reserve with the Finance Department. The necessity for this work was felt so far back as 1923 but it could not be entered in the budget of 1924-25 and 1925-26 as the detailed plans and estimate were not ready in time.

Grant voted and now reduced.

47, Miscellaneous—Reserved.

Rs. 13,31,685 — 1,23,450.

Grant voted and now increased.

41, Civil Works—Transferred.

Rs. 1,66,28,620 + 1,23,450.

APPENDIX O.

Demand No. 11.

Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN HIDAYATULLAH.

With a view to avoiding the danger involved in Electrical installations being carried out by untrained or insufficiently trained men, a scheme for examining wiremen and electrical contractors and certifying and licensing them, if they are found to be up to the required standard, was sanctioned in Government Resolution No. 529, dated 13th September 1924. Rules for licensing wiremen and Electrical contractors were also published under Government Notification No. 529, dated 13th September 1924. The first and second examinations for licensing wiremen and Electrical contractors took place in May and August last respectively and two more examinations will be held during the current financial year. The receipts in the form of fees from the candidates for those examinations are estimated at Rs. 18,700 and will be credited to the head "XXVI, Miscellaneous Departments—Examination fees,—fees for other examinations". The charges on account of examiners' fees, etc., will be approximately Rs. 10,500. These charges cannot, under the rules, be met from the receipts but have to be debited to the expenditure head "37-Miscellaneous Departments—Examination—other examination charges". As however no provision has been made for these examination charges for the current year under the head "37-Miscellaneous Departments", it is proposed to re-appropriate the requisite amount from the grant under the head "41, Provincial Civil Works". This proposal requires the sanction of the Legislative Council.

Demand voted and now reduced.

41, Provincial Civil Works
(Partly Reserved and partly
Transferred).
Rs. 1,71,49,320 — 10,500.

Demand voted and now increased.

37, Miscellaneous Departments
(Partly Reserved and partly
Transferred).
Rs. 5,37,000 + 10,500.

G. WILES,

Secretary to Government.

Finance Department,
Poona, 25th October 1925.

APPENDIX P.

BILL No. VIII OF 1925.

(A Bill further to amend Bombay Act VIII of 1867, being an Act for the Regulation of the Village Police in the Presidency of Bombay.)

REPORT OF THE SELECT COMMITTEE.

We, the undersigned members* of the Select Committee appointed to consider Bill No. VIII of 1925 (a Bill further to amend Bombay Act VIII of 1867, being an Act for the Regulation of the Village Police in the Presidency of Bombay), have the honour to report as follows:—

2. We have considered the bill and have decided by a majority that it is not desirable to give the village patils the option of imposing a fine.

3. We are however of opinion that the word "detention" should be substituted for the word "confinement" in section 14 of the Act.

4. We are also of opinion that the power given to the patil should be restricted to cases in which the complaint is made within 24 hours of the commission of the offence. We have made the necessary provision in clause 2 of the bill.

5. We recommend that this report and the bill as amended be translated into Marathi, Gujarati, Kanarese and Urdu and that the translations should be published in the *Bombay Government Gazette*.

(Signed) M. H. W. HAYWARD.

(„) B. V. JADHAV.

(„) RAFIUDDIN AHMAD.

(„) A. M. MANSURI.

(„) S. N. ANGADI.

(„) G. B. PRADHAN.

(„) A. N. SURVE.

(„) D. B. COOPER.

(„) R. D. SHINDE (*subject to a minute of dissent*).

(„) A. MONTGOMERIE.

(„) P. G. JOSHI (*subject to a minute of dissent*).

(„) G. W. HATCH.

(„) M. D. KARKI (*subject to a note*).

(„) D. R. PATIL (*subject to a minute of dissent*).

*Note.—The signatures of Mr. L. S. Chaudhari, Mr. W. S. Mukadam and Sardar G. N. Mujumdar will be notified when received.

(Minute of dissent by Mr. R. D. Shinde, M.L.C.)

I still hold the view that Mr. Patil's amendment to give the village patils the option of imposing fine is desirable. The present cry against the abuse of powers by the police patils which is raised in some quarters is due to the fact that in some cases persons of respectability and standing in the village who have been adjudged guilty by the police patil of having committed an offence referred to in section 14 have been sentenced to confinement in the village chavdi and thus exposed to what is commonly held to be a very serious social obloquy. But it must be remembered that the police patil, even if he was mindful of the social position of the offenders, had no alternative but to order confinement in the chavdi. The present amendment if carried would meet such cases. I do not see any force in the objection to the amendment on economic grounds when it is once shown why the amendment is necessary. I do not also agree with those who assert that this amendment gives an additional power to the police patils and that the same will be misused. The police patils are under the supervision of the District Magistrate and they will have to exercise a judicial discretion in awarding confinement or fine in suitable cases and the District Magistrate can see that the discretion is properly exercised. I may point out that the amendment will be incomplete without a provision of an alternative sentence in default of payment of fine. I may suggest that in default of fine confinement up to twelve hours in the chavdi should be provided.

I do not approve of the reduction of the period during which complaints may be made to the police patil. The present period of eight days is obviously a long one; but at the same time the twenty-four hours suggested by the majority is too short. I think the period should be at least two days from the occurrence. It is undesirable that persons should be compelled to resort to the magistrates for such petty offences and thus incur considerable expenses and waste of time.

(Signed) R. D. SHINDE.

2nd October 1925.

(Minute of dissent by Mr. P. G. Joshi, M.L.C.)

1. I do not agree with the report of the majority of the select committee.

2. I really do not see the necessity of investing the police patils with the powers, mentioned in section 14 of the Village Police Act, particularly when we know as a matter of fact that many police patils abuse these powers. I would therefore suggest that the whole of section 14 should altogether be omitted. Petty cases of assault or abuse, which in villages are a common occurrence, need not be visited with any punishment, but if any party to such assault or abuse feels really aggrieved, he has his remedy in the ordinary criminal courts open to him. In case this suggestion proves unacceptable, then I would agree to the original bill as introduced, and would give the police patils the power to impose a fine,

with a proviso that the confinement should be awardable only on a failure to pay the fine. People in my district prefer fine to confinement in the village-chauri which they consider to be equally degrading as confinement in the magisterial lock-up, a feeling which tempts the police patils to abuse their powers.

3. *In addition to the amendments proposed above by me*, I would gladly agree to the substitution of the word "detention" for the word "confinement" and of the words "twenty-four hours" for the words "eight days".

(Signed) P. G. JOSHI.

Erandol, 4th October 1925.

(Note by Mr. M. D. Karki, M.L.C.)

I am sorry I could not take part in the deliberations of the committee owing to my absence there. I entirely agree with the majority report that infliction of fine should form no part of the power of a village police patil as it will entail some hardship upon the hard hit rustics. I welcome the word "detention" for the word "confinement"; but this change in section 14 necessitates a similar change in other sections of the Act. If the word "confinement" in other sections is not amended there will be some confusion in interpreting the word detention and confinement. I therefore suggest that the word "confinement" in other sections of the Act should be sought for being amended in very near future or the word "confinement" in section 14 should be kept as it is.

(Signed) M. D. KARKI.

Honavar, 2nd October 1925.

(Minute of dissent by Mr. D. R. Patil, M.L.C.)

I am really surprised to find that the majority of the committee should be opposed to the idea of investing the police patil with the power of fine under section 14. Those members who voted against the power of fine, I am constrained to observe, are not familiar with the village affairs. The power of fine in the police patil would have enabled him to impose the punishment of fine only in a case where the social status of a convicted person demanded nothing but the sentence of fine.

I am strongly against substituting the word "detention" for the word "confinement" as to my mind no law ought to recognise detention as punishment for any sort of offence. To substitute the word "detention" for the word "confinement" is to prescribe detention as punishment for an offence and to do so is nothing but ridiculous. Do away with the section altogether if you so desire but if in the interests of the village administration you deem necessary to retain it, do retain it with legal decency. That is all I have to say.

(Signed) D. R. PATIL. -

Bhusaval, 6th October 1925.

BILL No. VIII OF 1925.

A Bill further to amend Bombay Act VIII of 1867, being an Act for the Regulation of the Village Police in the Presidency of Bombay.

(As amended by the Select Committee.)

WHEREAS it is expedient further to amend Bombay Act No. VIII of 1867, being an Act for the Regulation of the Village Police in the Presidency of Bombay, in manner hereinafter appearing; it is hereby enacted as follows:—

1. This Act may be called *the Bombay Village Police (Amendment) Act, 1925*.
2. In this section ~~14 of the said Act after the words "to punish" and before the words "with confinement"~~ *in line 2 the words "with fine not exceeding five rupees or" shall be added for the word "confinement" substitute the word "detention" and for the words "eight days" substitute the words "twenty-four hours."*

Amendment of section 14 of Bombay Act No. VIII of 1867.

APPENDIX Q.

BILL No. X OF 1925.

(A Bill further to amend the Bombay Hereditary Offices Act, 1874.)

REPORT OF THE SELECT COMMITTEE.

We, the undersigned members* of the Select Committee appointed to consider Bill No. X of 1925 (A Bill further to amend the Bombay Hereditary Offices Act, 1874) have the honour to report as follows:—

The Bill proposes to do away altogether with the power of Government to punish the representative watandar or watandars for the offences or misconduct of a deputy. We have decided by a majority that it is necessary that Government should retain the power of directing the absolute forfeiture of the watan of the nominating watandar and of his co-sharers at least as regards the offences specified in item (1) of the Second Schedule appended to the Act, viz., those against the State.

As regards offences committed by a representative watandar or his deputy which come under items (2) to (6) of Schedule II or which are committed in the discharge of his official duties, we have retained the power of Government to direct the forfeiture of the life interest of the person convicted, or if he is a deputy, of the representative watandar who had nominated him. We are of opinion that for such offences the co-sharer in the watan should not be punishable. We have therefore amended clause 2 of the bill accordingly.

We consider that the power given to Government by sections 60 and 61 to forfeit the whole or part of the watan belonging to persons other than those actually convicted or found guilty should be exercised only when it is proved to the satisfaction of Government that such persons had previous knowledge of or connived at the offence. We have amended clause 3 of the bill accordingly.

*Note.—The signatures of Messrs. C. M. Saptarshi, L. S. Chaudhari, and Sardar G. N. Mujumdar will be notified when received.

We have inserted a clause in the Bill to provide that before an order is made under Part IX of the Act, the person against whom an order is being made shall be given an opportunity of being heard.

We recommend that this report and the Bill as amended be translated into Marathi, Gujarati, Kanarese and Urdu and the translations published in the *Bombay Government Gazette*.

(Signed) LALUBHAI SAMALDAS.

(„) G. W. HATCH.

(„) G. A. THOMAS.

(„) RAFIUDDIN AHMAD.

(„) R. D. SHINDE.

(„) D. R. PATIL (*subject to a minute of dissent*).

(„) W. S. MUKADAM (*subject to a minute of dissent*).

(„) G. B. PRADHAN.

(„) A. N. SURVE (*subject to a minute of dissent*).

(„) S. T. KAMBLI.

(„) S. N. BHUTTO.

(*Minute of dissent by Mr. D. R. Patil, M.L.C.*)

The object of my introducing Bill No. X of 1925, a Bill further to amend the Bombay Hereditary Offices Act, III of 1874 into the Legislative Council was to punish the wrongdoer himself and in no case allow forfeiture of any watan as no watandar has an absolute estate therein. A watandar has only a life interest in watan property. No one will object to the officiating watandar being made to forfeit what is his life interest in the watan but the injustice comes in when the penalty of forfeiture extends to what belongs to others. The Penal Code allows the confiscation of what is the offender's property in cases where such confiscation is sanctioned but not the property of his brothers, uncles or nephews. Thus, the forfeiture under the Penal Code has not the effect of corrupting the blood and extinguishing its power of transmitting inheritable rights. With us under the Watan Act the entire stream of inheritance can be stopped for the offence of one officiating watandar or a deputy appointed by a representative watandar. Under these circumstances the sooner the Government do away with their powers of confiscations of watans the better if they want to care for justice, equity and good conscience.

(Signed) D. R. PATIL, M.L.C.

Poona, 29th September 1925.

(Minute of dissent by Mr. W. S. Mukadam, M.L.C.)

I am sorry I was absent in the meeting of the Select Committee which met on the 12th September 1925 to consider the Bill re: Bombay Hereditary Offices Act (Amendment) Bill proposed by my friend Mr. D. R. Patil in the last session of the Bombay Legislative Council.

After hearing in detail from my friends who were present in the meeting about the discussion they had in the committee meeting, I come to the conclusion that I should join with my friend Mr. Patil in submitting the minute of dissent.

I herewith whole-heartedly join with Mr. Patil in his minute of dissent.

(Signed) W. S. MUKADAM.

29th September 1925.

(Revised Minute of dissent by Mr. A. N. Surve, M.L.C.)

Sub-clause (a) of clause 2 of the bill as approved by the majority ran as follows :—

“(a) if the offence or offences aforesaid are such as are described in Chapter VI of the Indian Penal Code, direct the absolute forfeiture of the whole watan or of any part in which the person convicted has an interest.”

I was therefore obliged to write my first minute of dissent in the following terms :—

“The object with which this bill was introduced is defeated, in my opinion, by the alterations proposed by the majority of the select committee. In one respect at least the bill as redrafted by the majority makes the position worse than it at present is; and thereby makes the punishment not only unnecessarily severe but unjust besides. The last sentence of section 60, viz., ‘Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit’ enables Government to afford protection to persons who have an interest in the watan but who did not participate in the offence. But sub-clause (a) of clause (2) as drafted by the majority is substituted for this sentence and thereby the Governor in Council is deprived of that power to the detriment of innocent persons in respect of offences falling under Chapter VI of the Indian Penal Code. Even if a deputy or a substitute is convicted of any of these offences, not only the interest of the representative watandar but also the interests of all other persons—born and unborn—in the watan property will be affected by its absolute forfeiture under a fiction of law in spite of their innocence. Hitherto it has been the policy of law in watan matters to keep the hands of Government unfettered for the purpose of affording protection to the innocent. If the proposal of the majority is accepted, it will leave no alternative to Government but to direct absolute forfeiture, and thereby the innocent will suffer; and there will also be a departure from the present policy of law without any cause whatsoever. It will result in making the law more stringent. That certainly was not the

object of the present bill. It was introduced to secure protection to those persons who though they did not participate in the offence were amenable to punishment for it; or to put it more plainly the bill required that *A* shall not be punished for the offence committed by *B* if the former had not participated in it in any way."

