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AGENDA

*For the Third Session of the Bombay Legislative Council held
at the Council Hall, Poona, on Wednesday, the
21st October 1925, at 2 p.m.*

I. OATHS OR AFFIRMATION OF ALLEGIANCE TO THE CROWN.

II. NOMINATION OF FOUR CHAIRMEN BY THE PRESIDENT.

III. QUESTIONS AND ANSWERS.

IV. GOVERNMENT BILLS.

(1) Bill No. XII of 1924 (A Bill to provide for the collection of statistical information for public purposes)—*First Reading.*

(2) Bill No. XI of 1925 (A Bill further to amend the Bombay Smoke Nuisances Act, 1912)—*First Reading.*

(3) Bill No. XII of 1925 (A Bill further to amend the Bombay Port Trust Act, 1879)—*Third Reading.*

(4) Bill No. XIII of 1925 (A Bill to impose a tax on totalisator betting)—*Second Reading.*

Notices of amendments* have been received from—

- (i) Mr. L. B. Bhopatkar, M.L.C.
- (ii) „ G. B. Pradhan, M.L.C.
- (iii) „ S. S. Dev, M.L.C.
- (iv) „ M. D. Karki, M.L.C.
- (v) „ K. F. Nariman, M.L.C.
- (vi) „ H. M. Rahimtoola, M.L.C.
- (vii) Sir Vasant Rao Dabholkar, Kt., C.B.E., M.L.C.
- (viii) Mr. C. N. Wadia, C.I.E.

(5) Bill No. XVI of 1925 (A Bill to give wider powers in the management of municipal affairs in certain cities)—*Second Reading.*

Notices of amendments* have been received from—

- (i) Mr. B. G. Pahalajani, M.L.C.
- (ii) „ D. R. Patil, M.L.C.
- (iii) „ S. T. Kambli, M.L.C.
- (iv) „ R. D. Shinde, M.L.C.
- (v) „ R. G. Pradhan, M.L.C.
- (vi) „ K. F. Nariman, M.L.C.
- (vii) „ H. M. Rahimtoola, M.L.C.
- (viii) „ R. G. Soman, M.L.C.
- (ix) „ M. D. Karki, M.L.C.
- (x) „ L. B. Bhopatkar, M.L.C.
- (xi) „ S. S. Dev, M.L.C.
- (xii) „ A. N. Surve, M.L.C.

(6) 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)—*Second Reading.*

* Printed as appendix to the Agenda.

Notices of amendments* have been received from—

- (i) Mr. Hoosainbhoy A. Lalljee, M.L.C.
 - (ii) „ S. K. Bole, M.L.C.
 - (iii) Dr. M. B. Velkar, M.L.C.
 - (iv) Mr. K. F. Nariman, M.L.C.
 - (v) „ H. M. Rahimtoola, M.L.C.
 - (vi) Sir Vasantao Dabholkar, Kt., C.B.E., M.L.C.
 - (vii) Mr. A. N. Surve, M.L.C.
- (7) Bill No. XVIII of 1925 (A Bill to amend the Bombay Children Act, 1924)—*Second Reading*.

Notices of amendments* have been received from—

- (i) Mr. L. B. Bhopatkar, M.L.C.
 - (ii) „ D. R. Patil, M.L.C.
 - (iii) „ Hoosainbhoy A. Lalljee, M.L.C.
 - (iv) „ S. S. Dev, M.L.C.
 - (v) „ S. K. Bole, M.L.C.
 - (vi) „ A. N. Surve, M.L.C.
- (8) Bill No. XXIII of 1925 (A Bill to consolidate and amend the law relating to the Courts in Sind)—*First Reading*.
- (9) 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)—*First Reading*.

V. MOTIONS.

Motion by the Honourable Mr. H. S. Lawrence, C.S.I., I.C.S.

“That this House approves of the Report of the Committee on Public Accounts on the Audit and Appropriation Reports on the Accounts of the Bombay Presidency for the year 1923-24 and recommends to Government that effect may be given to its recommendations.”

VI. GOVERNMENT RESOLUTION.

Resolution from the Honourable Mr. Cowasji Jehangir, C.I.E., O.B.E.

“This House recommends to Government that the scheme for the formation of the Bombay Subordinate Engineering Service as outlined in the printed note placed on the table be instituted and introduced as soon as possible.”

VII. DEMANDS FOR SUPPLEMENTARY GRANTS.

VIII. PRIVATE BILLS.

(1) Bill No. IV of 1925 (A Bill to enable the Hindus of the Province of Sind to restrict themselves to monogamous marriages)—*Second Reading*—Mr. D. B. Adwani, M.L.C.

Notices of amendments* have been received from—

- (i) Mr. G. B. Pradhan, M.L.C.
- (ii) „ M. D. Karki, M.L.C.
- (iii) „ P. G. Joshi, M.L.C.
- (iv) „ L. B. Bhopatkar, M.L.C.
- (v) „ R. D. Shinde, M.L.C.

- (vi) Mr. S. S. Dev, M.L.C.
- (vii) „ K. F. Nariman, M.L.C.
- (viii) „ D. R. Patil, M.L.C.

(2) Bill No. VIII of 1925 (A Bill further to amend the Bombay Village Police Act, 1867)—*Second Reading*—Mr. D. R. Patil, M.L.C.

(3) Bill No. X of 1925 (A Bill further to amend the Bombay Hereditary Offices Act, 1874)—*Second Reading*—Mr. D. R. Patil, M.L.C.

Notice of amendments* has been received from—

- (i) Mr. L. B. Bhopatkar, M.L.C.
- (ii) „ K. F. Nariman, M.L.C.
- (iii) „ D. R. Patil, M.L.C.
- (iv) „ S. S. Dev, M.L.C.
- (v) „ A. N. Surve, M.L.C.

(4) Bill No. XIX of 1925 (A Bill further to amend the City of Bombay Municipal Act, 1888)—*First Reading*—Mr. S. K. Bole, M.L.C.

(5) Bill No. XX of 1925 (A Bill further to amend the Bombay Local Boards Act, 1923)—*First Reading*—Mr. Noor Mahomed, M.L.C.

(6) Bill No. XXI of 1925 (A Bill further to amend the Bombay Land Revenue Code, 1879)—*First Reading*—Mr. L. B. Bhopatkar, M.L.C.

(7) Bill No. XXII of 1925 (A Bill further to amend the City of Bombay Municipal Act, 1888)—*First Reading*—Mr. A. N. Surve, M.L.C.

(8) A Bill further to amend the Bombay Prevention of Gambling Act, 1887—Motion for leave to introduce the Bill—Mr. J. Baptista, M.L.C.

(9) A Bill further to amend the City of Bombay Police Act, 1902—Motion for leave to introduce the Bill by Mr. A. N. Surve, M.L.C.

(10) A Bill to amend the law relating to the emoluments claimable by Watandar Hindu Priests—Motion for leave to introduce the Bill by Mr. S. K. Bole, M.L.C.

(11) A Bill further to amend the Bombay Village Police Act, 1867—Motion for leave to introduce the Bill by Mr. P. G. Joshi, M.L.C.

(12) A Bill further to amend the Cattle-trespass Act, 1871—Motion for leave to introduce the Bill by Mr. J. C. Swaminarayan, M.L.C.

(13) A Bill further to amend the Mamlatdars Courts Act, 1906—Motion for leave to introduce the Bill by Mr. D. R. Patil, M.L.C.

(14) A Bill further to amend the Bombay Civil Courts Act, 1869—Motion for leave to introduce the Bill by Mr. P. G. Joshi, M.L.C.

IX. MOTIONS TO AMEND STANDING ORDERS.

Motion* No. I of 1925—*Second Reading*—(Mr. P. G. Joshi).

Motions* Nos. II, III, IV and V of 1925 by the Honourable Sir Maurice Hayward, K.C.S.I., I.C.S.

X. DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST†.

Resolutions by Khan Saheb A. M. Mansuri, M.L.C.

1. “ This Council places on record its high appreciation of the services rendered by the Honourable Sir Maurice Hayward, K.C.S.I., during the time he held office as Leader of the House.”

* Printed as appendix to the Agenda.

† Resolutions are arranged according to the order of priority determined by ballot.

2. "This Council recommends to the Governor in Council that instructions be issued that in all cases of Mahomedan minors under the Courts of Wards, the 'Zakat' portion of the incomes should be set apart, according to the obligations of the Moslem religion, and handed over to responsible people for use as demanded by that religion."

3. "This Council recommends to the Governor in Council that a committee be appointed to collect accurate information on the methods of money lenders in this presidency, particularly in the villages, and to suggest means whereby such money lending can be reduced to a minimum."

4. "In view of the fact that the liquor shop situated at Patharkuva, Ahmedabad, is situated in the immediate vicinity of two mosques, this Council recommends to Government that it be forthwith removed from its present place."

5. "This Council recommends to Government that early steps be taken to give effect to the resolution of this House regarding the adequate representation of all communities in all the services, especially in the Educational Department and on the clerical staff."

6. "This Council recommends to Government that the proposal made by the University Reforms Committee regarding the removal of the Ismail College from Andheri to the Fort should not be given effect to."

7. "This Council recommends to Government that the opening of the Ismail College at Andheri be expedited."

Resolutions by Mr. Abdul Latif Haji Hajrat Khan, M.L.C.

1. "This Council recommends to the Governor in Council that the water from the Ekruk tank at Sholapur should be given immediately to the agriculturists as far as 26 miles of the present perennial canal for the kharif and rabi crops."

2. "This Council recommends to the Governor in Council that the Indian police staff at Sholapur should be increased."

3. "This Council recommends to Government that they may be pleased to open an Anglo-Urdu middle school at Sholapur immediately."

Resolutions by Mr. V. N. Jog, M.L.C.

1. "This Council recommends to Government that an adequate sum be provided for and set apart in the next year's budget to investigate the possibilities of major works of irrigation and to carry on preliminary survey and other operations in connection with such works to be constructed in the famine stricken areas of the Dharwar district."

2. "This Council recommends to Government to represent to the Government of India the necessity of combining together into a separate and independent province the different parts of the Kanarese-speaking territory in the Bombay and Madras Presidencies and Coorg."

3. "This Council recommends to Government to increase the scale of emoluments of patils wherever they are low."

4. "This Council recommends to Government that in order to allay the discontent prevailing among the agriculturists of the presidency

and to give them relief, the following fees and fines wherever they have been recently increased, be reduced to their original level :—

- (a) grazing fees per head of cattle ;
- (b) fees per cart and head load of grass ;
- (c) fees per cart and head load of *Anjan* leaves ;
- (d) fees per cart-load of thorns ;
- (e) fees per cart and head load of fuel ;
- (f) fees per cart-load of stones of various kinds ;
- (g) fines per head of cattle impounded.”

Resolutions by Mr. S. S. Dev, M.L.C.

1. “ This Council recommends to Government that the primary teachers be paid at least according to what is known as the Sathe-Paranjpye scale of pay, from March 1923.”

2. “ 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.”

3. “ This Council recommends to Government that in view of the population of, and the number of voters in, the non-Mahomedan rural constituency of the district of West Khandesh, they may be pleased to move the proper authorities to allot two seats in the Bombay Legislative Council to that constituency.”

4. “ This Council recommends to Government that they be pleased forthwith to appoint for each district in the presidency a mixed committee of officials and non-officials, with a majority of non-officials, including all the elected members of the Legislative Council for the district, the committee having power to elect its own chairman, in order to investigate into the economic condition of the people of the district.”

5. “ This Council recommends to Government that they be pleased forthwith to appoint for each district in the presidency a mixed committee of officials and non-officials, with a majority of non-officials, including all the elected members of the Legislative Council for that district, the committee having power to elect its own chairman, in order to ascertain the grievances of the people and to report thereon suggesting remedies where possible.”

6. “ This Council recommends to Government to suspend the introduction of the revised rates of assessment in the Sindkheda taluka

in the West Khandesh district, till legislative or other action is taken by Government on the resolution passed by this Council on the 15th March 1924, regarding the revision of the land revenue assessment."

7. "This Council recommends to the Governor in Council to appoint forthwith a small committee, with a non-official majority, to investigate into the causes of the discontent prevailing among those khatedars in the Mulshi Peta whose lands are being acquired for the Nila-Mula project, and to report thereon."

8. "This Council recommends to Government that all lands situated in the villages in Mulshi Peta, which are above the contour line of the Nila-Mula project of the Tata Power Co., Ltd., and have been rendered useless to the owners or have deteriorated in value on account of the said project be acquired under the Land Acquisition Act at the rates at which the adjoining lands to be submerged under water are being or have already been acquired."

9. "This Council recommends to Government that the orders prohibiting school boys in Government and aided institutions from attending public meetings be at once rescinded."

10. "This Council recommends that Government be pleased to give substantial monetary help to the Shreemati Nathibai Damodhar Thackersey Indian Women's University, as a mark of appreciation of their efforts in conducting for the last eight years the very useful and important experiment of imparting secondary and higher education to women through the medium of the vernacular and that this help be given without imposing any such restrictions as may interfere with the internal administration of the said university."

11. "This Council recommends to Government that they may be pleased to revise the existing partition of Khandesh and readjust it by transferring Amalner, Parola and Chalisgaon talukas to West Khandesh."

12. "This Council recommends that Government be pleased to authorise district officers to supply the members of this Council such information of public interest as they may seek from such officers."

Resolution by Dr. K. E. Dadachnji, M.L.C.

1. "This Council recommends to Government to draw up a comprehensive scheme of sanitation and medical relief both in the municipal and rural areas, and place it before the Council, so as to reduce the heavy mortality from plague, cholera, malaria and other epidemics in the presidency."

Resolutions by Moulvi Rafiuddin Ahmad, M.L.C.

1. "This Council recommends to Government that all ancient mosques and mausoleums in the possession of Government in the districts of East and West Khandesh should be restored to the Mahomedan community to be utilised by them for the purposes for which they were originally constructed."

2. "This Council recommends to Government that the Poona Urdu normal classes should be converted into a full training college teaching the third year course."

3. "This Council recommends to Government that an Anglo-Urdu middle school for Mahomedan girls should be established at Poona at an early date."

4. "This Council recommends to Government that no fees should be charged to outdoor patients receiving treatment at all civil hospitals in the presidency."

Resolutions by Mr. G. B. Pradhan, M.L.C.

1. "This Council recommends to Government that in view of the importance of the Bombay suburban district they be pleased to take such steps as may be necessary to secure a separate seat on the Bombay Legislative Council to that district over and above the two seats now allotted to the Thana District."

2. "This Council recommends to Government that in view of the great hardships to which the people staying at Badlapur and other neighbouring places are put they be pleased to construct high-level bridges at both these places on the river Ulhas, or compel the Tata Company who allow the tail-water to flow in this river to construct these bridges."

3. "This Council recommends to Government that in view of the great hardship caused to the inhabitants of Dharavi island they be pleased to construct a bridge over the Ambavni creek at Gorai to meet the repeated demand of the people staying in those places."

4. "This Council recommends to Government that the Turf Club be asked to close the third enclosure."

Resolutions by Mr. L. B. Bhopatkar, M.L.C.

1. "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 the watandar kulkarnis."

2. "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."

3. "This Council recommends to Government that a high level bridge be built without delay over the river Ulhas at Badlapur in the Thana District."

4. "This Council recommends to Government that due steps be taken to put into execution the suggestions outlined in the Prize of Delhi Scheme."

Resolutions by Mr. S. N. Angadi, M.L.C.

1. "This Council recommends to the Governor in Council that a medical school be immediately established in Belgaum."
2. "This Council recommends to Government that the rate of interest on tagai loans be reduced from Rs. 8-5-4 to Rs. 7-8-0 per cent."

Resolutions by Mr. R. D. Shinde, M.L.C.

1. "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."
2. "This Council recommends to Government that provision for military training for boys may be made in all secondary schools in the presidency."

Resolutions by Rao Saheb D. P. Desai, M.L.C.

1. "This Council recommends to Government that major irrigation works be constructed to irrigate the famine stricken parts of Gujarat and to investigate the possibilities of such schemes fifty thousand rupees be set apart to carry on all preliminary survey and other operations."
2. "This Council recommends to Government that due steps be taken to put into execution the suggestions outlined in the Prize of Delhi scheme."
3. "This Council recommends to Government to take proper measures to encourage art-crafts in this presidency."
4. "This Council recommends to Government that in view of the difference of opinion among experts regarding the project of the Sukkur Barrage a strong committee of expert engineers be appointed to examine the scheme and report thereon."
5. "This Council recommends to Government that immediate effect may be given to the scheme outlined by Messrs. Sathe and Paranjpye in regard to the pay of primary teachers in this presidency."