Some days after the abovementioned minute was delivered, the Secretary informed us that a mistake had occurred which necessitated the revision of the said clause. Accordingly the clause was re-drafted and sent to us for our approval. I am glad that the mistake is found out. That has saved me the trouble of moving an amendment which I would otherwise have been obliged to do.

There is still one more point on which I beg to differ from the majority view. It may happen that a deputy or substitute may be tried and convicted in a court of law without the representative watanदार or other persons interested in the watan being accused or tried. The investigation contemplated in the clause proposed to be added to section (62) will not be of the nature of a regular trial in a court of law. Perhaps even the advantage of a legal adviser may be denied to the person whose interest in the watan was to be affected. He may not have the opportunity of confronting or cross-examining his accusers. The opportunity of being heard is the only concession that is made to him. From an investigation of such a nature his "previous knowledge" about or "connivance" at the offence is to be inferred and I am afraid that this procedure is likely to result in miscarriage of justice.

The order in which the offences are placed in section 60 is inverted in the proposed sub-clauses (a) and (b) of clause (2). In the section offences in the discharge of official duty are placed firstly and other offences secondly. It is desirable to preserve the same order in the proposed sub-clauses. Therefore I humbly suggest that sub-clause (b) should be marked (a) and (a) should be marked (b) and they should be transposed.

(Signed) A. N. SURVE, M.L.C.

1st October 1925.

BILL No. X OF 1925.

A Bill further to amend Bombay Act No. III of 1874.

(As amended by the Select Committee.)

Bom. III of 1874. WHEREAS it is expedient further to amend Bombay Hereditary Offices Act being Bombay Act No. III of 1874 in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called Bombay Hereditary Offices (Amendment) Act, 1925.

Amendment of section 60 of Bombay Act No. III of 1874.

2. ~~The words "or any deputy or substitute appointed by him" shall be deleted.~~

Amendment of section 61 of Bombay Act No. III of 1874.

3. ~~The word "when" shall be substituted for the word "whether" before the words "the officiator guilty of misconduct" and the words "or a deputy appointed by him" shall be omitted.~~

Amendment of section 60 of Bombay Act III of 1874.

2. In section 60 of Bombay Act III of 1874, delete the words "direct the forfeiture of the whole or of any part of any watan in which he has an interest. Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit", Bom. III of 1874.

and insert—

"(a) if the offence is as is described in Chapter VI of the Indian Penal Code, direct the forfeiture of the whole or of any part of any watan in which he has an interest. Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit. XLV of 1860.

"(b) if the offence be committed in the discharge of his official duties or be any of those enumerated in Schedule II (2) to (6), direct the forfeiture of the life interest of the person convicted or if he be not the representative watanदार also of the representative watanदार."

Amendment of section 61 of Bombay Act III of 1874.

3. To section 61, the following proviso shall be added :

"Provided that the Governor in Council shall not direct under this or the preceding section the forfeiture of any watan or part thereof belonging to a person other than the one so convicted or found guilty, unless it is proved to his satisfaction that that person had previous knowledge of or connived at the offence or misconduct."

Amendment of section 62 of Bombay Act III of 1874.

4. In section 62 of the Act, for the words "or after investigation recorded in writing" substitute "if any and after investigation recorded in writing in which an opportunity of being heard shall be given to the party against whom any such order is proposed to be passed."

N. J. WADIA,

Secretary to the Legislative Council of the
Governor of Bombay.

Poona, 5th October 1925.

APPENDIX R.

BILL No. XIX OF 1925.

A Bill further to amend the City of Bombay Municipal Act, 1888.

(As introduced on the 13th August 1925 and published in the "Bombay Government Gazette" of the 10th September 1925.)

WHEREAS it is expedient further to amend the law relating to the Municipal Government of the City of Bombay: It is enacted as follows:—

1. This Act may be called the City of Bombay Municipal Act No. of 192 .

2. In sub-section (I) of section 5 of the City of Bombay Municipal Act, 1888,

the word "seventy-six" in line 3 shall be substituted by the word "eighty-nine";

the word "sixteen" in line 5 shall be substituted by the word "eight"; and

the word "ten" in line 12 shall be substituted by the word "five".

3. In sub-section 3 of section 24 of the City of Bombay Municipal Act, 1888, between the words "to be elected for each ward" and the words "shall be as specified in schedule 'B'" the following shall be inserted:—"and the number, if any, of seats reserved for Backward and Depressed Classes".

4. The following shall be inserted as sub-section 4 of section 24 of the City of Bombay Municipal Act, 1888:—

"For the purposes of the reserved seats 'Backward Classes' shall mean persons belonging to any of the following Marathi-speaking Hindu castes, viz., the Marathas, Kunbi, Mali, Koli, Bhandari, Shimpri, Lohar, Kumbhar, Bhoi, Bari, Lonari, Bhavin and Deoli, Shinde, Ahir, Khatri, Parit, Gabit, Gavda, Gavandi, Gavli, Gurav, Nhavi, Kasaj, Kasar, Hoshti, Sali, Sangar, Sutar, Teli, Agle or Agri and Vanjari castes."

"Provided the Local Government may notify in the *Gazette* any other caste as being entitled to the benefit of reserved seats by declaring it to belong as the case may be either to the Backward Classes or the Depressed Classes whereupon it shall be held to be entitled to such benefit."

5. The last column of Schedule B of the City of Bombay Municipal Act, 1888, shall be repealed and the following three columns shall be substituted for it:—

Consecutive No.	Name of the Ward.	Boundaries.	No. of members to be elected for each Ward.	No. of seats reserved for Backward Classes.	No. of seats reserved for Depressed Classes.
1	7	1	1
2	11	1	1
3	16	1	1
4	12	1	1
5	18	2	2
6	12	2	1
7	13	2	1

6. In line 12 of sub-section 2 of section 11 of the City of Bombay Municipal Act, 1888, the word "ten" shall be substituted by the word "five".

7. Sections 1 to 5 (both inclusive) of this Act shall come into operation from the 1st of January 1926. Section 6 of this Act shall come into operation on the 1st of October 1926.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to democratise the constitution of the Municipality of the City of Bombay.

It has been a matter of bitter experience that in a general election the Representatives of the Backward and the Depressed Classes are nowhere and in their absence there is hardly any one to pay heed to the grievances of these unfortunate classes. To do away with such a sad state of affairs the Bill proposes a scheme of Reserved Seats in the interests of these two Classes. However in setting apart seats for these two classes particular care is taken to preserve as far as possible the number of seats now open to general election. This is done by reducing the number of seats that are at present filled up by nomination and co-option each one-half and adding them to the seats that are filled up by election. The result is that notwithstanding the reservation of 18 seats for the Backward and the Depressed Classes there remain under the new scheme 71 free seats.

Occasion is also taken to correct the distribution of the elected seats to be filled up by each Municipal Ward by introducing the more democratic principle of representation according to population.

Another important change in the Municipal constitution which the Bill seeks to make is to lower the franchise from a Rs. 10 rental to a Rs. 5 rental. Under the existing franchise it has been found that out of a total population of 1,137,782 population numbering 1,042,488 is deprived of the vote. In these days it is undesirable to allow 1,137,782 people to be governed by 95,294.

S. K. BOLE, M.L.C.

APPENDIX S.

BILL No. XXIII OF 1925.

A Bill to consolidate and amend the law relating to the Courts in Sind.

(As published in the "Bombay Government Gazette" of the 16th September 1925.)

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in Sind; and whereas the previous sanction of the Governor General, required by section 80A of the Government of India Act, has been obtained for the passing of this Act: It is hereby enacted as follows:—

Preliminary.

Short title. 1. This Act may be called the Sind Courts Act, 1925.

Extent and commencement. 2. (1) It extends to the Presidency of Bombay.

(2) It shall come into force on such date as the Governor of Bombay in Council may, by notification in the *Bombay Government Gazette*, appoint.

The Chief Court.

3. On and from the commencement of this Act there shall be established for Sind a Chief Court hereinafter referred to as "the Chief Court".

4. The Chief Court shall consist of four or more judges who shall be appointed by the Governor General in Council and shall hold office during his pleasure and of whom not less than two shall be barristers, advocates or pleaders of not less than five years' standing.

5. The Governor General in Council may in his discretion from time to time appoint one of the judges of the Chief Court to be the Chief Judge.

6. On the occurrence of a vacancy in the office of the Chief Judge and during any absence of the Chief Judge the Governor of Bombay in Council shall appoint one of the other judges of the Chief Court to perform the duties of the Chief Judge, until some person has been appointed by the Governor General in Council to the office of Chief Judge of the Court, and has entered on the discharge of the duties of that office, or until the absent Chief Judge has returned to his duties, as the case requires.

7. On the occurrence of a vacancy in the office of a judge other than the Chief Judge, and during any absence of any such judge or on the appointment of any judge to act as Chief Judge the Governor of Bombay in Council may appoint a person to act as a judge of the Court and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by the Governor General in Council to the office of judge of the court and has entered on the discharge of the duties of the office, or until the absent judge has returned to his duties or until the Governor of Bombay in Council sees cause to cancel the appointment of the acting judge.

f. VI of
1900, s. 7,
& Punj, III
of 1914, s. 5.

Rank and precedence
of Chief Judge and
Judges of Chief Court.

8. (1) The Chief Judge (if any) whether permanent or officiating shall have rank and precedence before the other judges of the Chief Court.

(2) Save as aforesaid and subject to any general or special direction by the Governor General in Council the judges shall have rank and precedence according to the seniority of their appointment as such judges.

Provided that a permanent judge shall be deemed to be senior to, and shall have rank and precedence before, an officiating judge.

(3) In the construction of this Act the expression 'senior judge' shall mean the judge for the time being entitled to the first place in rank and precedence.

f. VI of
1900, s. 8,
Punj, III of
1914, ss. 6 &
7

9. The Chief Court shall be the highest civil court of appeal and revision and the highest court of criminal appeal and revision for Sind and the principal civil and criminal court of original jurisdiction for the Civil district and the sessions division respectively of Karachi.

10. The Chief Court shall be the court of appeal from all decrees and orders passed by subordinate courts in the civil district of Karachi from which an appeal lies under any law for the time being in force, and shall in that district exercise all the powers and jurisdiction conferred upon a district court by any law for the time being in force.

f. VI of
1900, s. 13,
V of 1898.

Criminal jurisdiction
in Karachi sessions
division.

11. (1) Notwithstanding anything in the Code of Criminal Procedure, 1898:—

(a) a magistrate exercising jurisdiction in the sessions division of Karachi, when committing accused persons for trial, shall commit them to the Chief Court; and

(b) all appeals which lie under any law for the time being in force to the Court of Session from the sentences or orders of Courts or Magistrates exercising jurisdiction in the sessions division of Karachi shall lie to the Chief Court.

(2) Section 9 of the Code of Criminal Procedure, 1898, shall not apply to the sessions division of Karachi.

Constitution of full bench and other benches. 12. (I) The Chief Court may with the sanction of the Governor of Bombay in Council make rules regulating:—

Cf. VI of 190 s. 10, & Pun III of 1914 s. 8 (2).

(a) the exercise by one or more judges of the original and appellate jurisdiction of the Chief Court:

Cf. Bom. XI of 1866, s. 94 (a).

Provided that all appellate jurisdiction other than that exercised over the subordinate courts of the civil district of Karachi and all revisional jurisdiction shall be exercised by a bench of not less than two judges;

(b) the distribution of the civil and criminal business of the Chief Court; and declaring

Cf. Bom. XI of 1866, s. 94 (b).

(c) what number of judges, not being less than three, shall constitute a full bench of the Chief Court, and may by such rules prescribe the mode of determining which judges shall sit as a full bench, when a full bench sitting becomes necessary.

(2) Subject to the provisions of sub-section (I) the senior judge may determine which judges shall sit alone and which judges shall constitute any bench.

13. Any single judge of the Chief Court and any bench of judges thereof, not being a full bench, may in any case refer

Cf. VI of 190 s. 11 & Pun III of 1914 s. 11.

Power to refer question to full bench.

for the decision of a bench of two judges or of a full bench any question of law or custom having

the force of law, or the construction of any document, or the admissibility of any evidence arising before the judge or bench and shall dispose of the case in accordance with the decision of the bench to which the question has been referred.

14. Where in any case any such question as is referred to in section 13 has been decided by a judge of the Chief Court

Cf. VI of 190 s. 12 & Pun III of 1914 s. 12.

Review in certain criminal cases.

exercising the jurisdiction of the Chief Court as the principal criminal court of original jurisdiction

for the sessions division of Karachi, and no reference has been made under the provisions of that section or of section 434 of the Code of Criminal Procedure, 1898, the Chief Court may on its being certified by the Government Advocate for Sind that in his opinion the decision should be further considered, review the case or such part of it as may be necessary, and finally determine the question, and may thereupon alter the judgment, order or sentence passed by the judge and pass such judgment, order or sentence as it thinks right.

V of 1898.

15. Except as otherwise provided by any enactment for the time being in force, an appeal from any decree made by

Cf. VI of 1900, s. 14.

Appeal from Judge of Chief Court exercising original civil jurisdiction.

a single judge of the Chief Court, or from any order made by a single judge of the Chief Court, when an appeal from such order is permitted by

any law for the time being in force:—

(a) in the exercise of its original jurisdiction as the principal civil court of original jurisdiction for the civil district of Karachi, or

(b) in the exercise of its appellate jurisdiction as a court of appeal from the subordinate courts in the civil district of Karachi, or

(c) in the exercise of its original jurisdiction in cases withdrawn from other courts under section 24 of the Code of Civil Procedure, 1908, or

(d) in the exercise of any other original jurisdiction of a civil nature to which the Chief Court may with the sanction of the Governor of Bombay in Council by rule apply this section shall lie to a bench of the Chief Court consisting of two other judges of the Chief Court.

Y. VI of
1900, s. 16.
V of 1908.
V of 1898.

16. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, or the Code of Criminal Procedure, 1898, the Chief Court shall record evidence and criminal jurisdiction, including examinations of accused persons and judgments in such manner as it may direct by rule made with the sanction of the Governor of Bombay in Council.

Y. VI of 1900
s. 16 (3).
V of 1908,

(2) So much of rule 35 of order XLI of the first schedule to the Code of Civil Procedure, 1908, as requires the decree to be signed and dated by the judge or judges who passed it, shall not apply to the Chief Court in the exercise of its appellate jurisdiction.

Y. VI of
1900, s. 17
& Punj. III
of 1914,
s. 13.

17. (1) Subject to any rules and restrictions which may be prescribed by the Governor of Bombay in Council the Chief Ministerial Officers of the Chief Court. Judge may appoint Registrars, Deputy Registrars, Assistant Registrars, an Official Receiver, Official Commissioners, a Clerk of the Crown and such other ministerial officers as may be necessary for the administration of justice by the Chief Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act.

(2) The appointments of the Registrars, Deputy Registrars, Assistant Registrars, the Official Receiver, the Official Commissioners and the Clerk of the Crown shall be subject to the sanction of the Governor of Bombay in Council.

(3) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties of a non-judicial or quasi-judicial nature as the Chief Court may direct.

(4) Every officer appointed under the provisions of this section shall receive such salary as the Chief Judge may fix, subject to the sanction of the Governor of Bombay in Council.

(5) Any officer appointed under sub-section (1) may be suspended or dismissed from his office by order of the Chief Judge :

Provided that none of the officers mentioned in sub-section (2) shall be dismissed without the previous sanction of the Governor of Bombay in Council.

Bom. XII of 1866, s. 15A ;
5 & 6 Geo. V,
s. 61, s. 107.

18. The general superintendence, direction and control over all courts subject to its appellate jurisdiction are vested in the Chief Court.

19. The Chief Court may, subject to such rules as it may with the sanction of the Governor of Bombay in Council determine, admit proper persons to be Advocates, Pleaders and Attorneys in any court in Sind, and may remove or suspend from practice for misbehaviour any person so admitted; and may authorise such Advocates, Pleaders and Attorneys to plead or to act or to plead and act for suitors and accused persons.

20. In addition to any other power to make rules expressly or by implication conferred by this Act the Chief Court may with the sanction of the Governor of Bombay in Council, make rules consistent with this Act and any other enactment for the time being in force to regulate any of the following matters, namely :—

- (a) the supervision of all Courts subject to the control of the Chief Court and their visitation and inspection; *Cf. Bom. XII of 1866, s. 15A (1).*
- (b) the exercise by the district judges of the general control vested in them over the civil courts in their respective civil districts; *Cf. Bom. XII of 1866, s. 15A (2) & XXV. of 1869, s. 9.*
- (c) all matters relating to the officers of courts; *Cf. Bom. XII of 1866, s. 10 & XIV of 1869 s. 39*
- (d) providing for the translation of any papers filed in the Chief Court and for the preparation of paper books for the hearing of appeals and the copying, typing or printing of any such papers or translations and requiring from the persons at whose instance or on whose behalf papers are filed, payment of the expenses thereby incurred; *Cf. VI of 1900, s. 19 (1) (b).*
- (e) the holidays and vacations of the Chief Court and the courts subordinate to it; *Cf. Bom. XII of 1866, s. 9A (c) & XIV of 1869, s. 43.*
- (f) the places and times for the holding of courts; *Cf. XIV of 1869, ss. 5, 15, 23.*
- (g) the qualifications and admission of proper persons to be petition-writers in courts, the issue of licenses to such persons, the fees to be charged by such persons and the conduct of business by such persons, and providing a fine not exceeding fifty rupees for the breach of any such rules, and determining the authority by which such breaches shall be investigated and the fines imposed; and providing that any such fine shall be recoverable as if it were a fine imposed by a magistrate in the exercise of his ordinary jurisdiction; *Cf. XIV of 1869, s. 41A.*
- (h) the fees to be charged for processes issued by the civil courts, or by any officer of any such court and the fees payable in any suit or proceeding in any such court by any party to such suit or proceeding in respect of the fees of the pleader of any other party to such suit or proceeding; *Cf. Bom. XII of 1866, s. 17.*
- (i) the manner in which the proceedings of civil courts shall be kept and recorded, the manner in which paper books for the hearing of appeals shall be prepared and the granting of copies. *Cf. XIV of 1869, s. 41.*

21. The Chief Court shall keep such registers, books and accounts Registers, books, as may be necessary for the transaction of its accounts, returns, statements and reports. business, or required by the Governor of Bombay in Council, and shall comply, in such form and manner as the Governor of Bombay in Council may deem proper, with any requisition which the Governor of Bombay in Council may make for record of, or papers belonging to the Chief Court, or any court subordinate to it, or for certified copies of or extracts from, such records of papers, or for returns, statements or reports.

District Courts.

Cf. Punj. III of 1914, s. 19. VI of 1900. s. 23. & XIV of 1869, ss. 3 & 4. 22. (1) For the purposes of this Act the Governor of Bombay in Council may by notification divide Sind into civil districts and determine the headquarters of each such district. (2) The districts existing for the purposes of civil justice when this Act comes into force shall be deemed to have been made under this Act.

Cf. Bom XII of 1866, s. 2, & XIV of 1869, s. 5. 23. (1) There shall be in each civil district other than the district of Karachi a district court and the Governor of Bombay in Council shall appoint a district judge to each such court.

Cf. XIV of 1869, s. 7 & Bom. XII of 1866, s. 3. (2) The district court shall be the principal court of original civil jurisdiction in the civil district.

Cf. XIV of 1869 s. 12. 24. (1) The Governor of Bombay in Council may appoint joint judges to any district court. (2) Every such joint judge shall exercise the powers and jurisdiction of the district court concurrently with the district judge in such matters as may be referred to him by the district judge.

(3) All Regulations and Acts now or hereafter in force and applying to a district judge shall be deemed to apply also to the joint judge and the seal of the joint judge shall be the same as is used by the district judge.

Cf. XIV of 1869, ss. 14 & 16. 25. (1) The Governor of Bombay in Council may appoint assistant judges to any district court.

(2) An assistant judge shall have jurisdiction to hear such original suits of which the subject matter is less than ten thousand rupees in amount or value, such applications or references under special Acts, and such miscellaneous applications not being of the nature of appeals, as the district judge may refer to him.

Cf. XIV of 1869, s. 17. 26. (1) The Governor of Bombay in Council may confer upon any assistant judge the power to hear such appeals from the decrees and orders of the subordinate courts as lie to the district courts and as may be referred to him by the district judge.

(2) An assistant judge on whom the power to hear appeals has been conferred under this or any other Act, shall continue to have such power

so long and so often as he may hold the office of assistant judge, without reference to the civil district in which he may be employed; Provided that the Governor of Bombay in Council may at any time withdraw such power.

27. The Governor of Bombay in council may confer upon any assistant judge any of the powers and jurisdiction of the district court within any specified part of a civil district and such powers and jurisdiction shall not, while so conferred upon the assistant judge, be exercised in such part by the district judge.

Cf. XIV of 1869, s. 19.

Power to invest assistant judge with powers of district court.

28. The district judge shall have general control over all the civil courts within the district.

Cf. XIV of 1869, s. 9.

Control of courts.

29. (1) Save as provided in sections 9, 10, 27, 34, 35 and 37 in any case where a decree or order of a subordinate court is appealable, the appeal shall lie to the district court.

Cf. XIV of 1869, s. 8, & Bom. XII of 1866, s. 8.

Appellate jurisdiction of district court.

(2) Where a decree or order passed by an assistant judge is appealable, the appeal shall lie to the Chief Court or to the district court, according as the amount or value of the subject matter exceeds, or does not exceed, five thousand rupees.

Subordinate Courts.

30. (1) There shall be in each civil district so many civil courts subordinate to the District Court (in this Act called "subordinate courts") as the Governor of Bombay in Council may by notification direct.

Cf. Bom. XII of 1866, s. 4.

Subordinate courts.

(2) The Governor of Bombay in Council may determine the local limits of the jurisdiction of subordinate courts and the places where such courts shall be held.

Cf. XIV of 1869, ss. 22A & 23.

(3) The place or places so fixed may be beyond the local limits of the jurisdiction of the court.

Cf. XIV of 1869, s. 22.

(4) The Governor of Bombay in Council shall appoint a subordinate judge to each such court.

Cf. XIV of 1869, s. 22.

(5) The Governor of Bombay in Council may at any time for special reasons close temporarily any such court.

Cf. XIV of 1869, s. 21.

31. (1) The Governor of Bombay in Council may appoint joint subordinate judges to a subordinate court.

Cf. XIV of 1869, s. 23.

Joint subordinate judges and deputation.

(2) The district judge, with the previous sanction of the Chief Court, may depute to a subordinate court the judge of any other subordinate court in the civil district.

(3) A subordinate judge so appointed or deputed to a subordinate court shall dispose of such civil business within the pecuniary limits of his jurisdiction as the judge of such court, subject to the control of the district judge, may refer to him.

- Cf.* XIV of 1869, s. 24. Jurisdiction of subordinate courts.
32. (1) The ordinary jurisdiction of subordinate judges of the first class shall extend to all original suits and proceedings of a civil nature.
- (2) The ordinary jurisdiction of subordinate judges of the second class shall extend to all such suits and proceedings wherein the subject-matter does not exceed five thousand rupees in amount or value.
- Cf.* XIV of 1869, s. 25.
33. (1) A subordinate judge of the 1st class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature, wherein the subject-matter exceeds five thousand rupees in amount or value, as may arise within the local limits of the jurisdiction of all subordinate courts in the civil district of which the judges are of the second class.
- (2) In any civil district in which there are two or more subordinate judges of the first class, the district judge, subject to the orders of the Chief Court, shall determine the local limits within which each such judge shall exercise his special jurisdiction.
- Cf.* XIV of 1869, s. 26.
34. Where a decree or order passed by a subordinate judge of the first class in his ordinary or special jurisdiction in any suit or proceeding of which the amount or value of the subject-matter exceeds five thousand rupees is appealable, the appeal shall lie to the Chief Court.
- Cf.* XIV of 1869, s. 27.
35. (1) The Governor of Bombay in Council may invest any subordinate judge of the first class, or any judge of a court of small causes established under the Provincial Small Cause Courts Act, 1887, with power to hear appeals from such decrees and orders of subordinate courts as may be referred to him by the district judge.
- (2) The appellate decision in any such case shall have the same force as if passed by the district judge.
- (3) A subordinate judge of the first class or a judge of a court of small causes, on whom the power of hearing appeals has been conferred under this or any other Act, shall continue to have such power so long and so often as he may hold the office of subordinate judge of the first class or judge of a court of small causes, respectively, without reference to the civil district in which he may be employed: Provided that the Governor of Bombay in Council may at any time withdraw such power.
- Cf.* XIV of 1869, s. 28.
36. The Governor of Bombay in Council may confer upon any subordinate judge within any specified local limits the jurisdiction of a court of small causes for the trial of suits cognizable by such courts up to any specified amount not exceeding, in the case of a subordinate judge of the first class, one thousand rupees, and in the case of a subordinate judge of the second class, two hundred rupees.
- Appellate jurisdiction of first class subordinate judge or small cause court judge.
- Power to invest subordinate judges with small cause powers.

37. (1) The Chief Court may by general or special order invest any subordinate judge, within such local limits and subject to such pecuniary limitation as may be prescribed in such order, with all or any of the powers of a district judge or a district court, as the case may be, under the Indian Succession Act, 1865, the Probate and Administration Act, 1881, or paragraph 5 of Schedule III to the Code of Civil Procedure, 1908.

Power to invest subordinate judges with jurisdiction under certain Acts.

Cf. XIV of 1869, s. 28A.
X of 1865.
V of 1881.
V of 1908.

(2) Every order made by a subordinate judge by virtue of the powers conferred upon him under sub-section (1) shall be subject to appeal to the Chief Court or the district court according as the amount or value of the subject-matter exceeds or does not exceed five thousand rupees.

(3) Every order of the district court passed on appeal under sub-section (2) from the order of the subordinate judge shall be subject to an appeal to the Chief Court under the rules contained in the Code of Civil Procedure, 1908, applicable to appeals from appellate decrees.

V of 1908.

38. (1) No subordinate court other than the court of a subordinate judge of the first class and no court of the small causes shall receive or register any suit in which the Secretary of State for India in Council or any officer of Government in his official capacity is a party.

Cf. XIV of 1869, s. 32.

(2) In every such case, the plaintiff shall be referred to the court of the subordinate judge of the first class and such suit shall be instituted only in the court of the subordinate judge of the first class and shall be heard by such subordinate judge, unless the district judge transfers the suit for hearing to his own file.

(3) Provided that nothing in this section shall be deemed to apply to any such suit merely because any of the authorities or officers specified below is a party to such suit, that is to say :—

(1) A state railway, in the case of a suit for damages, for loss of goods instituted against such railway.

(2) A local authority of which an officer of Government is a member in his official capacity.

(3) An officer of Government in his capacity of curator, guardian, manager or representative of a private person or estate in virtue of an appointment, delegation, declaration or exercise of powers under :—

- (a) Order 32, rule 4 (4) of the Code of Civil Procedure, 1908 ;
- (b) Section 5 of the Succession (Property Protection) Act ;
- (c) Section 69 or 71 of the Indian Lunacy Act, 1912 ;
- (d) Sections 7, 18 or 42 of the Guardians and Wards Act, 1890 ;
- (e) Section 1 or 17 of the Ahmedabad Talukdars' Act, 1862 ;
- (f) Section 7 (2) (c) or 34 of the Sind Incumbered Estates Act, 1896 ;

V of 1908.
XIX of 1841.
IV of 1912.
VIII of 1890.
VI of 1862.
XX of 1896.

or

(g) Sections 3, 19 (1), 19 (2), 20, 22 (1), or 41 (1) of the Bombay Court of Wards Act, 1905.

Bom. I of 1905.

Temporary Vacancies.