Resolution by Sir Vasantao A. Dabholkar, M.L.C.

1. "This Council recommends to the Governor in Council that an extra allowance be paid to the police force in Bombay up to the rank of inspectors for the hard and risky work which they have to do during the present mill strike in the city and for any other labour strikes in future."

Resolutions by Mr. N. R. Gunjal, M.L.C.

1. "This Council recommends to the Governor in Council that orders should be passed to restore the kulkarni watan system as it existed before the commutation of kulkarni watans."

2. "This Council recommends to the Governor in Council that patils should be given an annual income from Government of at least Rupees 300 either in cash or in land or partly in cash and partly in land to enable them to keep up their status."

3. "This Council recommends to the Governor in Council that to improve the condition of the agriculturists Government should remit permanently the land assessment to be paid by an agriculturist in any one village if it be below Rupees eight a year."

4. "This Council recommends to the Governor in Council that permanent land revenue settlement should be introduced in this presidency."

5. "This Council recommends to Government that the photo-copying system introduced recently in the registration department of this presidency be abolished forthwith and the old system restored."

6. "This Council recommends to Government that they should be pleased to issue directions to all heads of departments to reply directly to members of this Council, if they ask for any information of public interest."

7. "This Council recommends to Government that early orders be issued to count the service of clerks on Rs. 15 in the Judicial Department from 1914 to 1920 for the purpose of granting increments."

8. "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) Commissionerships should be abolished.

(3) The prant officers, that is the sub-divisional officers should be abolished, the Collector being given a personal assistant where necessary.

(4) The number of mamlatdars should be reduced by one half, one mamlatdar being put in charge of two talukas and the pay and prospects of the mamlatdars be improved."

9. "This Council recommends that Government be pleased to give substantial help to the Shrimati Nathibai Damodar Thakersay Indian Women's University as a mark of appreciation of their efforts in conducting for the last eight years the very useful and important experiment of imparting secondary and higher education to women through the medium of the vernaculars and that this help be given without imposing any such restrictions as may interfere with the internal administration of the said University or affect their independence."

10. "This Council recommends to the Governor in Council to reduce to one-half the minimum rates of house taxation prescribed in Government notification No. 55-A, dated 7th March 1922 regarding village panchayats with a view to increasing the number of panchayats in the presidency and popularising them and to substitute for the words 'capital value' occurring in the said Resolution the words 'market value'."

11. "This Council recommends to the Governor in Council that a committee with a non-official majority be appointed to enquire into the grievances of the agriculturists in the presidency regarding forced labour being exacted by touring officers and other Government servants and to suggest measures for the prevention of such practices."

12. "This Council recommends to the Governor in Council to appoint a committee with a non-official majority to enquire into the grievances and the present condition of the aboriginal tribes in this presidency and to suggest means for their uplift and amelioration."

13. "This Council recommends to Government that due steps be taken to put into execution the suggestions outlined in the Prize of Delhi scheme."

Resolutions by Mr. R. S. Nekaljay, M.L.C.

1. "This Council recommends to His Excellency the Governor in Council that having regard to the difficult times through which the middle class employees working in firms and limited companies, both private and public, have to pass, legislation be introduced to secure uniform treatment for them in regard to matters concerning privilege leave, sick leave, provident fund, gratuity, bonus, etc."

2. "This Council recommends to the Governor in Council that a small mixed committee of official members of the Council nominated by Government and non-official members elected by the House, with a clear non-official majority be appointed to hold an open enquiry and to take evidence with a view to investigate the question of the difficulties of watarand, Mahars and Dheds."

3. "This Council recommends to the Governor in Council to prohibit by law the practice prevailing among certain classes of eating the flesh of dead animals keeping intact the right to take out the skin of dead animals."

4. "This Council recommends to Government to start free boarding houses for 50 depressed classes children in each of the following areas: Gujarat, Satara district, East and West Khandesh districts and Sind."

5. "This Council recommends to the Governor in Council to recommend to the Imperial Government to make necessary provision as early as possible to form a full Mahar battalion or a Mahar company in each of the Indian regiments."

Resolutions by Mr. J. C. Swaminarayan, M.L.C.

1. "This Council recommends to Government that the scale of pay for primary teachers recommended in the minute of dissent by Messrs. H. B. Shivdasani and G. B. Pradhan in the report of the Surve Committee be approved and introduced with retrospective effect from 1st March 1925."

2. "This Council recommends to Government to amend the orders passed in Government memorandum No. 2939-N, dated 27th March 1924,

Public Works Department, and exempt local board officials and servants from paying tolls on provincial roads, in the same way as Government servants have been exempted from paying tolls on local fund roads."

Resolution by Dr. M. M. Mehta, M.L.C.

1. "This Council recommends to Government that the scale of pay of primary teachers laid down in Sathe-Paranjpye scheme be brought into force at once and be given effect to from March 1923, and before their services are transferred to the various local boards in the presidency."

Resolutions by Dr. M. B. Velkar, M.L.C.

1. "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."

2. "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."

Resolutions by Mr. G. I. Patel, M.L.C.

1. "This Council recommends to Government to abolish the control of the Watch and Ward at Ahmedabad station yard and to establish the control of the department which used to guard the goods prior to the creation of the Watch and Ward."

2. "This Council recommends to Government that within two months of the close of every session they be pleased to announce what action they have taken or propose to take on each of the decisions of the Council arrived at during that session."

Resolutions by Mr. Hoosainbhoy A. Lalljee, M.L.C.

1. "This Council recommends to Government that they be pleased to draw the attention of the Bombay Port Trust authorities to the necessity of providing at least during the Haj season a fixed berth 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."

2. "This Council recommends to Government that they be pleased to draw the attention of the Port Trust authorities to the necessity of providing a berth and a shed with necessary conveniences for passengers to and from Kathiawar, Cutch and the Persian Gulf ports during the passenger season."

3. "This Council recommends to Government that they be pleased to issue instructions to all the concerns managed by them not to purchase any Natal or South African coal."

4. "This Council recommends to Government that with a view to give direct representation to the ratepayers of Aden on the Settlement Committee in their management of the municipal affairs of the Aden Settlement, Government be pleased to introduce a bill on the lines of the Bombay District Municipal Act, 1901, or the Cantonments Act, 1924, at an early date."

5. "This Council recommends to Government that in view of the enormous growth of trade of the port of Aden during the last twenty years, they may be pleased to introduce a Bill on the lines of the Karachi Port Trust Act, 1886, to allow for the representation of the various interests in Aden by election."

6. "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."

7. "This Council recommends to Government that they be pleased to depute an educational expert or experts, preferably one having some knowledge of Arabic, Urdu and Gujarati, to Aden with the object of reviewing the present state of education in Aden and to report, after consultation with the Arabs and Indians there, on the advisability of reorganising the whole system of education as existing there at present, with a view to improving the efficiency and standard of education and affording more facilities for secondary education."

Resolution by Mr. D. B. Adwani, M.L.C.

1. "In view of the important points of controversy raised by competent irrigation engineers in connection with the Lloyd Barrage and Canals Project, this Council recommends to the Governor in Council that an independent expert or a committee of independent experts be appointed forthwith to examine the project and to make a report without the least possible delay."

Resolutions by Dr. M. K. Dixit, M.L.C.

1. "This Council recommends to Government to cancel the appointment of the three members nominated by them on the Surat Municipal School Board."

2. "This Council recommends to Government that all difficulties in the way of the cultivators in the Surat district in sowing cotton seed No. Selection IA be removed and they be freely allowed to sow this particular seed."

3. "This Council recommends to Government that the Sathe-Paranjpye scheme of pay and promotion be put into effect in case of the primary teachers of the Bombay presidency at an early date."

Resolutions by Mr. Hoosenally M. Rahimtoola, M.L.C.

1. "This Council recommends to Government to take immediate steps to abolish the totalisator in the third enclosure of the Bombay and Poona race courses."

2. "This Council recommends to Government when renewing the license to be Western India Turf Club to make it a condition of the license that not less than ninety per cent. of all monies paid into any totalisator by way of stakes or bets should be distributed among the winners."

3. "This Council recommends to Government to represent to the Government of India the necessity of amending the Bombay Electoral Rules by deleting Rule 6 (1) (b), which makes it incumbent on a candidate from a general constituency or of a division any part of which is included in that constituency to be a resident of that constituency for at least six months immediately prior to the nomination day."