- Cf. XIV of 1869, s. 35.* 39. In the event of the death of a district judge or of his being prevented from performing his duties by illness or other cause or of his absence from the civil district on leave, the first in rank of the assistant judges in the district, or in the absence from the district of an assistant judge, the first in rank of the subordinate judges, shall assume charge of the district court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a district judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like and shall be designated assistant judge or subordinate judge, as the case may be, in charge of the district and shall continue in such charge until the office of the district judge has been resumed, or assumed by an officer duly appointed thereto.
- Temporary vacancy of office of district judge.
- Cf. XIV of 1869, s. 36.* 40. Any district judge leaving the headquarters and proceeding on duty to any place within his district may delegate to an assistant judge, or in the absence of an assistant judge, to a subordinate judge at the headquarters, the power of performing such duties, enumerated in section 40 as may be emergent; and such officer shall be designated assistant or subordinate judge, as the case may be, in charge of the headquarters.
- Delegation of powers of district judge.
- Cf. XIV of 1869, s. 37.* 41. In the event of the death, suspension or temporary absence of any subordinate judge, the district judge may empower the judge of any subordinate court of the same civil district to perform the duties of the judge of the vacated subordinate court, either at the place of such court or of his own court; but in every such case the registers and records of the two courts shall be kept distinct.
- Temporary vacancy of office of subordinate judge.

Suspension and removal of Subordinate Judges.

- Cf. Bom. XII of 1866, s. 9.* 42. (1) The Governor of Bombay in Council may suspend or remove from office any subordinate judge for misbehavior or neglect of duty.
- Suspension and removal.
- (2) The Chief Court may suspend from office any subordinate judge pending inquiry into his conduct.
- (3) The district judge may, in cases of urgent necessity, suspend from office any subordinate judge in the civil district, but shall forthwith report the case to the Chief Court.

Officials of Courts other than the Chief Courts.

- Cf. Bom. XII of 1866, s. 10.* 43. (1) The Chief Judge may appoint for the subordinate courts of the civil district of Karachi such ministerial officers as the Governor of Bombay in Council may direct; and the district judge of any other civil district may make the like appointments for the district court and
- Appointment and removal of court officials.

the subordinate courts of such district; and the Chief Judge and district judge respectively may promote, suspend or dismiss any such Officer.

Provided that no official who is in receipt of a monthly salary amounting to thirty rupees shall be dismissed without the sanction of the Chief Judge.

(2) The Chief Judge may transfer any ministerial officer of any civil court to any other such court and the district judge may make any such transfer in the courts within the local limits of his jurisdiction. *Cf. XIV of 1869, s. 40-A.*

(3) The judge of a subordinate court may appoint peons and ministerial servants of such court and may suspend or remove any bailiff or peon or ministerial servant, subject to an appeal to the Chief Judge in the case of the civil district of Karachi and to the district judge in the case of any other civil district. *Cf. Bom. XII of 1866, s. 10*

Supplemental.

44. Every court shall use a seal on which shall be engraved the royal arms and the title of such court. *Cf. Bom. XII of 1866, s. 11, & XIV of 1869, ss. 11 & 29.*

45. (1) No decree for payment of debt passed by any court shall, save as provided by sub-section (2), be executed against a defendant who is a member of any of the late reigning families of Sind and whose name is entered in a list published in this behalf by the Governor of Bombay in Council in the *Bombay Government Gazette*. *Cf. Bom. XII of 1866, s. 11, & Bom. III of 1868.*

Execution of decree for debt against certain privileged persons.

(2) Where application is made for the execution of such decree against such person, the court shall forward a copy of the decree and of the application to the Commissioner in Sind, who may by special order direct that the decree shall be executed against such person and may specify the manner in which it may be executed.

46. (1) Every proceeding pending at the commencement of this Act in the Court of the Judicial Commissioner of Sind or in the District Court of Karachi or in the court of Session of Karachi shall be deemed to be transferred to the Chief Court of Sind and the Chief Court shall proceed to try, hear and determine the matter as if it had been instituted in such court. *Cf. ss. VI of 1900, ss. 43 (2), 44 & 45.*

Pending proceedings.

(2) Appeals from decrees, sentences and orders passed and not appealed against before the commencement of this Act, which would before that date have lain to the said Court of the Judicial Commissioner or the said district or sessions court, shall lie to the Chief Court.

(3) All decrees, sentences and orders passed before the commencement of this Act by the said Court of the Judicial Commissioner or the said district or sessions court shall be deemed for the purposes of execution to have been passed by the Chief Court.

(4) Provided that nothing contained in sub-section (1) or sub-section (2) shall be construed to extend the period of limitation to which any suit or appeal may be subject.

Cf. XXXI of
1920, Sch.
1.

47. In any enactment made by the Governor of Bombay in Council or the Governor General of India in Council before the date on which this Act comes into operation and in any rule, order, notification or other document made under or with reference to any such enactment any reference to the High Court of Judicature at Bombay, whether as including the Court of the Judicial Commissioner of Sind or otherwise and to the Court of the Judicial Commissioner of Sind, shall, unless there is anything repugnant to the subject or context, be construed after the above mentioned date for the purposes of all civil and criminal proceedings in Sind as a reference to the Chief Court of Sind.

48. The enactments mentioned in the first schedule are repealed to the extent specified in the fourth column thereof.

Repeals and amend- The enactments mentioned in the second schedule are amended to the extent and in the manner specified in the fourth column thereof.

V of 1920.

Provided that nothing herein contained shall affect the proceedings under an insolvency petition under the Provincial Insolvency Act, 1920 pending at the commencement of this Act and all the provisions of the said Act, shall apply thereto as if this Act had not been passed.

THE FIRST SCHEDULE.

REPEALS.

(See section 48.)

Year.	No.	Short title.	Extent of repeal.
		<i>Acts of the Governor</i>	<i>General in Council.</i>
1869	IV	The Indian Divorce Act, 1869.	In section 3, clause (2), the words "in Sind the Judicial Commissioner of that Province".
1869	XIV	Bombay Civil Courts Act.	So far as extended by notifications to Sind.
1920	XXXVIII	The Devolution Act, 1920.	So much of the First Schedule as relates to the Sind Courts Act, 1866.
		<i>Acts of the Governor</i>	<i>of Bombay in Council.</i>
1866	XII	The Sind Courts Act, 1866.	So much as has not been repealed.
1868	III	The Bombay Act V of 1867 (Amendment) Act, 1868.	So much as has not been repealed.
1906	I	The Sind Courts (Amendment) Act, 1906.	The whole.
1910	I	The Bombay Repealing and Amending Act, 1910.	So much of Part II of the First Schedule as relates to the Sind Courts (Amendment) Act, 1906.
1916	II	The Sind Courts (Amendment) Act, 1916.	The whole.

THE SECOND SCHEDULE.

AMENDMENTS.

(See section 48.)

Year.	No.	Short title.	Amendments.
1869 ..	IV ..	The Indian Divorce Act, 1869.	In section 3, clause (1), after the words "the High Court of Judicature at Rangoon" the words "in Sind—the Chief Court of Sind" shall be inserted. In section 3, clause (2), for the words "in Burma" the words "in Burma and Sind" shall be substituted.
1898 ..	V ..	The Code of Criminal Procedure, 1898.	In section 184, after the words "Presidency town" the words "or Karachi" shall be added.
1909 ..	III ..	The Presidency Towns Insolvency Act, 1909.	(1) In the preamble for the words "Town of Rangoon" the words "towns of Rangoon and Karachi" shall be substituted. (2) In section 2 after clause (i) the following clause shall be inserted, namely:— (j) "town of Karachi" includes the municipal district of Karachi from time to time constituted under Bombay District Municipal Act, 1901, the Fort of Karachi, and the Cantonments of Karachi and Manora and any further portion of the area within the civil original jurisdiction of the Chief Court as may be prescribed by notification by the Governor of Bombay in Council, and (3) In clause (b) of section (3) after the word "Burma" the words "and the Chief Court of Sind" shall be inserted.
1920 ..	V ..	The Provincial Insolvency Act, 1920.	(1) In the preamble for the words "Town of Rangoon" the words "Towns of Rangoon and Karachi" shall be substituted, and (2) In clause (b) of sub-section (1) of section 2 for the words "and of the Town of Rangoon" the words "the Town of Rangoon, and of the Town of Karachi as defined in section 2 of the Presidency Towns Insolvency Act, 1909", shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The Administration of Justice and the Appellate and Revisional Jurisdiction of the Province of Sind was entrusted up to 1906 to a single Judge known as the Judicial Commissioner. The civil and criminal original jurisdiction of the City of Karachi and District was exercised by a District and Sessions Judge with the occasional help of an Assistant or Joint Judge as in other parts of Sind.

2. The commercial growth and increase of population of the City of Karachi and the general progress promoted by such irrigation works as those of the Jamrao and Mithrao in other parts of the Province had proved that system to be no longer satisfactory or sufficient. The commerce as calculated by the exports and imports had risen in value to some Rs. 15 crores and the population of the City of Karachi had approached a lakh and a quarter. The Chamber of Commerce and the local Bar Association pressed for more suitable provisions and more experienced Judges to meet the reasonable requirements of a rapidly increasing trade, while the Judicial Commissioner himself represented the substantial increase of civil litigation which then showed an average of over 300 suits a year in addition to considerable Criminal Sessions. He also represented the heavy responsibility imposed upon him, a single judge as the ultimate authority both in civil appeals and in confirmation references on sentences of death passed by the Sessions Courts of the Province. The number of judicial districts had been increased by the separation of Sukkur from Larkana and Nawabshah from Hyderabad and by the raising of the Thar and Parkar District to the regular status of other districts in the Province.

3. The Court of the Judicial Commissioner was created in 1906 as a result of these representations. It was a compromise between the old system and the claims which were being urged for a Chief Court with the full powers both of the original and appellate sides of a High Court. Courts of Judicial Commissioners elsewhere were solely appellate Courts exercising the Civil and Criminal Appellate Jurisdiction of High Courts and it was anomalous to vest the Judges of such a Court with the ordinary civil and criminal original jurisdiction of a District and Sessions Court. But it gave satisfaction for the time as it provided appellate Benches of more experienced Judges for the civil and criminal appellate jurisdiction of the High Court who were able to spare sufficient time from those duties to devote themselves to the important civil original litigation and criminal original work of the City and District of Karachi as independent Judges of the District and Sessions Court. But it was soon found as the average institutions of suits rose to over 1,100 and the original sessions increased that the work was beyond the powers of the Judicial Commissioner with his two Additional Judicial Commissioners and in 1920 sanction was obtained to the permanent appointment of a third Additional Judicial Commissioner. Commercial litigation subsequently raised the institutions of suits to over 1,600 in one year while the criminal work seemed to have been permanently increased with the increase of the population to some 2½ lacs. Sanction had therefore to be obtained in 1923 to the

temporary appointment of a fourth Additional Judicial Commissioner. Commerce as calculated by the exports and imports had now been valued at nearly Rs. 80 crores and though the appointment remains temporary, it has been reported that there is no real prospect of dispensing at any time in the future with the fourth Additional Judicial Commissioner. The staff of Judges has therefore been increased to meet the increase in work practically permanently from 3 to 5 Judges.

4. The Civil Justice Committee has in Chapter XV of their Report issued early this year pointed out the urgent necessity of taking adequate steps to improve the status and procedure of the Court to meet the reasonable requirements of the important seaport of Karachi and of the probable expansion of wealth likely to result from the Sukkur Barrage Scheme in the rest of the Province. The creation of a Chief Court consisting of a Chief Judge and three or four puisne Judges with salaries sufficient to attract and retain permanently experienced Judges both from the Bar and the Services seems to be the least which would be necessary to meet the position. The constant transfer of the judiciary has been a cause of complaint and reasonably so for a long time. It is therefore necessary to provide prospects which will ensure Judges electing to remain permanently in Karachi till the end of their service up to 60 years of age instead of seeking further promotion in the Bombay High Court. It is proposed to effect this under the present Bill. The Chief Court under the Bill will also have the power of making special rules for its own procedure not only on the appellate but also on the Original Side of its jurisdiction as a High Court. The Court of the Judicial Commissioner could no doubt make its own rules as regards its appellate jurisdiction as a High Court under sections 122 and 125 of the Civil Procedure Code, but it is a question whether it has strictly the power to do so in respect of the original jurisdiction vested in its Judges as Judges of the District Court of Karachi. It is a question whether it would be permissible to treat them in respect of that jurisdiction as subject to their own superintendence as required by the sections and, even if so, whether it would be within the spirit of the sections to vest them as such with special powers beyond those ordinarily exercised by other District Courts, to treat them in fact as though they were exercising the civil original jurisdiction of a High Court. The Chief Court will however be under no such disadvantage as it will exercise both on its Appellate and its Original Side the jurisdiction ordinarily exercised by a High Court. Chamber work could therefore be specially provided for, the summary procedure in respect of negotiable instruments would be susceptible of extension to other similar suits, the procedure of originating summonses might be introduced and delegation of judicial and non-judicial powers would be possible to the more experienced staff which it is proposed and it would be proper to entertain for a Court of the status of a Chief Court. It will also be possible with a more experienced staff to introduce the provisions so long required by the public of the Presidency Towns Insolvency Act. Criminal procedure at the Sessions will also be shortened by the full introduction of that in force in other High Courts, while the decisions at the Sessions trials will be final and not subject to appeal or reference, except as specially provided in

other High Courts, to the Appellate Side of the Court. The Bill has been modelled on the Chief Courts Act of Lower Burma No. VI of 1900 and the Chief Courts Act of Punjab No. III of 1914 both of which Courts have since been raised to the status of High Courts. The Bill also provides for the admission of Advocates, Attorneys, and Pleaders and for the introduction if necessary of the dual system with its greater speed and effectiveness in force on the Original Side of the Bombay High Court. The Bill at the same time consolidates and in some important matters revises the law relating to the District and Subordinate Civil Courts of Sind.

Notes on Clauses.

Clause 4.—A Chief Judge and three puisne Judges are proposed or in all 4 permanent Judges though it will probably not be possible to dispense with the services of the 5th temporary Judge particularly in view of the Sukkur Barrage Scheme and the probable further increase in the prosperity of the Province. But the Civil Justice Committee has recommended, and it will be necessary to await the effect of, the extension of the jurisdiction of the Small Causes Court. It is also possible that the civil and criminal original jurisdiction will be restricted hereafter to the Karachi Taluka instead of extending to the whole of the Karachi District. It is proposed no longer to restrict any judgeships specially to Barristers-at-Law, but to open them to all members of the Bar. It is proposed to provide salaries similar to those usual in other Chief Courts with a view to attract experienced men, whether from the Bar or the Services, who will be prepared to remain permanently in Karachi and not seek promotion to the Bombay High Court.

Clause 9.—The Chief Court will include an Original Side for the civil and criminal jurisdiction vested in it. It will possibly hereafter be restricted, as already stated, to the Karachi Taluka, but will for the present extend to the whole of the Karachi District. The Chief Court will have power to make rules for its own procedure in its civil original jurisdiction similar to those in force in any other High Court. Its criminal original jurisdiction will be conducted on the same lines as that of the Chartered High Court.

Clauses 10 and 11.—The civil and criminal original jurisdiction will continue for the present to extend to the whole of the Karachi District and provision has been made accordingly, but it will possibly be practicable to limit hereafter to the Karachi Taluka, after the proposed separation of the Nawabshah District from Hyderabad. It will possibly then be practicable to include the rest of the Karachi District in the civil District and Sessions Division of Hyderabad.

Contempt of Court provisions, though strongly pressed by the Chamber of Commerce and the Local Bar, have not been included in view of the Legislation pending before the Legislatures of the Government of India.

Clauses 13, 14 and 15.—The civil original jurisdiction will ordinarily be conducted by a single Judge subject to appeal or reference to a Bench

of two or more Judges. The criminal original jurisdiction will similarly be conducted by a single Judge subject only to reference to a Bench as in the Chartered High Courts. Section 9 (b), 9 (c) and 9 (d) of the present law have not been repealed as it has been thought sufficient to rely upon the general provisions of section 98 of the Civil Procedure Code and sections 378 and 479 of the Criminal Procedure Code. There will moreover be sufficient Judges in future to provide in any criminal matter for any necessary Full Bench without including the Judge precluded from sitting by the provisions of section 556 of the Criminal Procedure Code.

Clause 17.—It is proposed to appoint a sufficient number of superior officers with suitable salaries on the establishment to make it possible to delegate judicial and non-judicial powers to them as in other High Courts.

Clause 19.—The Chief Court will have power to provide for the required number of legal practitioners and to introduce, if necessary, the dual system of Advocates and Attorneys for the speedier and more effective disposal of suits on the Original Side as in the Bombay High Court.

Clause 20.—The Chief Court will have power to make rules for its own procedure whether on the Original or Appellate Side under section 122 read with section 125 of the Civil Procedure Code. It will be possible under such rules to prescribe Chamber sittings for the speedier disposal of miscellaneous work and to institute Commercial cause lists. It will also be possible to extend the summary procedure to suits other than those on negotiable instruments and to introduce the system of originating summonses. It will also be possible to delegate some of the less important judicial and non-judicial functions to the more experienced officers who are proposed for the Court. It is doubtful whether it would be possible under the present law to make any such similar provisions for the civil original jurisdiction which is at present vested in the Judges as ordinary Judges of a District Court and not as Judges of a High Court. It is not proposed to extend directly the provisions of section 122 as the Rule Committee prescribed in section 123 would hardly be suitable for Karachi, but it will be possible to exercise all those powers and to provide, if necessary, a suitable Rule Committee under the provisions of section 125 of the Civil Procedure Code.

Clauses 22 to 29.—These clauses consolidate the law relating to the Judges and Joint and Assistant Judges of the District Courts contained at present in the sections of the Bombay Civil Court Act specially extended to Sind. Clauses 30 to 37 consolidate similarly the law relating to the Subordinate Civil Courts.

Clause 38.—It is proposed to extend to the Courts of the First Class Subordinate Judges the jurisdiction in respect of official suits at present restricted to the District Courts. It is thought that these suits, though often involving matters of great public importance and requiring the presence of public officers for prolonged periods might well be tried by the experienced Judges who now preside over the First Class Subordinate Courts ordinarily situated like the District Courts at the Headquarters of the Districts.

Clauses 39 to 45.—Include miscellaneous and supplemental provisions as in the present law. But instead of a special schedule with the list of the members of the late reigning families which requires perpetual modification, it is proposed to provide for periodical publication of the list in the *Bombay Government Gazette*.

Clause 46.—Provides for pending proceedings and clause 47 for references to other laws and existing rules and notifications.

Clause 48.—Is important in placing beyond question the jurisdiction of the Chief Court under the Indian Divorce Act of 1869 and in introducing to the City of Karachi the provisions of the Presidency Towns Insolvency Act, 1909. It also provides for railway offences being triable at Karachi as in the Presidency towns of India.

2nd September 1925.

M. H. W. HAYWARD.

APPENDIX T.

BILL No. XX OF 1925.

A Bill further to amend the Bombay Local Boards Act, 1923.

(As introduced on the 13th August 1925 and published in the
"Bombay Government Gazette" of the 10th September 1925.)

Whereas it is expedient further to amend the Bombay Local Boards Act, 1923 (Act No. VI of 1923), in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Local Boards (Amendment) Short Title. Act, 192 .

2. After sub-section (*m*) of section 50 of the Bombay Local Boards Act, 1923, hereinafter called the principal Act, a new sub-section (*mm*) with the following words shall be added :

"The compulsory registration of marriages".

3. After section 50, the following new section 50A shall be Penalty for breaches of added :—
by-laws.

"Notwithstanding anything contained in the said Act or in any of the by-laws framed thereunder as may be in force for the time being within the limits of the District Board, if any of the parties to the marriage or the guardian or guardians for the marriage of the parties, when either the bride or the bridegroom is a minor or both the parties are minors or any other person enjoined to do so, fails to comply with any of the provisions of the by-laws framed under the Act for the registration of marriages or to report the fact of the solemnization of a marriage to the Marriage Registrar or any other Recorder, duly appointed for the purpose of the registration of marriages by the District Board, each of the parties or the guardian or guardians or any other person so enjoined, shall, on conviction by a Magistrate of the Second Class or First Class, be liable to a fine not exceeding Rs. 200 or in default to undergo simple imprisonment not exceeding six months".

4. After section 61 of the principal Act, a new section 61A shall be Framing of by-laws for added with the following words:—
registration of marriages.

"(1) The District Local Board shall within three months from the date of this Act becoming law, take steps to introduce the system of the registration of marriages; and shall within the same period, after consulting leading men and public bodies of such communities as have not been exempted by the Board under section 62A, frame by-laws for carrying on the registration work; and all by-laws so made shall, before being forwarded to Government for sanction, be published in suitable vernacular newspapers for eliciting objections criticism thereon.

(2) After the District Board has at its meeting, specially called for the purpose, considered the objections and criticism so offered, the by-laws as finally framed shall be re-published in suitable vernacular newspapers for the information of the public and shall then be submitted to Government for their sanction and the by-laws shall not have the force of law until they are duly published in the *Bombay Government Gazette*.

(3) The District Board may from time to time, with the sanction of the Government, cancel or alter any of the by-laws”.

5. After section 62 of the principal Act the following new section

Delegation of registration work to a Sub-Committee. 62A shall be added :—

“Notwithstanding anything contained in this Act, the District Board may delegate to a Sub-Committee specially formed for the purpose, all or any work imposed by sub-section (mm) of section 50 and by the by-laws framed for the registration of marriages.”

6. After the new section 62A the following new section 62B

Power to exempt any community from the obligation of registration of marriages. shall be added :—

“Notwithstanding anything contained in this Act it shall be lawful for a District Local Board to exempt from the operation of the compulsory registration of marriages any particular community living within its limits :

Explanation.—Community in this section means and implies a large body of men following a common religion, separate in habits and customs from the rest, e.g., the Agha Khani Khojas, Shia Bohras, Hindus and Sikhs but it does not mean a tribe, a caste or a sub-class of a principal community, e.g., Mughals, Shaikhs, Pathans, Lohanas, etc.”

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to have an authenticated record of marriages for the purpose of production, whenever required in a Court of Law. The absence of such an authorised record often creates difficulties, whenever the fact of marriage is disputed and in a way facilitates the commission of matrimonial offences or affords facilities to such offenders to escape the consequences of their acts. It will also prevent bogus claims of marriages being set up. It is a well recognised principle of law that whenever an event creates a legal right, status or obligation, an authentic record in the shape of registration is generally kept. Thus births and deaths are registered, because both these events either create or destroy particular rights or obligations. There is no reason why a similar record should not be kept for another event, viz., a marriage which also creates important rights, status and obligations. In cases of enticing away married women, adultery, bigamy and other matrimonial suits, the fact of a legal marriage is the most important and relevant fact in issue ; and very often the parties find it most difficult to prove or disprove it by

means of oral testimony or some unauthenticated and unreliable record. This difficulty has often resulted in grave miscarriage of justice and has prevented many people from getting their just grievances redressed. In many localities it has led to the commission of murders and other serious crime. It has also afforded opportunities and temptation to litigants to set up fabricated and false testimony. If compulsory registration were enforced these difficulties and drawbacks, both of the parties as well as of Courts, would be obviated. Besides this, compulsory registration would not entail any hardship or inconvenience on the public as the Local Board, consisting of the representatives of the people, could be trusted to make most convenient and suitable arrangements for such registration.

NOOR MAHOMED, M.L.C.

APPENDIX U.

SUPPLEMENTARY AGENDA FOR THE THIRD SESSION OF THE
BOMBAY LEGISLATIVE COUNCIL WHICH COMMENCED ON
THE 21ST OCTOBER 1925 [*vide* Standing Order X 1 (d)].

DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

Resolutions by Mr. Punjabhai Thakersi, M.L.C.

1. "This Council recommends to Government to appoint immediately a committee with a non-official majority to enquire into the problem of the growing unemployment in the city of Bombay and to suggest means to remove it."
2. "This Council recommends to Government that the restrictions imposed on Vinayak Damodar Savarkar at the time of his release be withdrawn forthwith, and that he be restored to complete liberty."

Resolutions by Mr. M. B. Powar, M.L.C.

1. "This Council recommends to Government that the notification recently issued by the Collector of Kolaba in the Kolaba district regarding the carrying of processions with music be forthwith withdrawn."
2. "In view of the pecuniary hardships of the primary teachers in the presidency, this Council recommends to Government that the primary teachers should be paid according to the Sathe-Paranjpye scheme from March 1923."

Resolution by Mr. A. E. Patel, M.L.C.

1. "This Council recommends to Government to put the Sathe-Paranjpye scheme into force immediately with regard to the pay of primary teachers."

Resolutions by Mr. P. G. Joshi, M.L.C.

1. "This Council recommends to the Governor in Council that the new increased maximum rates of land assessment which have been introduced in various parts of the presidency, including Sind, after the publication of the Joint Parliamentary Select Committee's recommendations to regulate by statute the process of revising land assessment, should forthwith be withdrawn and the old rates be introduced in their stead."
2. "This Council recommends to the Governor in Council that the scale of pay suggested by the honourable Messrs. Sathe and Paranjpye for teachers in the primary schools (known as the Sathe-Paranjpye scheme) be brought into force immediately."
3. "This Council recommends to the Governor in Council to represent to the Governor General in Council that the Electoral Rules should be so modified as to enable women to stand as candidates for the Council elections."

Resolution by Mr. L. B. Bhopalkar, M.L.C.

1. "This Council recommends to Government that the photo-copying system introduced recently in the Registration Department of this presidency as an experimental measure be abolished forthwith, and the old system restored."

Resolution by Mr. H. D. Saheba, M.L.C.

1. "Taking into consideration the pecuniary hardships of the primary teachers in the presidency this Council recommends to Government that the primary teachers should be paid according to the Sathe-Paranjpye scheme."

Resolutions by Mr. G. I. Patel, M.L.C.

1. "This Council recommends to Government that the scale of pay of primary teachers as laid down in the Sathe-Paranjpye scheme be brought into force at once and given effect to from March 1923, and before their services are transferred to the various local boards in the presidency."

2. "This Council recommends to Government that the Kulkarni Watans commuted since 1913 be restored to their old status and position and that the agency of the talatis be replaced by that of watandar kulkarnis."

3. "This Council recommends to the Governor in Council that the new increased maximum rates of land assessment which have been introduced in various parts of the presidency, including Sind, after the publication of the Joint Parliamentary Select Committee's recommendations to regulate by statute the process of revising land assessment, should forthwith be withdrawn and the old rates be introduced in their stead."

4. "This Council recommends to Government that the restrictions imposed on Vinayak Damodar Savarkar at the time of his release be withdrawn forthwith, and that he be restored to complete liberty."

5. "This Council recommends to Government that for the better conduct of the criminal and revenue administration of the Bombay Presidency, the following changes should be made:—

(1) Revenue officers should exercise no powers under the laws related to crimes;

(2) The Prant officers, *i.e.*, Sub-divisional officers, should be abolished, the Collector being given a personal assistant where necessary."

6. "This Council recommends to Government that they be pleased to draw the attention of the Bombay Port Trust authorities to the urgent necessity of providing at least during the Haj season a fixed berth accommodation with a suitable shed having necessary sanitary arrangements and refreshment rooms and medical inspection rooms for the convenience of Hajis with separate arrangements for women and children accompanying them."

7. "This Council recommends to Government that steps should be taken to abolish the Development Directorate as a separate Department and transfer its activities to the Public Works Department."

8. "This Council recommends to Government that in order to allay the discontent prevailing among the agriculturists of the presidency and to give them real relief, the following fees and fines, wherever they have been recently increased, be reduced to their original level :—

- Grazing fees per head of cattle ;
- Fees per cart and head-load of grass ;
- Fees per cart and head-load of Anjan leaves ;
- Fees per cart-load of thorns ;
- Fees per cart and head-load of fuel ;
- Fees per cart-load of stones of various kinds ; and
- Fines per head of cattle impounded."

9. "This Council recommends to Government not to issue licenses for the sale of country liquor and toddy in villages having a population of five thousand or less after the expiry of the existing licenses."

Resolutions by Mr. S. A. Sardesai, M.L.C.

1. "In view of the recurring famines in the Bijapur district this Council recommends to Government to start without delay two irrigation schemes, viz., the Ghataprabha and Malaprabha, both of these being protective and productive."

2. "Taking into consideration the pecuniary hardships of primary teachers in the presidency, this Council recommends to Government that primary teachers should be paid according to the Sathe-Paranjpye scheme from March 1923."

Resolutions by Mr. S. K. Bole, M.L.C.

1. "This Council recommends to Government to appoint a committee to enquire into the whole question of the management of the Bombay mill industry."

2. "This Council recommends to Government to take urgent steps for the relief of mill workers who will be in a state of distress during the period of unemployment owing to the present mill strike in Bombay."

3. "In view of the fact that the legality of the commutations of kulkarni watans has been questioned, this Council recommends to the Governor in Council immediately to introduce legislation to authorise commutation of all kulkarni watans in the Central and Southern Divisions and to legalise those commutations of kulkarni watans which have already taken place."