Resolutions by Mr. C. M. Saptarshi, M.L.C.

1. "This Council recommends to Government to take all necessary steps for the development of the Ayurvedic and Unari systems of medicine."

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 Sathé-Paranjpye scheme from March 1923."

Resolutions by Mr. V. R. Kothari, M.L.C.

1. "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 period of the existing licenses."

2. "This Council recommends to Government that all additional expenditure that will have to be incurred on the further expansion of primary education in rural and municipal areas should be borne entirely by Government."

Resolutions by Mr. R. G. Soman, M.L.C.

1. "This Council recommends to Government to immediately sanction the opening of at least one school or college in this presidency for teaching the indigenous systems of medicine with a view to facilitate the supply of indigenous medicines through qualified hands to the village population in general at less cost."

2. "This Council recommends to Government that in view of the pecuniary hardships of primary teachers in the Presidency they should be paid according to the Sathé-Paranjpye scheme from March 1923."

3. "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 ;
- Fines per head of cattle impounded ; and
- Fees per trunk of sandal-wood, teak, black-wood and such other kinds of trees."

Resolutions by Mr. R. G. Pradhan, M.L.C.

1. "This Council recommends to the Governor in Council that in view of the recommendation by the Auxiliary and Territorial Forces Committee, immediate steps be taken to teach elementary military drill, and, in general to impart elementary military education in high schools."

2. "This Council recommends to the Governor in Council that a small committee consisting of some elected members of the Legislative Council, one or two officials and one or two financial experts be appointed to consider and report on the financial measures that should be introduced in order to give full effect to the policy of prohibition of the traffic in alcoholic drink and drugs."

3. "This Council recommends to the Governor in Council that immediate steps should be taken to give effect to all the recommendations embodied in the minority report of the Vishweshwarayyah Committee on Technical Education."

4. "This Council recommends to Government that the residential condition imposed upon Mr. Vinayak Damodar Savarkar be cancelled forthwith, and that he be allowed to take part in all constitutional political movements."

5. "This Council recommends to Government that the fifth standard may be added to the Anglo-vernacular Girls School at Nasik from next year, and that it be raised to the status of a full high school in due course."

Resolutions by Mr. H. H. Narielvala, M.L.C.

1. "This Council recommends to Government that the present system of appointing honorary magistrates and benches of honorary magistrates in the mofussil be forthwith abolished and in future such magistrates or benches of honorary magistrates be appointed only on the recommendation of the municipality or district local board concerned."

2. "This Council recommends to Government that they be pleased to vest all the wells and tanks not constructed by the Irrigation Department and situated within district local board limits in the local boards concerned."

3. "In view of the pecuniary hardships of the primary teachers, this Council recommends to Government that primary teachers should be paid according to the Sathe-Paranjpye scheme from March 1923."

Resolutions by Mr. H. B. Shirdasani, M.L.C.

1. "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, that is, sub-divisional officers, should be abolished, the Collector being given a personal assistant where necessary."

2. "This Council recommends to Government—

(a) that an amount of Rs. 3,66,400, which represents the difference between the receipts from himayat assessment on tanks in the Surat district for the ten years 1913-14 to 1922-23, viz., Rs. 4,37,166 and the amount spent on the repair of those tanks in the same period, viz., Rs. 70,766 be spent in the next three years on the special repair for tanks in the Surat district;

(b) that in future the amount spent in any year on the repair of tanks in a district should not be less than the amount realised as himayat (water-rate) assessment from the tanks of that district in that year."

3. "This Council recommends to Government that the proposed revision settlements should not be introduced into the Bardoli and Chikhli talukas of the Surat district until the committee appointed to consider the question of revision settlements has submitted its report and legislative action has been taken on that report."

4. "This Council recommends to Government that Revenue Commissionerships be abolished."

Resolutions by Mr. A. N. Surve, M.L.C.

1. "This Council recommends to Government to abolish the totalisator in the third enclosure at race courses in Bombay and Poona."

2. "This Council recommends to Government to represent to the Government of India the necessity of amending the Bombay Electoral Rule No. 7 (1) (d) by prescribing 18 years as the age qualification."

3. "This Council recommends to Government to appoint a committee to inquire if the 11½ per cent. cut in wages effected by the millowners of Bombay is at all necessary."

4. "This Council recommends to Government to insert a condition in the license given to the Western India Turf Club prohibiting persons under 21 years of age from betting on the totalisator."

XI. PAPERS PRESENTED TO THE COUNCIL.

1. Report of the Select Committee on Bill No. XIII of 1925 (A Bill to impose a tax on totalisator betting).

2. 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).

3. 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).

4. Report of the Select Committee on Bill No. XVIII of 1925 (A Bill to amend the Bombay Children Act, 1923).

5. Report of the Select Committee on Motion to amend Standing Orders—Motion No. I of 1925.

6. 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).

7. Report of the Select Committee on Bill No. VIII of 1925 (A Bill further to amend the Bombay Village Police Act, 1867).

8. Report of the Select Committee on Bill No. X of 1925 (A Bill further to amend the Bombay Hereditary Offices Act, 1874).

N. J. WADIA,

Secretary to the Legislative Council

of the Governor of Bombay.

Poona, 21st October 1925.

APPENDIX.

NOTICE OF MOTION TO AMEND STANDING ORDERS.

MOTION No. II of 1925.

Under Standing Order IX (1) of the Standing Orders of the Bombay Legislative Council, notice of the following amendment has been received from the Honourable Sir Maurice Hayward, K.C.S.I., I.C.S.

For Standing Order III the following shall be substituted, namely :—

“ III.—Council officials.

“ 1. (1) After the members have been sworn in at the beginning of a new Council and after the election of the Election of Deputy President. President the Council shall elect one of its members to be Deputy President.

“ (2) Every member who wishes to propose a member for election as Deputy President must—

(a) ascertain previously that the member he wishes to propose is willing to serve if elected, and

(b) hand to the Secretary a notice containing the name of the member he desires to propose signed by himself and some other member as seconder.

“ (3) The President shall read out to the Council the names of the candidates together with those of their proposers and seconders and if only one person has been proposed for election shall declare that person duly elected. If more than one person has been proposed, the members other than the President shall then proceed to vote on the question by a ballot and the President shall declare the person who receives the majority of votes to be duly elected.

The ballot shall be held in the following manner :—

(a) Every member shall be entitled to vote for one person only at each ballot.

(b) If there are only two candidates only one ballot shall be held. If there are more than two candidates the name of the candidate who obtains the fewest number of votes at the first ballot shall be omitted from the list of candidates. The remaining candidates shall then be balloted for, and the name of the candidate obtaining the fewest number of votes at the second ballot shall similarly be omitted from the list of candidates.

This process shall be continued at the third and all succeeding ballots until only two candidates' names remain on the list, when a final ballot shall be held. In the event of an equality of votes the President shall have a casting vote.

“ (4) If a vacancy in the office of Deputy President occurs in the life of a Council, or if the Governor withholds his approval to any election,

a fresh election shall be held in accordance with the procedure hereinbefore laid down ; Provided that a member whose election has not been approved by the Governor shall not be proposed as a candidate during the continuance of that Council."

N. J. WADIA,
Secretary to the Legislative
Council of the Governor of Bombay.

Poona, 17th October 1925.

NOTICES OF MOTIONS TO AMEND STANDING ORDERS.

Under Standing Order IX (1) of the Standing Orders of the Bombay Legislative Council, notices of the following amendments have been received from the Honourable Sir Maurice Hayward, K.C.S.I., I.C.S. :—

MOTION No. III OF 1925.

Amendment of Standing Order II 3 (2) :—

Add the words " or of a statutory motion ".

Amendment of Standing Order IV, 1 (1) :—

Add the words " Government business shall be deemed to include statutory motions ".

Insertion of a new Standing Order VIII-A :—

After Standing Order VIII insert the following :—

" VIII-A Statutory Motions.

A member who wishes to move a resolution which he is entitled to move in pursuance of any statute or legislative enactment for the time being in force shall give 10 clear days notice unless it is otherwise expressly provided by such statute or legislative enactment or unless the President with the consent of the Member in charge of the Department concerned otherwise directs and shall together with notice submit a copy of the proposed resolution".

MOTION No. IV OF 1925.

In Chapter IX, Standing Order 3, after the word ' President ', where it occurs for the second time, insert the words :

" and the Leader of the House, or other Member of Government, and, in the case of an amendment proposed by a member other than a member of Government, the member in charge ", and substitute the word " six " for the word " seven ".

MOTION No. V OF 1925.

In Standing Order IV—

(1) for paragraph 1 (1) substitute the following :—

" (1) The Government may arrange Government business in such order as it deems fit " ;

(2) In paragraph 1 (2) insert the following at the beginning :—

" Subject to the provisions of Rule 6 ".

N. J. WADIA,

Secretary to the Legislative Council
of the Governor of Bombay

Poona, 17th October 1925.

**REPORT OF THE SELECT COMMITTEE ON MOTION No. I
OF 1925 TO AMEND STANDING ORDERS.**

We, the undersigned members of the Select Committee, appointed to consider Motion No. I of 1925 to amend the Standing Orders, have the honour to report that in our opinion the accompanying amendment proposed by Mr. P. G. Joshi in Standing Order IX, 3 is desirable and should be accepted.

(Signed) IBRAHIM RAHIMTOOLA.
 (") H. H. NARIELVALA.
 (") K. BARLEE.
 (") P. G. JOSHI.
 (") G. B. PRADHAN.
 (") GHULAM HUSSAIN HIDAYATULLAH.
 (") M. H. W. HAYWARD.
 (") R. G. PRADHAN.
 (") BHOJSING G. PAHALAJANI.
 (") A. N. SURVE.

MOTION TO AMEND STANDING ORDERS.

(As amended by the Select Committee.)

MOTION No. I OF 1925.

In Chapter IX, Standing Order 3, *at* the words "the member in charge" after the words "Deputy President" and *substitute* the word "six" for the word "seven".

APPENDIX TO THE AGENDA.

AMENDMENTS TO BILLS.

Bill No. XIII of 1925 (A Bill to impose a tax on totalisator betting) as amended by the Select Committee.

Clause.	Amendments.	Names of the movers.
Clause 5	In clause 5 of the Bill for the words "at such rate not exceeding 4 per cent." substitute "at the rate of 10 per cent."	Mr. L. B. Bhopatkar.
Do.	In clause 5 omit the words— "such rate not exceeding" "as the Governor in Council may from time to time notify in this behalf" "at the rate notified as aforesaid by the Governor in Council in this behalf." Substitute "5" for "4" in clause 5. Clause 5, line 9, delete the words "at such rate not exceeding" and substitute the word "of".	Mr. H. M. Rahimtoola.
Do.	Line 9, instead of "of" after "per cent," substitute "on". Lines 10 and 11, delete the words "as the Governor in Council may from time to time notify in this behalf".	Mr. K. F. Nariman.
Do	Substitute after the word "tax" in line 8, the words "at the rate of 4 per cent." for the words "at such rate not exceeding 4 per cent." Delete the words "as the Governor in Council may from time to time notify in this behalf".	Mr. M. D. Karki.
Do.	In clause 5, line 8, delete the words "such rate not exceeding". In lines 10 and 11 of the same clause delete the words "as the Governor in Council may from time to time notify in this behalf".	Mr. G. B. Pradhan.
Do.	(2) In clause 5, for the word "exceeding" substitute the words "less than".	Mr. S. S. Dev.
Do.	In clause 5 for the figure and words "4 per cent." substitute "2½ per cent."	Mr. C. N. Wadia.
Do.	In lines 15, 16 and 17 of the same clause delete the words "at the rate notified as aforesaid by the Governor in Council in this behalf".	Mr. G. B. Pradhan.

Clauses.	Amendments.	Names of the movers.
Clause 5	<i>Delete</i> the words " at the rate notified as aforesaid by the Governor in Council in this behalf".	Mr. M. D. Karki.
Do.	Line 15, <i>delete</i> the word "notified" and substitute "specified". Line 16, <i>delete</i> the words " by the Governor in Council in this behalf".	Mr. K. F. Nariman.
After clause 5 add proviso.	Add the following to clause 5 :— " Provided that a separate account shall be kept of all the receipts of this tax and that such receipts shall be utilised only for the purpose of making contributions to local bodies in the presidency towards free and compulsory primary education".	Mr. H. M. Rahimtoola.
Do.	Add the following to clause 5 :— " Provided that the amount realised from this tax shall be held by Government in reserve to meet the loss of revenue which shall accrue when the policy of total prohibition of alcoholic drink will be brought into force".	Do.
Do.	Add the following to clause 5 :— " Provided that 90 per cent. of all monies paid into any totalisator shall be distributed among the winners".	Do.
After clause 5 new clause.	Add a new clause :— " 5A. All amounts collected by totalisator tax under clause 5 as above shall be set apart by the Government for Education, Sanitation or Medical Relief in the Presidency".	Mr. K. F. Nariman.
Clause 6	<i>Substitute</i> the following after the word "shall" in line one " furnish such security for accounting and paying the amount of tax received by them as is found necessary by the Governor in Council".	Mr. M. D. Karki.
Clause 10	<i>Delete</i> clause 10	Mr. K. F. Nariman.
Do.	<i>Delete</i> clause 10	Mr. S. S. Dev.
Do.	<i>Delete</i> entirely clause 10 of the Bill	Mr. G. B. Pradhan.
Do.	<i>Delete</i> the whole clause	Mr. M. D. Karki.
Do.	<i>Delete</i> clause 10	Mr. H. M. Rahimtoola.
Do.	<i>Delete</i> clause 10 of the Bill	Mr. L. B. Bhopatkar.
Do.	That clause 10 be deleted	Sir Vasantrao A. Dabholkar.
Preamble	In the preamble, after the words " public revenue of the Bombay Presidency", add " to meet the growing expenditure on education and to make up the anticipated gradual fall in excise revenue".	Mr. S. S. Dev.

Bill No. XVII of 1925 (Bombay Improvement Trust Transfer Bill)
as amended by the Select Committee.

Clauses.	Amendments.	Names of the movers.
Clause 2 (b) ...	Clause 2, sub-clause (b). <i>Substitute</i> "1st January 1926" for "such date as the Government may by notification in the <i>Bombay Government Gazette</i> appoint".	Mr. H. M. Rahimtoola.
Do. 9 ...	<p><i>Delete</i> clause 9 and <i>substitute</i> following :</p> <p>" All the provisions regulating the Corporation's proceedings under section 36 of the City of Bombay Municipal Act (Bombay III of 1888) shall <i>mutatis mutandis</i> apply to the proceedings of the meetings of the Board."</p> <p>" The Board shall have power with the approval of the Corporation to frame further Rules and Regulations to conduct its proceedings."</p>	Mr. K. F. Nariman.
After clause 9 (2) (b): new sub-clause.	<p><i>Insert</i> after sub-clause (b) of clause 9 the following sub-clause as sub-clause (bb) :</p> <p>" In the event of the office of the President being vacant or of the death or resignation of the President or of his ceasing to be a Trustee or of his being incapable of acting the Chairman of the Committee shall fix the day, time, and place of all ordinary and special meetings."</p>	Mr. H. M. Rahimtoola.
Clause 9 (2) (c) ...	<p>Clause 9, sub-clause (c). <i>Substitute</i> "seven" for "three" and <i>insert</i> "three clear days' notice of all" between the words "and" and "special".</p> <p><i>Insert</i> the words "and the business to be transacted thereat" between the words "held" and "and".</p>	Do.
After clause 9 (2) (c): new sub-clause.	<p><i>Insert</i> the following sub-clause as sub-clause (cc) after sub-clause (c) of clause 9 :—</p> <p>" every meeting shall be open to the public, unless a majority of the trustees present thereat decide by a resolution, which shall be put by the presiding authority, of his own motion or at the request of any trustee present, without previous discussion, that any inquiry or deliberation pending before the Board is such as should be held in private, and provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings."</p>	Do.
Clause 9 (2) (d) ...	<p><i>Substitute</i> the words "Twenty Trustees" in place of "Thirty Trustees".</p>	Mr. H. A. Lalljee.