4. "This Council recommends to Government to permit at least two persons from the non-Brahmin backward classes to work as mukhtyars in all the courts of mamlatdars and mahalkaris and to appear before the Collectors and Assistant and Deputy Collectors where there is not an

adequate number of pleaders belonging to these classes in the Central and Southern Divisions and in the Thana district."

5. "This Council recommends to Government not to give any grant to the municipalities and local boards which refuse to give effect to the resolution passed by this Council allowing to members of the depressed classes the use of wells, tanks, water taps, dharamshalas, dispensaries and schools built and conducted by such local bodies."

Resolution by Mr. Lalji Naranji, M.L.C.

"This Council recommends to Government that steps should be taken to abolish the Development Directorate as a separate department and transfer its activities to the Public Works Department."

Resolutions by Mr. G. M. Kalbhor, M.L.C.

1. "In view of the fact that the legality of commutations of kulkarni watans wherever they are at present commuted is being questioned, this Council recommends to the Governor in Council immediately to introduce legislation authorising commutation of all kulkarni watans in the Central and Southern Divisions which have not yet been commuted and to legalise the commutations which have already taken place."

2. "This Council recommends to Government to exercise their power of appointing trustees to Devasthanas, the management of which is entrusted to trustees; and in exercising such power to make the appointments from the non-Brahmin communities."

Resolution by Mr. Shankarrao Jayaramrao Zunzarrao, M.L.C.

"In view of the fact that the legality of the commutations of kulkarni watans has been questioned, this Council recommends to the Governor in Council immediately to introduce legislation to authorise commutation of all kulkarni watans in the Central and Southern Divisions and to legalise those commutations of kulkarni watans which have already taken place."

Resolution by Mr. D. N. Patel, M.L.C.

"This Council recommends to Government that the scale of pay of primary teachers as laid down in the Sathe-Paranjpye scheme be brought into force at once and given effect to from March 1923, and before their services are transferred to the various local boards in the presidency."

Resolutions by Mr. D. R. Patil, M.L.C.

1. "This Council recommends to Government that the principles of the revision of land assessment should be settled at an early date in the light of the recommendations of the Joint Parliamentary Committee and that the revisions of assessment that are yet to be either undertaken or made final should neither be undertaken nor made final otherwise than according to the principles that will be settled as above."

2. "This Council recommends to Government that a sum of Rs. 1,00,000 be provided for the East Khandesh District in the next

year's budget, without the usual conditions attached to grants for water supply, for expenditure by the district local board on works to mitigate the great hardship caused by the scarcity of drinking water."

Resolutions by Mr. M. D. Karki, M.L.C.

1. "This Council recommends to Government that with a view to making medical aid available to those who are suffering from various sorts of diseases and ailments due chiefly to malaria which has been the main cause of the steady decrease of population and of the breakdown of the general health of the people of the inland and forest villages of Kanara, itinerant doctors be forthwith appointed in each of the talukas and pethas of the said district."

2. "This Council recommends to Government that an Ayurvedic college be established, as early as possible at a convenient place in the presidency."

3. "This Council recommends to Government that a new road to the extent of 7 miles be opened between Tolvan in Honavar taluka and Kodigaide in Siddapur taluka of the Kanara district to connect with the existing 12-mile road from Honavar to Tolvan and the existing 23-mile road from Siddapur to Kodigaide *via* Doddreno and that the whole of the said road from Honavar to Tolvan be taken over by the P.W.D. and be made a contingent and well constructed one for encouraging and facilitating the traffic between the two important talukas of Honavar and Siddapur."

4. "This Council recommends to Government that with a view to reducing the extravagant cost of forest administration the number of divisions in Kanara should be reduced, the minor forest division being abolished and the other divisions being reduced to two."

5. "This Council recommends to Government that the post of the Chief Conservator of Forests be forthwith abolished."

6. "This Council recommends to Government that further recruitment from outside to fill the posts of divisional forest officers in the presidency be stopped and that senior rangers be appointed henceforth to those posts."

7. "This Council recommends to Government that the system of levying grazing fees on cattle be abolished in Kanara."

8. "This Council recommends to Government that with a view to relieving the villagers of Kanara from the innumerable difficulties to which they have been put on account of the pressure of forests proper on their village sites and to averting such difficulties arising in future, the existing proper forests within the distance of from half-a-mile to one mile from the village sites should either be converted into battæ or minor forests, as the case may be, and that no land within that distance should in future be made a proper forest."

9. "In view of the pecuniary hardships under which the primary teachers in the presidency are labouring, this Council recommends to

Government that they (primary teachers) should be paid according to the Sathe-Paranjpye scheme from March 1923."

10. "This Council recommends to Government that a committee with three-fourths non-official majority be appointed to consider and report on the present rules regarding the suspension and remission of land revenue and to suggest what changes it is desirable to make in them."

11. "This Council recommends to Government that Revenue Commissionerships should be abolished."

12. "This Council recommends to Government that, in order to allay the hardship and irritation caused to the poorer classes of people of Kanara who are accustomed to eat the pith of the 'tali palm' trees on account of the increase in the fees, the present fee of Rs. 4 per tree be reduced forthwith to Re. 1."

13. "This Council recommends to Government that in order to allay the discontent prevailing among the gardeners of the above-ghat talukas of the Kanara district on account of the 'batta' rules (*vide* Revenue Department Notification No. 7198, dated the 16th April 1923) as modified up to date, the said rules be, after consulting the leading gardeners in the various talukas, so revised as to meet their wishes."

14. "This Council recommends to Government that a bridge or a high level causeway be built on the Badagani river at the Badagani ferry in the Honavar taluka in the district of Kanara."

15. "This Council recommends to Government that a bridge or a high level causeway be built on the Venkatapur river at the Venkatapur ferry in the petha of Bhatkal in the district of Kanara."

16. "This Council recommends to Government that the manufacture of *jagri* by the cultivators of Kanara be treated as an agricultural operation and that they be restored to their original position by the deletion of the words 'but not for the manufacture of *jagri*' appearing in sub-clause (4) of clause No. 1 of the present Kanara Forest Privilege Rules as published under notification No. 779, dated 16th April 1924 in the Revenue Department."

17. "This Council recommends to Government that in view of the peculiar circumstances under which the district of Kanara is placed, they may be pleased to move the proper authorities to allot two seats in the Bombay Legislative Council one for the Karwar division and the other for the Sirsi division in that district."

18. "This Council recommends to Government that a small committee of officials and non-officials from the Kanara district be appointed with a majority of non-officials including the elected member of the Legislative Council for that district to investigate into the grazing problems in that district and to suggest ways and means for improved grazing there, such committee being given power to elect its own chairman."

19. "This Council recommends to Government that the proprietary rights over the 'bettas' assigned to the gardeners be conceded to them on conditions that they ('bettas') should go with the land for the benefit of

which they have been assigned and that the living trees therein should not be cut without the permission of the mamlatdar or mahalkari as the case may be."

20. "This Council recommends to Government that in view of the fact that the present assignment of 'bettas' to the gardeners of the above-ghat talukas of Kanara has in many cases given rise to trouble and has thereby given a set-back to the garden industry they should be pleased to call upon the said gardeners to submit their objections to the said assignment and after necessary enquiries reassign proper, sufficient and convenient 'bettas' wherever necessary."

Resolutions by Mr. V. N. Jog, M.L.C.

1. "This Council recommends to Government that the kulkarni watans commuted since 1918 be restored to their old status and position and that the agency of talatis be replaced by that of watandar kulkarnis."

2. "This Council recommends to Government that for the better conduct of the criminal and revenue administration of the Bombay presidency, the following changes should be made:—

(1) Revenue officers should exercise no powers under the laws relating to crimes;

(2) The prant officers, *i.e.*, sub-divisional officers should be abolished, the Collector being given a personal assistant where necessary."

3. "This Council recommends to the Governor in Council that the new maximum rates of land assessment which have been introduced in various parts of the presidency including Sind, after the publication of the Joint Parliamentary Committee's recommendations to regulate by statute the process of revising land assessment, should forthwith be withdrawn and the old rates be introduced in their stead."

Resolution by Mr. D. N. Patel, M.L.C.

2. "This Council recommends to the Governor in Council that the new increased maximum rates of land assessment which have been introduced in various parts of the presidency including Sind, after the publication of the Joint Parliamentary Select Committee's recommendations to regulate by statute the process of revising land assessment should forthwith be withdrawn and the old rates be introduced in their stead."

Resolution by Mr. L. B. Bhopatkar, M.L.C.

2. "This Council recommends to Government that an early and favourable consideration be given to the scheme for the encouragement of Indian Art formulated by the Prize of Delhi Committee."

Resolution by Mr. M. S. Khuhro, M.L.C.

"This Council recommends to Government that a committee consisting of the non-official Sind members of the Council and the officials of Sind, with a clear majority of the former be appointed to enquire into

the grievances of the agriculturists of Sind, which arise from the present rules and regulations of the Forest Department, and to make such recommendations as they consider necessary for removing the grievances."

Resolution by Mr. V. N. Jog, M.L.C.

"This Council recommends to Government that the scale of pay of primary teachers as laid down in the Sathe-Paranjpye Scheme be brought into force at once and given effect to from March 1923 and before their services are transferred to the various local boards in the presidency."

Resolutions by Mr. M. D. Karki, M.L.C.

21. "This Council recommends to the Governor in Council that the new increased maximum rates of land assessment which have been introduced in various parts of the presidency including Sind, after the publication of the Joint Parliamentary Select Committee's recommendations to regulate by statute the process of revising land assessment, should forthwith be withdrawn and the old rates be introduced in their stead."

22. "This Council recommends to Government that for the better conduct of the criminal and revenue administration of the Bombay presidency, the following changes should be made:—

(1) Revenue officers should exercise no powers under the laws relating to crimes;

(2) The prant officers, *i.e.*, Sub-divisional officers, should be abolished, the Collector being given a personal assistant where necessary."

23. "This Council recommends to Government that in order to allay the discontent prevailing among the agriculturists of the presidency and to give them real relief, the following fees and fines, wherever they have been recently increased, be reduced to their original level;

Grazing fees per head of cattle;

Fees per cart and head load of grass;

Fees per cart and head load of Anjan leaves;

Fees per cart load of thorns;

Fees per cart and head load of fuel;

Fees per cart load of stones of various kinds; and

Fines per head of cattle impounded.

24. "This Council recommends to Government not to issue licenses for the sale of country liquor and toddy in villages having a population of five thousand or less after the expiry of the existing licenses."

Resolutions by Mr. B. R. Nanal, M.L.C.

1. "This Council recommends to Government that the scale of pay of primary teachers as laid down in the Sathe-Paranjpye scheme be brought into force at once and given effect to from March 1923, and before their services are transferred to the various local boards in the presidency."

2. "This Council recommends to Government that the Kulkarni watans commuted since 1913 be restored to their old status and position and that the agency of talatis be replaced by that of watandar kulkarnis."

3. "This Council recommends to the Governor in Council that the new increased maximum rates of land assessment which have been introduced in various parts of the presidency including Sind, after the publication of the Joint Parliamentary Select Committee's recommendations to regulate by statute the process of revising land assessment, should forthwith be withdrawn and the old rates be introduced in their stead."

4. "This Council recommends to Government that for the better conduct of the criminal and revenue administration of the Bombay Presidency, the following changes should be made :

(1) Revenue officers should exercise no powers under the laws related to crimes ;

(2) The Prant officers, *i.e.*, Sub-divisional officers, should be abolished, the Collector being given a personal assistant where necessary."

Resolutions by Mr. M. D. Karki, M.L.C.

25. "This Council recommends to Government that the four Shanbhogs of the Honavar Taluka who were dismissed as ringleaders of the Shanbhog Strike in Kanara during the year 1922 should either be forthwith reinstated in their posts or given pension as if they had retired in the ordinary course."

26. "This Council recommends to Government that Government servants of all grades should be ordered to wear their own national head-dress when they attend their offices and public functions."

27. "This Council recommends to Government that an expert Shikari of Kanara be appointed as a district Shikari for destroying wild elephants in Kanara and that he be paid a monthly salary and also given an adequate reward for every elephant killed by him."

Resolutions by Mr. N. E. Navle, M.L.C.

1. "This Council recommends to Government that those Revenue and Police Patils in the Ahmednagar District who get an annual remuneration below Rs. 25, be given Rs. 25 annually with effect from March 1926."

2. "This Council recommends to Government that in order to irrigate a portion of the lands in the most famine-stricken taluka of Sangamner in the Ahmednagar District, a dam be constructed at a suitable place near Kalas in the Akola Taluka across the river Pravara."

3. "This Council recommends to Government that in view of the famine-stricken condition of the Ahmednagar District, the present forest grazing fees be reduced to their original level."

Resolution by Mr. J. Baptista.

1. " This Council recommends to Government that they be pleased to communicate to the Government of India their considered opinion that the ' Legislative Bodies Corrupt Practices Bill ' , is unnecessary and detrimental to the dignity and independence of the members of the Legislative Bodies, and that the same confidence should be reposed in the sense of honour of members of the Indian Legislatures as in the Members of Parliament in Great Britain . "

*(Additional Minute of Dissent to the Report of the Select Committee
on Bill No. XVI of 1925.)*

No. 4158.—With reference to footnote to the Report of the Select Committee on Bill No. XVI of 1925 (A Bill to give wider powers in the management of Municipal affairs in certain cities) published at pages 335—342 of the *Bombay Government Gazette*, Part V, dated the 6th October 1925, it is notified that Mr. P. G. Joshi, M.L.C., has signed the report of the Select Committee subject to a minute of dissent shown below :—

(Minute of dissent by Mr. P. G. Joshi, M.L.C.)

1. I sign the Select Committee's Report subject to the following minute of dissent.

2. The definition of "salaried servant of Government" is in my opinion defective. As it stands at present it will not include most probably an officiating Patil or Kulkarni. These are full time and stipendiary Government servants, no one would deny, and as such ought not to be allowed to stand for municipal elections. I know however some instances where Police Patils have contested seats in such elections. It must therefore be made clear that officiating Patils and Kulkarnis are included in the term "Salaried servant of the Government".

3. I am stoutly opposed to the constitution of different wards on communal basis. I do not understand why such wards are at all considered necessary. I believe no question affecting any particular class or community ever comes up before the municipalities, which make such communal representation necessary. If we are to progress towards Swaraj we must be prepared to give the go by to communal electorates. That being my conviction, I oppose separate electorates either for Mahomedans, backward Hindus or depressed classes. I may at the most agree for some time to the reservation of certain seats for these communities, if their "representatives" in the Council insist on such seats. I therefore suggest that all reference to separate wards on communal basis in clause 9 (c) should be deleted.

4. I think that the definition of "corrupt practice" ought to be made still more comprehensive. Such practice should include in my opinion "the hiring, employment, borrowing or using for the purposes of election, of any boat, vehicle or animal, usually kept for letting or hire, or for conveyance of passengers for hire". Clause 13 (4) should accordingly be amended.

5. I think that the term of office of the President and Vice-President should be one year only, and it is not advisable to allow a member to occupy these posts for full three years. No effort should be spared to extend education in citizenship as far as possible and in a practical manner. The posts of the President and Vice-President being training grounds for such education, opportunities should be provided to as many members as possible to fill these posts and gain an intimate knowledge of the inner working of the municipal administration. I believe

that one year's experience is quite sufficient to gain such knowledge, when another member may usefully step in. By this method, it is possible to associate six members with the inner working of municipal administration within a period of three years. If however the majority of the Councillors consider it necessary to re-elect the same persons to these posts, they may do so, as they will be eligible for re-election. I further think that no occasion would arise for the councillors to exercise their power under clause 19, to remove the President or Vice-President, if the term of such offices is limited to one year only.

6. Clause 26 (1) mentions certain circumstances which disable a person from continuing to be a councillor. There is no mention anywhere as to the authority (whether the President or the Municipality) who is to decide this question of disability. Sub-clause 2 leaves the final decision of this question in the hands of the Government. It is however nowhere stated clearly whether the councillor in question is to continue in office or not, till the issue of the final orders. I think that sub-clause 2 should clearly state that such councillor should continue in office, till final orders are issued by Government.

7. The present Act gives considerable powers to the Chief Officer in the execution of his duties. It is therefore absolutely necessary to make some provision for appeals against the orders of the Chief Officer, whenever any person feels aggrieved thereby. These provisions should be made by rules and the following sub-clause should therefore be added to clause 55, as sub-clause (1) :—

“(1) prescribing the time within which, and the authority to whom the appeals against the orders of the Chief Officer may be preferred.”

8. I think the power to frame by-laws about qualified surveyors contained in clause 58 (v) should be deleted. The Select Committee has wisely deleted original clause 122, which required the services of licensed surveyors to supervise the erection of any building, as they considered those provisions to be unnecessary for mofussil municipalities. For the same reason, I propose the deletion of clause 58 (v).

9. The discretionary powers of expenditure of municipalities ought to include in my opinion, constructing or maintaining public play-grounds. The Bombay Corporation, following the example of the municipalities on the continent, has I understand recently constructed some tennis-courts, which are largely taken advantage of by the public. The mofussil municipalities should also have similar powers.

10. Clause 78 (3) (c) empowers the Standing Committee to transfer their powers and duties to hear objections to the assessment-list to any officer or pensioner of the Government. But they cannot transfer these powers to any non-official. I do not see any reason why the Standing Committee should not transfer these powers to any responsible non-official with the permission of the Commissioner. I would therefore suggest the addition of the following words at the end of proviso to clause 78 (3):

“Or to any non-official, resident within the Municipal borough.”

11. Under sub-clause 5 of clause 95, the surplus of sale-proceeds are to be credited to the municipal fund and on an application made to the Chief Officer within three years are to be paid to the person in whose possession the property was, when seized. I really fail to see why the Municipality should retain the surplus in their hands and wait for an application from the person concerned. In my opinion, the Municipality should immediately send the surplus by postal M.O. to the person from whom the property which was sold, was seized. I therefore suggest that necessary changes should be made in sub-clause 5 of clause 95. The same remarks are applicable to the similar provision in sub-clause 3 of clause 104.

12. Under clause 196, sub-clause 4, either party, if dissatisfied with the decision of the panchayat, has the power, within one month of the date thereof, to apply to the District Court, and such court is empowered to determine the matter in accordance with the provision of sub-clause 3. I think that the decision of the panchayat should be final and no appeal ought to be allowed therefrom, unless corruption or misconduct of any member of the panchayat is specifically alleged.

13. I do not think that the Government should have the power to supersede a Municipality in cases of incompetency, default and abuse of power. The power of dissolution is I think quite enough for the purpose. When the Government would dissolve a Municipality, specifying the reasons therefor, the electors may be trusted to use their discretion wisely and to exercise their votes in favour of competent and honest candidates, so as to prevent the recurrence of the mistakes, which brought on the dissolution. I would therefore propose that the words "or supersede it for a period to be specified in the order" in clause 217 (1) be deleted.

No. 4160.—With reference to the footnote to the Report of the Select Committee on Bill No. IV of 1925 (A Bill to enable the Hindus of the Province of Sind to restrict themselves to monogamous marriages) published at pages 328—332 of the *Bombay Government Gazette*, Part V, dated the 6th October 1925, it is notified that Mr. C. M. Saptarshi, M.L.C. has signed the report of the Select Committee subject to a minute of dissent shown below :—

(Minute of dissent by Mr. C. M. Saptarshi, M.L.C.)

1. I regret I cannot accept the Majority report of the Select Committee. The bill has been metamorphosed out of all recognition by the Select Committee. Such a bill if passed into law will remain a dead-letter and will neither satisfy the expectations of the social reformer nor please the more orthodox sections in the Hindu Society of the province of Sind. I am afraid it will have to be recommitted to the Select Committee for reconsideration.

2. I do not understand the necessity of amending sub-clause II of clause I as the Select Committee has done. The effect of the amendment is to exclude converts from Hinduism to any other religion from

the operation of the bill. This is absolutely unnecessary. It appears to have been done at the instance of my Mohamedan colleagues. I do not however see why they should insist on this amendment. So far as I know no Mohamedan who has received liberal education ever regards the privilege of marrying more than one wife, a cherished privilege which he would like the Mohamedans to preserve for all time to come. Along with his Hindu reformer brothers the Mohamedan reformer also aims at monogamy as the cherished ideal of his society. I am at a loss to understand why a Hindu who has discarded the faith of his ancestors as a matter of conscience should be placed in a peculiarly advantageous position with regard to his second marriage after conversion. Marriage according to the Hindu conception of it is not a mere contract but a religious sacrament. The Hindu wife therefore of a Hindu who becomes a convert to another religion does not cease to be a wife, her marriage not being *ipso facto* dissolved by the husband's conversion. It will not therefore be just, fair or equitable to relieve her husband of the corresponding liability which must fall on him and which he must be prepared to bear. There is no reason why a Hindu convert to another religion should be placed in a position more advantageous than that of an Englishman or a Parsi similarly situated. The effect of the amendment suggested by the Majority of the Select Committee is to set a premium on conversion and provide a strong incentive for conversion to those who on some pretext or another are disposed to marry more than one wife at one and the same time. In Sind especially it would be very easy for such persons to embrace Sikhism and escape the operation of this bill. I am therefore wholly opposed to the amendment of sub-clause II of clause I as suggested by the Majority of the Select Committee. For the same reasons I would submit that the last three lines of clause IV beginning with "Whatever" be retained and not deleted.

3. I would retain the expression "A permanent resident of" instead of "domiciled in" in sub-clause (b) of clause II of the bill. There is no reason why persons who permanently stay in Sind and who are desirous of taking advantage of the bill should be precluded from doing so.

4. I am entirely opposed to the deletion of clauses V and VI of the bill. I gathered from the statement of objects and reasons attached to the bill by the mover of the bill that his intention in introducing this bill was to give effect to the custom of monogamous marriages as obtains in Sind with all its limitations and modifications. It was not his intention to introduce this bill as a piece of radical social reform. It is well known to every Hindu that the bulk of orthodox Hindus regard the birth of a male offspring as absolutely necessary not only for the perpetuation of their race, but for their happiness in the other world. Indeed I may say without hesitation that even highly educated Hindus are not free from this sentiment which has been inherited by them. As a social reformer I would like to see monogamy introduced in Hindu society as early as possible but Legislation in social matters must necessarily take account of the existing customs and traditions of the people. In fact it is the Hindu sentiment of begetting a son for earthly and

spiritual welfare that is responsible for the prevalence of the custom of marrying more than one wife. If therefore the custom of monogamous marriages prevailing in the Hindu society of Sind has to be given effect to in this bill, the exceptions which the custom recognises must also be incorporated in the bill. Otherwise the bill will not be a bill to give effect to the custom as obtains in Sind, but it will be a piece of Legislation appealing to the sentiments of a few social reformers who do not stand in need of such a measure. Besides if such a measure is passed into law it must of necessity remain a dead-letter for want of public support. I would therefore strongly recommend that the bill should be recommitted to the Select Committee for properly drafting and inserting as clauses V and VI the exceptions to monogamy recognised by the custom as obtains amongst the Hindus of Sind.

5. I am opposed to the deletion of the words in the Schedule which render a second marriage void during the life-time of the first wife. The Majority of the Select Committee do not appear to have carefully considered the wording of section 494, Indian Penal Code. That section penalises a person only in those cases in which a second marriage is void by reason of its taking place during the life-time of the first husband or wife. If therefore we remove the expression "Shall be void and" from the declaration in the Schedule the effect would be to legalise the second marriage performed during the life-time of the first wife. If such a marriage is legalised then a prosecution of a person under section 494 or 495 of the Indian Penal Code for having acted in defiance of the bill must necessarily fail as those sections have no application to a case where a second marriage is not *ipso facto* void. I would therefore retain the words in the Schedule which render the second marriage during the life-time of the first wife void. The declaration in the Schedule should be worded accordingly.

N. J. WADIA,

Secretary to the Legislative Council
of the Governor of Bombay.

BILL No. XII OF 1925.

A Bill further to amend the Bombay Port Trust Act, 1879.

(As read for the second time.)

WHEREAS it is expedient further to amend the Bombay Port Trust Act, 1879, in manner hereinafter appearing: AND WHEREAS the previous sanction of the Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called the Bombay Port Trust (Amendment) Short Title. Act, 192 .

2. After section 61 of the Bombay Port Trust Act, 1879, the following section shall be inserted, namely:—
 Insertion of new section
 61A in Bom. VI of 1879.

“ 61A. (1) The Board shall, immediately upon the landing by them of any goods, take charge thereof, except as may be otherwise provided in the bye-laws, and store such as are liable in their opinion to suffer from exposure in any shed or warehouse belonging to the Board.
 Board to take charge of
 goods landed by them.

(2) If any owner, without any default on the part of the Board, fails to remove any goods, other than those stored in the warehouses appointed by the Board for the storage of duty-paid goods or in warehouses licensed under section 16 of the Sea Customs Act, 1878, from the premises of the Board “ or from any public warehouse on the premises of the Board appointed under section 15 of the Sea Customs Act, 1878 ”, and within eleven clear days from the date on which such goods shall have been landed, such goods shall remain on the premises of the Board or in such public warehouse at the sole risk and expense of the owner, and the Board shall thereupon be discharged from all liability theretofore incurred by them in respect of such goods.
 Goods not stored in licen-
 sed warehouses to remain
 at risk and expense of
 owner if not removed
 within seven days.

NOTIFICATION.

LEGISLATIVE COUNCIL OFFICE.

Council Hall, Poona, 7th October 1925.

No. 3719.—With reference to the footnote to the Report of the Select Committee on Bill No. XVIII of 1925 (A Bill to amend the Bombay Children Act, 1924) published at pages 323—325 of the *Bombay Government Gazette*, Part V, dated the 1st October 1925, it is notified that the marginally noted members have signed the Report of the Select Committee and that Mr. Noor Mahomed, M.L.C., and

Mr. B. K. Dalvi, M.L.C.

“ G. B. Pradhan, M.L.C.

“ W. S. Mukadam, M.L.C.

Mr. A. N. Surve, M.L.C., have signed the same subject to the minutes of dissent shown below :

(Minute of dissent by Mr. Noor Mahomed, M.L.C.)

When the aim of the Bill is to protect children from forming bad habits, injurious to health, the retention of sub-clause (1) of clause 10 (D) in the Bill appears to me to be necessary.

(Minute of dissent by Mr. A. N. Surve, M.L.C.)

Last October a great fight was put up by the Opposition in the interests of children, and a promise was wrested from Government that it will introduce a bill containing provisions preventing juvenile smoking, drinking, betting, etc. Government kept its promise and introduced the present bill which, if it had been accepted by the majority, would have afforded greater protection to children than they at present enjoy. But it is a great pity that in the select committee the bill is so whittled down, and that too by non-official members, that it has virtually ceased to give the protection which it was intended to do. I could have understood the reasons for softening down the bill if it were to confer some additional power to the executive which would expose the public to danger or curtail its rights, but as the bill aims at protecting children from the contaminating influences of vice in the form of drinking, smoking, etc., it was extremely desirable to make mild provisions of the bill more stringent, but strange and unexpected as it is, the mild provisions are made milder and growth of vice, if not directly encouraged, is at least connived at. If we are to be sincere in our protestations about prohibition, if it be our real desire to make it a reality and not merely a catchword, then it becomes our prime duty that the children of the land are kept away from the contamination. It is more reasonable, more certain and more lasting to build up prohibition by making a beginning with the children than to introduce it by a fiat of legislation. Acting upon the opinion expressed by its representatives, Government have adopted prohibition as the ultimate goal of its excise policy. If the desire of the people in the matter of prohibition is to be accomplished, then it is the plain duty of their representatives to see that the Government's task in introducing dry condition is neither hampered nor retarded. To permit a child to drink is to create a potential drunkard and thereby to hamper and retard our progress in the direction of the goal of our excise policy which Government has seen fit to adopt in deference to public opinion. Therefore no provision of law, however severe it may be, would be harsh which aims at keeping away children and young persons from intoxicating drinks.

I consider the retention of clause 10D (1) of the bill essential.

Clause 10B of the bill should be restored with the omission of the words "apparently under the age of seven years" which follow the word "child".

N. J. WADIA,

Secretary to the Legislative Council
of the Governor of Bombay.

Appendices

LEGAL DEPARTMENT.

Bombay Castle, 23rd June 1925.