Clauses.	Amendments.	Names of the movers.
Clause 9 (2)(d) ...	Clause 9, sub-clause (d). <i>Substitute</i> "twenty" for "thirty".	Mr. H. M. Rahimtoola.
After clause 9(2) (e); new sub-clause.	Clause 9. After sub-clause (e) <i>add</i> the following sub-clause as sub-clause (ee) :— "any trustee who desires at any meeting to bring forward any business or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same at least three clear days before the day fixed for the meeting, and a supplementary notice of such business shall be sent by post to the last known addresses of the trustees not later than the day previous to the meeting."	Do.
After clause 9 (2) (e); new sub-clause.	<i>Insert</i> a new sub-clause after sub-clause (e) of clause 9 :— The Trustees shall have the right to ask questions at the meetings of the Board concerning the affairs of the Trust subject to rules to be framed by the Board in that behalf.	Do.
After clause 9 (2) (i); new sub-clause.	<i>Insert</i> an additional sub-clause (j) to clause 2 of section 9 after the sub-clause (i), line 88, to the following effect :— " (j) Meetings shall be open to the public unless otherwise decided by the presiding authority or by the vote of the meeting."	Mr. H. A. Lalljee.
Clause 10 ...	<i>Delete</i> clause 10 of the Bill and <i>substitute</i> the following :— "There shall be a statutory committee under the City of Bombay Municipal Act (Bombay Act III of 1888) called the Improvement Committee, which shall consist of 18 members, that is to say, of 1 <i>ex-officio</i> member, 14 elected members, and 3 nominated members. (a) The Municipal Commissioner shall be the <i>ex-officio</i> 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 Mill-owners' 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.	Mr. K. F. Nariman.

Clauses.	Amendments.	Names of the movers.
	<p>(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 the regulations which those bodies may respectively frame, provided that the election by the Corporation shall be by ballot.</p> <p>(2) The Municipal Commissioner shall not be at liberty to vote upon or to put forward any proposition at any meeting of the Committee."</p>	
Clause 10	<p>... Section 10 should read thus :</p> <p>"The Improvements Committee shall consist of 18 members of whom 15 shall be elected by the Board from amongst their own members and the remaining 3 members shall be appointed by the Government by notification and shall be chosen from among the following :—</p> <p>(i) The Director of Development ;</p> <p>(ii) The Chairman of the Bombay Port Trust ;</p> <p>(iii) The Collector of Bombay ;</p> <p>(iv) The Executive Engineer, P. W. D.</p>	Mr. H. A. Lalljee.
Do.	<p>... Clause 10.—<i>Substitute</i> the following clause for clause 10 :</p> <p>"The Board shall, at their first meeting after this Act comes into force, and thereafter at their first meeting after the Corporation is constituted appoint fourteen persons to be members of the Improvements Committee (hereinafter called "the Committee") of whom 12 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.</p> <p>(2) The Municipal Commissioner shall be an ex-officio member of the Committee but he shall not be at liberty to vote upon or to make any proposition at any meeting of the Committee or its Sub-Committee."</p>	Mr. H. M. Rahimtoola.
Clause 10 (1)	<p>... <i>Clause 10 (1)</i>.—<i>Delete</i> this clause and <i>substitute</i> the original as in the Draft Bill.</p>	Sir Vasantao A. Dabholkar.

Clauses.	Amendments.	Names of the movers.
Clause 10(1) ...	<p>In clause 10 (1) omit "19" and substitute "20" in line 3.</p> <p>In the same clause in line 5 omit "3" and substitute "5".</p> <p>In the same clause (c) add "of" before "the" in line 1.</p> <p>In the same clause (c) insert "3" between "members" and "shall" in line 1.</p>	Mr. S. K. Bole.
After clause 10 (1) (c): New sub-clause.	<p>After clause 10 (c) add the following clause: " (d) 2 members belonging to the backward and working classes shall be appointed by Government to represent Labour."</p>	Do.
Clause 10 (2) ...	<p>Clause 10 (2).—Delete this clause and substitute the original as in the Draft Bill.</p>	Sir Vasantao A. Dabholkar.
Clause 11 (1) ...	<p>Instead of the words "A member elected" substitute the words "A member elected by the Board".</p>	Mr. H. A. Lalljee.
Clause 11 (3) ...	<p>Clause 11, sub-clause (3). Substitute the words "being a member elected by the Board" for the words "not being an ex-officio member".</p>	Mr. H. M. Rahimtoola.
Clause 12 ...	<p>Delete clause 12 and substitute the following new clause:—</p> <p>"The Improvement Committee shall have power with the sanction of the Board to make Rules and Regulations to the general conduct of its business and proceedings and shall provide for the following:—</p> <p>(a) Retirement of certain members of the committee by rotation.</p> <p>(b) Appointment of members in place of those who retire.</p> <p>(c) Filling up of the casual vacancies in the Committee.</p> <p>(d) Continuance of the existing Committee till a new Committee is appointed.</p> <p>(e) Vacation of the office of a member remaining absent for a certain period.</p> <p>(f) For payment of fees, if any, to the members.</p> <p>(g) The Committee may from time to time appoint sub-committee consisting of such members as the Committee think fit and may refer to such sub-committee any matter within its power for inquiry and report and may also delegate to such sub-committee by a special resolution in that behalf any of its duties and powers with such restrictions and limitations as it deems fit.</p> <p>(h) The committee may also frame such Rules and Regulations as it deems necessary for the proceedings, guidance and control of the sub-committee."</p>	Mr. K. F. Nariman.
Clause 12(1) ...	<p>Clause 12, sub-clause (1). Substitute the words "one-half" for the word "five".</p>	Mr. H. M. Rahimtoola.
Clause 12(2) ...	<p>Clause 12, sub-clause (2). Delete the word "six" and also the words "In every other case the nominated and elected members shall hold office for a term of three years".</p>	Do.

Clauses.	Amendments.	Names of the movers.
Clauses 13 to 25...	Delete clauses 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25.	Mr. K. F. Nariman.
Clause 14	<p>Clause 14. <i>Substitute</i> the following clause for clause 14 :—</p> <p>" 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."</p>	Mr. H. M. Rahimtoola.
Clause 17	New clause 13. Insert clause 17 of the Bill, as amended by the Select Committee.	Mr. K. F. Nariman.
Do. 18	That the section 18 regarding the " Fees " be deleted.	Mr. H. A. Laljee.
Clauses 21 to 24...	<p>Clause 14. Insert clause 21 of the Bill.</p> <p>Clause 15. Insert clause 22 of the Bill.</p> <p>Clause 16. Insert clause 23 of the Bill.</p> <p>Clause 17. Insert clause 24 of the Bill.</p>	Mr. K. F. Nariman.
Clauses 25 to 28...	Delete clauses 25, 26, 27 and 28	Do.
Clause 25	New clause 18. Insert clause 25 as amended by the Select Committee.	Do
After Clause 25: new clauses.	<p>Clause 19. " The Chief Officer shall receive such monthly salary not exceeding Rs. 3,000 (Three thousand) and not less than Rs. 2,000 (Two thousand), as the Board may decide; he shall hold no other office and shall devote his whole time and attention to his duties under the Act."</p> <p><i>Add</i> new clause 19A.</p> <p>" Neither the Chief Officer, nor any other salaried officer of the Board shall be a European born or Domiciled Citizen in the British Colony of South Africa, Australia and Canada."</p>	Do.
Clause 26	<p>Clause 26.—<i>Delete</i> the first nine lines and substitute:—</p> <p>" The Chief Officer shall receive such monthly salary not exceeding rupees two thousand and not less than rupees fifteen hundred as the Board shall, from time to time determine."</p>	Sir Vasantao A. Dabholkar.

Clauses.	Amendments.	Names of the movers.
Clauses 27 to 35.	Clause 20. <i>Insert</i> clause 27 of the Bill. Clause 21. <i>Insert</i> clause 28 of the Bill. Clause 22. <i>Insert</i> clause 29 of the Bill. Clause 23. <i>Insert</i> clause 30 of the Bill. Clause 24. <i>Insert</i> clause 31 of the Bill. Clause 25. <i>Insert</i> clause 32 of the Bill. Clause 26. <i>Insert</i> clause 33 of the Bill. Clause 27. <i>Insert</i> clause 34 of the Bill. Clause 28. <i>Insert</i> clause 35 of the Bill.	Mr. K. F. Nariman.
Clause 36 (2)	That after the sub-clause (b), the following clause be inserted as sub-clause (c), and that 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.”	Mr. H. A. Laljee.
Clause 36	Clause 29. <i>Insert</i> clause 36 of the Bill, as amended by the Select Committee.	Mr. K. F. Nariman.
Clause 36A	That the words “Two years” be substituted for the words “Three years”.	Mr. H. A. Laljee.
Clauses 37 to 45	Clause 30. <i>Insert</i> clause 37 of the Bill. Clause 31. <i>Insert</i> clause 38 of the Bill. Clause 32. <i>Insert</i> clause 39 of the Bill. Clause 33. <i>Insert</i> clause 40 of the Bill. Clause 34. <i>Insert</i> clause 41 of the Bill. Clause 35. <i>Insert</i> clause 42 of the Bill. Clause 36. <i>Insert</i> clause 43 of the Bill. Clause 37. <i>Insert</i> clause 44 of the Bill. Clause 38. <i>Insert</i> clause 45 of the Bill.	Mr. K. F. Nariman.
Clause 46 (e)	In clause 46 <i>add</i> after sub-clause (e) the following paragraph :— “But the Board will have power to alter the rent if an appeal is made to them by the tenants”.	Mr. S. K. Bose.