No. 1411—*Corrigendum*.—The following amendment should be made in Bill No. XII of 1925 (A Bill further to amend the Bombay Port Trust Act, 1879), published at pages 58-59 of the *Bombay Government Gazette*, Part V, dated the 8th May 1925, namely :—

In clause 2 of the Bill in draft section 61A (2)—

(a) after the word " Board " where it occurs for the third time *insert* the following :

III of 1878.

" or from any public warehouse on the premises of the Board appointed under section 15 of the Sea Customs Act, 1878 ", and

(b) after the word " Board " where it occurs for the fourth time *insert* the following, namely :

" or in such public warehouse ".

By order of His Excellency the Governor,

N. J. WADIA,

Acting Secretary to Government.

(Additional Minutes of Dissent to the Report of the Select Committee on Bill No. IV of 1925.)

NOTIFICATION.

LEGISLATIVE COUNCIL OFFICE.

Council Hall, Poona, 10th October 1925.

No. 3853.—With reference to the footnote to the Report of the Select Committee on Bill No. IV of 1925 (A Bill to enable the Hindus of the Province of Sind to restrict themselves to monogamous marriages) published at pages 328—332 of the *Bombay Government Gazette*, Part V, dated the 6th October 1925, it is notified that Mr. G. B. Pradhan, M.L.C., and Mr. M. D. Karki, M.L.C., have signed the report subject to the minutes of dissent shown below :—

(Minute of dissent by Mr. G. B. Pradhan, M.L.C.)

I do not wish to delete the original clauses 5 and 6, and necessarily the restoration of these clauses will make it necessary to restore the words in clauses 2 and 4 giving a reference to clause 5.

In the schedule also in paragraph 4 the words "except as provided in section 5 of this Act" will have to be restored.

My reasons for restoring these clauses are that in other religions where monogamy is enjoined there is a provision for divorce. Under the Hindu law, marriage being a sacrament and not a contract no provision for a divorce can be made and the parties will be pinned down to one marriage whatever the valid grounds may be for a second marriage. It is urged that if there are similar defects in the husband the wife is not given a choice of having a second husband. That is an evil and I do not wish to extend that evil to the other party.

Besides, in the first place, I am against any social legislation; but if you are going to make one, don't proceed at a break-neck speed. Feel your ground cautiously and then proceed. For these reasons, I am for restoring clauses 5 and 6 in the original Bill and for consequential amendments in the clauses 2, 4 and the Schedule.

(Minute of dissent by Mr. M. D. Karki, M.L.C.)

I entirely disagree with the report of the Committee. The very object of the bill has been frustrated by the amendment introduced in it. The bill as introduced was a very simple one. It plainly said that a Hindu in the Province of Sind who desires to be monogamous should at the time of his marriage make a declaration to that effect and should remain faithful to it during his life time notwithstanding the fact that he becomes a convert to some other religion thereafter. In the Select Committee unnecessary discussion regarding the validity of the marriage of a Hindu convert with the female of the religion of his adoption and his rights and liabilities in respect of his Hindu wife was introduced in the meeting.

The Mahomedan members on the Committee remarked that the bill was intended to be an encroachment on their religion and introduced the amendments in paragraph 2 of clause 1 and in the last portion of clause 4. The bill as amended encourages a Sindhi Hindu, instead of securing to a Hindu wife all the matrimonial rights over her husband, to defeat her said rights by his conversion to some other religion. This is simply mischievous to a Hindu wife.

The amendment "so long as they remain Hindu" in paragraph 2 of clause 1 was carried by 5 votes to 4, the Chairman giving two votes in favour of it.

It is not known why a Hindu willing to be monogamous at the time of his marriage with a Hindu girl should not be allowed to remain so notwithstanding his conversion to other religion and why Mahomedan members should remark that the bill is an encroachment on their religion. Does Mahomedan law condemn monogamy? Cannot a Mahomedan remain monogamous or remain a bachelor? Does he lose his religion in that event? If not, why a convert should be forced to break the pledge solemnly made while he was a Hindu?

If a Hindu who subjects himself to the operations of the provisions of the bill becomes a Mahomedan, he should remain so with the liabilities imposed by the bill.

I would rather like to see the bill defeated in the House of the Legislative Council than to allow it to be passed into law as amended.

N. J. WADIA,
Secretary to the Legislative Council of the
Governor of Bombay.

(Additional Minutes of Dissent to the Report of the Select Committee on Bill No. XVII of 1925.)

NOTIFICATION.

LEGISLATIVE COUNCIL OFFICE.

Council Hall, Poona, 8th October 1925.

No. 3722.—With reference to the footnote to the Report of the Select Committee on Bill No. XVII of 1925 (A Bill to transfer the powers and duties of the Trustees for the Improvement of the City of Bombay to, and to vest the property and rights vested in the said Trustees in the Municipal Corporation of the City of Bombay) published at pages 266—273A of the *Bombay Government Gazette*, Part V, dated the 1st October 1925, it is notified that Mr. Noor Mahomed, M.L.C., has signed the report and that Mr. K. F. Nariman, M.L.C., and Dr. M. B. Velkar, M.L.C., have signed the same subject to the minutes of dissent shown below :

(Minute of dissent by Mr. K. F. Nariman, M.L.C.)

I do not agree with the whole principle on which this legislation is based. I have always maintained that the creation of the Improvement Trust Act in 1898 by a special legislation was a serious encroachment upon the ordinary rights and privileges of the Bombay Municipal Corporation. It was a grave reflection on its capacity and a clear verdict that the Municipal Corporation of those days was not able to discharge its ordinary functions and constitutional duties assigned to it under the law and therefore it was necessary to create another independent board to discharge the same functions and duties that would ordinarily have devolved on the Corporation. If one compares the preamble and provisions of the Improvement Trust Act with the duties and functions assigned to the Corporation under sections 61 and 63 of the Municipal Act, it will be quite clear to him that they are almost identical and similar ; even the preamble of the present amending Bill states that the Bombay Improvement Act of 1898 was enacted with a view to make provision for the improvement and for the future expansion of the City of Bombay by forming new and altering existing streets, by removing or altering insanitary buildings in certain areas, by providing open spaces for better ventilation and for recreation, by constructing new sanitary dwellings for certain classes of the inhabitants of the city. Are these not the privileges and ordinary duties and functions of the Municipal Corporation ? The following clauses of sections 61 and 63 of the Municipal Act mention exactly similar functions of the Municipal Corporation :—

Clause (d)—The reclamation of unhealthy localities.

Clause (m)—Construction, maintenance, alteration, improvement of public streets, etc.

Section 63 (c)—Construction, maintenance of public parks, etc.

As a matter of fact the powers and duties assigned to the Municipal Corporation under the Act for the improvement and development of the

city go far beyond the functions assigned to the Board under the Improvement Trust Act of 1898. Thus the Act of 1898 was only a device on the part of the Government to deal a serious blow to the local self-government by creating an independent board and transferring some of its important powers and duties to it. It is really surprising that the stalwart corporators of those days should have submitted to the uncalled for interference and encroachment. The only excuse and pretext was the prevalence of the fatal epidemic of plague. It was believed that the Corporation would not be able to cope with the extraordinary situation created by the sudden and daily rise in the mortality and with a view to allay the nervous state that was prevailing in the public, a new board was created to soothe the ruffled and excited public feeling.

But after the normal state was restored, the Corporation seemed to have realised the serious blow to its position and prestige by the creation of an independent board to discharge some of these municipal functions and hence for some time past it had been making a persistent but feeble demand for the abolition of this new board and restoration of its powers and privileges.

The simultaneous existence and functioning of these two independent bodies, had created an anomalous position, unheard of in the municipal administration of any other large civilized city. Two independent bodies, governed by two independent Acts, discharging more or less the same municipal functions in the same city. For the purpose of these municipal duties assigned to the Improvement Trust, the city was, as it were, divided into two territorial divisions; this divided responsibility was very often detrimental to the interests of the city and often created difficulty and an anomalous position.

I have deemed it necessary to go into the previous history with a view to remove a wrong impression under which some members of the Council, as well as the public, seem to labour under; the attitude taken up by the Government in introducing the legislation is such as if it were conferring some special new benefit or favour on the Municipal Corporation. I wish to make it clear that the Government is not at all making any special concession to the Corporation but only restoring to it what constitutionally and originally belonged to the local self-government and which was for so many years unjustifiably withheld from the Corporation. I was rather surprised to find some members offering their congratulations to the Honourable Minister for introducing this measure, when to my mind it was a proper occasion to bring a vote of censure against Government, in the first place for having encroached upon the rights and privileges of a local self-governing body and further for having delayed in restoring it, even long after an excuse to retain such powers had passed. This being my view, viz., that the Act of 1898 (the Improvement Trust Act) was an interpolation and unjustifiable interference in the ordinary and usual progress of local self-government in Bombay, the only honest course left open is to place the Corporation in *status quo ante*, i.e., in the same position in which it was before the Act of 1898 was enacted. In other words the only measure necessary is a Bill repealing the Improvement Trust Act

of 1898 and other consequential provisions necessary to transfer the properties and adjust the financial rights and liabilities of the Board of Improvement Trust and providing for the continuance and completion of existing schemes. Beyond that any interference with the ordinary rights and functions of the Corporation by means of a separate legislation would not only be unjustifiable but would be extremely unwise and impolitic.

The City of Bombay Municipal Act is quite exhaustive and enough to cover and provide for any further contingency that may arise by the new situation. If one goes through carefully the Municipal Act he will be convinced that the proposed legislation is not only superfluous but may even become mischievous, because in the civic administration of a city, there will be two Acts operating, simultaneously, some provisions of which overlap each other, and what is worse still is that both these Acts are to be executed and operated by the same institution called by two different names. The simpler and more equitable course seems to be to amend the Municipal Act, so as to give the Corporation wider powers to constitute another statutory committee called the Improvement Committee under the Municipal Act similar to the Standing Committee, the Schools Committee, the Hospital Committee, etc., and also to provide the procedure and working of that committee and if necessary also to provide for the inclusion of non-corporators in that committee and to leave the rest of the entire internal administration in the hands of the Corporation. The Corporation under its present constitution as governed by the Municipal Act manages and controls, fairly efficiently, the whole civic administration of this city with a population of nearly 12 lakhs and an annual turnover of 3½ crores of rupees. It has undertaken much larger schemes of improvement and has just completed the gigantic schemes of increased water supply, costing crores of rupees, under the present Municipal Act without any interference, control and supervision from any external agency. It also makes appointments higher in responsibility and salaries than the proposed appointment of the Chief Officer. The Hornby Ballard scheme which it has undertaken is perhaps larger in dimensions than many of the schemes undertaken or pending by the Improvement Trust and all this is smoothly carried out under the present Municipal Act, without any necessity or interference by any other special Act or agency. Then, where is the necessity of a special separate Act to carry out functions and duties almost similar to those in the Municipal Act? To my mind, the divided responsibility under two different similar legislations for an identical object and purpose will result in a good deal of confusion and also adversely affect the efficient and smooth administration. The course suggested by me, *viz.*, assimilation of the two bodies into one instead of separate divisions will also be more economical.

The Corporation may, if it thinks fit, create a special post of a Chief Officer or an additional deputy commissioner to be in charge of the departments working under the separate statutory committee called the Improvement Committee of the Corporation and may also retain all or as much as necessary of the present staff for that department and

similar separate financial arrangements could be made as is arranged for the present statutory Schools Committee. This arrangement will restore the Corporation to the same position as it would have been in in the Act of 1898 had not been enacted.

This being my view the only clauses in the Bill that I deem necessary are those repealing the Act of 1898 (Improvement Trust Act) and transferring the properties to the Corporation and adjusting financial rights and liabilities and providing for the continuance and completion of the existing schemes undertaken by the Improvement Trust. All the other clauses relating to the details of the internal administration should be deleted as these matters come within the proper sphere of the Municipal Corporation, and I should at the same time suggest an amendment of the City of Bombay Municipal Act providing for the creation of a special statutory committee called the Improvement Committee, whose constitution and procedure should be similar to the one proposed in the Bill. The result of such a course will be to re-instate the Municipal Corporation of Bombay to the same position as it would have been in without the unjustifiable interference of the Act of 1898.

(Minute of dissent by Dr. M. B. Velkar, M.L.C.)

I regret I cannot agree with the majority report of the Select Committee.

With regard to the increase in the number of the Improvement Committee from 14 to 18, in order to provide for the representation on it of the Bombay Chamber of Commerce, the Indian Merchants' Chamber and the Millowners' Association, as recommended by the Select Committee, I wish the Select Committee has stuck to the original number and the constitution as in the Bill. I see absolutely no reason why special representation should be given to the two chambers and the Millowners' Association. What special interests do these bodies have apart from the general interests of the city which are best represented by the city's representatives on the Committee? In the best interests of the city we want more of the popular element than the element of vested interests on such corporations.

Then, again, I strongly oppose any sort of nomination on the Improvement Committee as suggested by the Select Committee. A panel consisting of the Director of Development, Bombay, the Chairman of the Bombay Port Trust, the Collector of Bombay and the Executive Engineer, Presidency District, is already provided for in the Bill giving opportunity to any three representatives of the above bodies to sit on the Committee, but then I would have them so appointed on the Committee through co-option by the Board as provided for in the original Bill and not through nomination by the Government as recommended by the Select Committee.

Then, I consider the salary of the Chief Officer even as reduced by the Select Committee, *viz.*, rising from Rs. 2,000 to Rs. 3,000 too high. To my mind it ought to be from Rs. 1,500 to Rs. 2,000 only and for this reason. Popular cry is that our higher services are overpaid and that we must put forth our best effort to cheapen them in order that our

administration may not become too topheavy as it already is in our Government and Municipal services. We can cheapen these services if at the same time we try to Indianize them as we can now get best Indian experts to take up these responsible posts on smaller salaries.

Again, I do not see any reason why a new clause 109A should be inserted in the Bill giving the officers and servants of the Board option to retire within two years from the date on which this Act comes into force and at the same time allowing them certain concessions regarding leave, provident fund and gratuity, under some rules which were passed at the fag end of the existence of the Improvement Trust, viz., 10th January 1924. Clearly all these officers and the servants knew, when they joined the service, that the Bombay Improvement Trust was never a permanent body and was to be transferred sooner or later to the Bombay Municipal Corporation. I, therefore, do not understand why these officers and servants should expect any special concessions apart from those ordinarily allowed to them under the service rules of the Board.

N. J. WADIA,

Secretary to the Legislative Council
of the Governor of Bombay.

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