Clauses.	Amendments.	Names of the movers.
Clauses 46 to 53...	Clause 39. <i>Insert clause 46 of the Bill.</i> Clause 40. <i>Insert clause 47 of the Bill.</i> Clause 41. <i>Insert clause 48 of the Bill.</i> Clause 42. <i>Insert clause 49 of the Bill.</i> Clause 43. <i>Insert clause 50 of the Bill.</i> Clause 44. <i>Insert clause 51 of the Bill.</i> Clause 45. <i>Insert clause 52 of the Bill.</i> Clause 46. <i>Insert clause 53 of the Bill.</i>	Mr. K. F. Nariman.
After Clause 53 : new clause.	After clause 53 <i>add</i> the following as clause 53A: "The Board shall take over such of the development schemes of the Corporation as the Corporation may decide to transfer to the Board subject to such financial adjustments and conditions as may be agreed upon and on such decision being communicated to the Board all the formalities required under this Act before a scheme can be undertaken by the Board shall be deemed to have been observed."	Mr. H. M. Rahimtoola.
Clauses 54 to 59.	Clause 47. <i>Insert clause 54 of the Bill.</i> Clause 48. <i>Insert clause 55 of the Bill.</i> Clause 49. <i>Insert clause 56 of the Bill.</i> Clause 50. <i>Insert clause 57 of the Bill.</i> Clause 51. <i>Insert clause 58 of the Bill.</i> Clause 52. <i>Insert clause 59 of the Bill.</i>	Mr. K. F. Nariman.
Do. 60 to 62	<i>Delete</i> sections 60, 61 and 62	Do.
Clause 61 (3)	In the second proviso to sub-section 3 of section 61 <i>delete</i> the words added by the Select Committee.	Sir Vasantao A. Dabholkar.
After clause 62 : new clause.	Clause 53. "(1) Whenever it is provided by this Act that the Board or the Improvement Committee may acquire or whenever it is expedient or necessary for any purpose of this Act that the Board or the Improvement Committee shall acquire, any immoveable property, such property may be acquired by the Chief Officer on behalf of the Board by agreement on such terms and at such rates and prices not exceeding such maxima as shall be approved by the Improvement Committee either generally for any class of cases or specially in any particular case.	Mr. K. F. Nariman.

Clauses.	Amendments.	Names of the movers.
	<p>“(2) And whenever, under provision of this Act, the Chief Officer is authorised to agree to pay the whole or any portion of the expenses of acquiring any immovable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the Improvement Committee as aforesaid.</p> <p>“(3) Provided that no agreement for the acquisition of any immovable property under sub-section (1) or (2) shall be valid, if the price to be paid for such property exceeds one thousand rupees unless and until such agreement has been approved by the Improvement Committee.”</p>	
<p>After Clause 62 : new clause.</p>	<p>Clause 54. “(1) Whenever the Chief Officer is unable to acquire any immovable property under the last preceding section by agreement, Government may, in their discretion, upon the application of the Chief Officer, made with the approval of the Improvement Committee, order proceedings to be taken for acquiring the same on behalf of the Improvement Committee, as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894.</p> <p>“(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the Chief Officer and thereupon the said property shall vest in the Improvement Committee.</p> <p>“(3) When any addition to or improvement of the land or building has been made after the date of the publication of a notification under the Act 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 repairs) 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.”</p>	<p>Mr. K. F. Nariman.</p>
<p>Clause 63</p>	<p>... Clause 55. <i>Insert</i> clause 63 of the Bill</p>	<p>... Mr. K. F. Nariman.</p>
<p>Do. 64</p>	<p>... Clause 56. <i>Delete</i> clause 64 of the Bill and <i>insert</i> the following :— “Notwithstanding anything contained in the preceding section in respect of all appeals made to the Tribunal of Appeal or the</p>	<p>Do.</p>

Clauses.	Ameudments.	Names of the movers.
	<p>High Court under the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation the said High Court shall continue to perform the functions assigned to it, as well as to the said Tribunal of Appeal 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 the Act had not been passed."</p>	
Clause 64	Alternative amendment to clause 64	Mr. K. F. Nariman.
	<p>Add the following provision :— "Provided that no person who is a member of the Board or Improvement Committee or who under the Act is disqualified to be a member of the Board or Improvement Committee, shall be qualified to be a member of the Tribunal."</p>	
Clause 64	<p>Delete old clause 64 and substitute the following :— <i>Clause 64.</i> "Subject to the provisions made in sections 60, 61, 62 and 63 all references made to the Tribunal of Appeal under the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation and pending on the said date shall be tried and decided by the High Court and the said High Court shall perform the functions assigned to it under the said Act as if the said references were made to the said High Court on the respective dates on which they were made to the Tribunal of Appeal and notwithstanding anything contained in sections 60, 61, 62 and 63 in respect of all appeals made to the High Court under the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation the said High Court shall continue to perform the functions assigned to it under the said Act and every such appeal shall be decided in accordance with the provisions of the said Act as if this Act had not been passed."</p>	Do.
Clause 65	Clause 57. Insert clause 65 of the Bill	Do.
Clauses 66 to 121.	<p>From clause 66 of the Bill up to the end, i. e., clause 121 consequential alterations to be made in numbering these clauses. (Old clause 66 of the Bill to become new clause 58, and 67 to become 59 and so on till the last clause 121 to become clause 111.)</p>	Do.
Clause 77 (5)	Instead of the words "99" substitute the words "999".	Mr. H. A. Laljee.
Do.	In proviso to sub-clause 5 of clause 77 substitute 999 for 99.	Mr. H. M. Rahimtools.

Clauses.	Amendments.	Names of the movers.										
Clause 102 (2) ...	In sub-clause (2) of clause 102 <i>substitute</i> the words: "both with their respective opinions" for the words: "the chief officer who shall forward the opinion of the chief accountant together with his own".	Mr. H. M. Rahimtoola.										
Do. 104 (2) ...	In sub-clause (2) of clause 104, <i>substitute</i> the word "Board" for the word "Government".	Do.										
Do. 109A ...	<i>Delete</i> clause 109A	Do.										
Do. ...	Clause 109A.— <i>Delete</i> the clause	Sir Vasantao A. Dabholkar.										
Schedule A ...	In Schedule A Part III <i>delete</i> the words "Sub-section 2 of section 23 and".	Do.										
Schedule AA ...	<i>Delete</i> Schedule AA	Do.										
Do. ...	<p data-bbox="301 916 702 981">"That the following scale of additional compensation be substituted for the one suggested by the Select Committee:—</p> <table data-bbox="301 999 702 1563"> <thead> <tr> <th data-bbox="301 999 487 1027"><i>Market Value.</i></th> <th data-bbox="487 999 702 1045"><i>Rate of additional compensation.</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="301 1064 487 1110">Up to and including Rs. 10,000.</td> <td data-bbox="487 1064 702 1092">10 per cent.</td> </tr> <tr> <td data-bbox="301 1129 487 1193">Above Rs. 10,000 and not exceeding Rs. 50,000.</td> <td data-bbox="487 1129 702 1212">10 per cent. on the first Rs. 10,000 and 6 per cent. on the balance;</td> </tr> <tr> <td data-bbox="301 1230 487 1295">Above Rs. 50,000 and not exceeding Rs. 1,00,000.</td> <td data-bbox="487 1230 702 1378">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.....</td> </tr> <tr> <td data-bbox="301 1397 487 1424">Above Rs. 1,00,000.</td> <td data-bbox="487 1397 702 1563">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.....</td> </tr> </tbody> </table>	<i>Market Value.</i>	<i>Rate of additional compensation.</i>	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.....	Mr. H. A. Lalljee.
<i>Market Value.</i>	<i>Rate of additional compensation.</i>											
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;											
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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.....											

Bill No. XVIII of 1925 (A Bill to amend the Bombay Children Act, 1924) as amended by the Select Committee.

Clauses.	Amendments.	Names of the movers.
Clause 2 (Section 10A).	In line 17 substitute "ten" for "seven" ...	Mr. D. R. Patil.
Clause 2 (Section 10B).	In clause 10B, delete the words from "in any highway" to "any licensed premises".	Mr. S. S. Dev.
Do. ...	Clause 10B, omit the words "In any highway or other public place whether a building or not or on any licensed premises".	Mr. Hooseinhoy A. Lalljee.
Do. ...	In clause 10B, delete the words "in any highway or other public place whether a building or not or any licensed premises".	Mr. S. K. Bole.
Do. ...	In clause 10B, after "liquor" insert "or drug"; and delete "or in case of sickness or other urgent cause".	Mr. L. B. Bhopatkar.
Clause 2 (Section 10D).	Retain the original clause 10D (1) and make it as clause 10C and make the necessary changes in the numbers of the following clauses.	Mr. S. S. Dev.
Do. ...	That the clause 10D as originally proposed in the Bill be reinstated.	Mr. Hooseinhoy A. Lalljee.
Do. ...	Retain 10D and make the consequential changes in numbering clauses and sub-clauses.	Mr. D. R. Patil.
Do. ...	Restore original clause 10D	Mr. L. B. Bhopatkar.
Clause 2 (after Section 10B).	After clause 10B add the following clause :— "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".	Mr. S. K. Bole.
Clause 2 (Section 10D).	In clause 10D, delete the words from "with imprisonment" to "one month or" and delete the last three words "or with both".	Mr. S. S. Dev.
Section 10E ...	In clause 10E, delete the words from "with imprisonment" to "one month or" and delete the last three words "or with both".	Do.

Bill No. XIII of 1925 (Totalisator Betting Tax Bill) as amended by the Select Committee.

Notice has been received of the following amendments from Mr. A. N. Surve, M.L.C. :—

Preamble, Para. 1, line 3 :

Add the following words, *viz.* :—“ in order to enable Government to meet the growing expenditure on compulsory primary education ” after the word “ presidency ”.

Clause 3 (1), line 3 :

Add the following words, *viz.* :—“ and shall be in force for two years thereafter ” after the figures “ 192 ”.

Clause 3 (1), line 4 :

Substitute the following clause, *viz.* :—“ (2) Its operation in the first instance shall extend to— ” for the words “ in the first instance in— ”.

Clause 3 (2) :

Substitute the figure “ 3 ” for the figure “ 2 ” enclosed within the bracket.

Clause 3 (2), line 1 :

Add the following words, *viz.* :—“ After the approval of the Legislative Council expressed in a resolution is obtained ” before the words “ The Governor-in-Council ”.

Clause 5, line 9 :

Add the following words, *viz.* :—“ 10 per cent., and not less than ” between the words “ exceeding ” and “ 4 per cent. ”

Clause 6, line 11 :

Add the following words at the end, *viz.* :—“ The moneys received shall be allotted yearly in part payment of the growing expenditure on the expansion of primary education. ”

Clause 10, line 6 :

Substitute the figures “ 60 ” for the figures “ 25 ”.

N. J. WADIA,

Poona, 16th October 1925.

Secretary, Legislative Council.

Wednesday, the 21st October 1925.

The Council met at the Council Hall, Poona, on Wednesday, the 21st October 1925, at 2 p.m., the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
 ADWANI, Mr. D. B.
 AHMAD, MOULVI RAFIUDDIN
 ANGADI, Mr. S. N.
 BHOPATKAR, Mr. L. B.
 BOLE, Mr. S. K.
 BUNTER Mr. J. P.
 CLEMENTS, Mr. E.
 COOPER, Khan Bahadur D. B.
 DABHOLKAR, Sir VASANTRAO A.
 DADACHANJI, Dr. K. E.
 DALVI, Mr. B. K.
 DEHLAVI, the Honourable Mr. A. M. K.
 DELVES, Mr. R. H. A.
 DESAI, Rao Saheb D. P.
 DEV, Mr. S. S.
 DIXIT, Dr. M. K.
 GRANTHAM, Mr. V. A.
 GUNJAL, Mr. N. R.
 HAMID M. ABDUL ALLI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOSSACK, Mr. W. B.
 HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JEHANGIR, the Honourable Mr. COWASJI
 JOG, Mr. V. N.
 JOSHI, Mr. P. G.
 KAMBLI, Mr. S. T.
 KAZI INAITULLAKHAN
 KOKANI, Mr. G. J.
 KOTHARI, Mr. V. R.
 LALJI NARANJI, Mr.
 LALLJEE, Mr. HOOSEINBHOY A.
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MCKEE, Mr. W. G.

MEHTA, Dr. M. M.
 MEHTA, the Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 MUKADAM, Mr. W. S.
 NANAL, Mr. B. R.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAHALAJANI, Mr. B. G.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. G. I.
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. G. B.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOSENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SARDESAL, Mr. S. A.
 SHINDE, Mr. R. D.
 SHIVDASANI, Mr. H. B.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 VELKAR, Dr. M. B.
 WADIA, Mr. C. N.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT : Order, order. Swearing in of new members.

The following honourable members made the prescribed oath or affirmation of allegiance to His Majesty the King-Emperor, and took their seats in the Council :—

The Honourable Sir Chunilal Mehta, Kt.
 Mr. W. B. Hossack,
 Mr. C. N. Wadia,
 Mr. J. P. Bunter,
 Mr. E. Clements,
 Mr. A. Master,
 Mr. W. G. McKee,
 Mr. R. T. Harrison.

The Honourable the PRESIDENT : Gentlemen, before we take up the business of this sessions, I am sure you will join with me in expressing our regret at the sad occurrence of the loss of a member of this Council after we met at the last session. I am referring to the death of Khan Saheb Karimbaksh Ali Mardan Khan Jatoi. The honourable member, you are all aware, proved very useful, took very intelligent part in the debates of this House and was an eloquent speaker in Sindhi. He took part on several occasions in the debates affecting the part of the Presidency from which he was elected. But it is not only in this Council that his public activities were confined. He took a leading part in the progress of education in Sind, and was vice-president of the Anjuman-e-Islam of Larkana district, chairman of the Anglo-Vernacular school, Larkana, and a member of the Islam School Committee, Sind. He also rendered very useful services on local boards, Sind. He was president and chairman, taluka local board, director, Co-operative Credit Society, Larkana, and in all these capacities he proved very useful in the cause of progress of this Presidency.

I am sure honourable members will associate with me in putting on record the sense of loss which has been sustained by his untimely death and will authorise me to communicate to the members of his family this council's condolence and sympathy in their sad bereavement.

The Honourable Sir MAURICE HAYWARD : I should like, Sir, on behalf of official benches to join sincerely in the expression of regret at the death of Khan Saheb Karimbaksh Ali Mardan Khan Jatoi. I do so also as a personal friend having known him and his brother for many years in Sind. I fully endorse all that has fallen from you, Sir, and unreservedly join you in this resolution on behalf of the Government benches.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I rise to associate myself completely with your observations and to give expression to the feelings of the Mahomedan members of the House at the sad loss which the House has sustained in the untimely death of Khan Saheb Karimbaksh Ali Mardan Khan Jatoi.

Mr. R. G. PRADHAN (Nasik District) : Sir, on behalf of non-official members of this House I beg to associate myself heartily with all that has been said about the loss sustained by this House in the sad death of Khan Saheb Karimbaksh Jatoi.

The Honourable the PRESIDENT : I take it, gentlemen, that it is your desire that a letter of condolence should be addressed to his family. I will now ask honourable members to signify their assent by rising in their seats.

Question put and carried unanimously honourable members rising in their seats.

The Honourable the PRESIDENT : The next business is the nomination of four chairmen. By virtue of the powers in this behalf, I nominate

Mr. S. T. Kampli,

Mr. R. G. Pradhan,

Mr. A. C. Owen, and
Mr. Noor Mahomed,
to be chairmen for this session.

I have now to announce that the following Acts have received the assent of the Governor General since the close of the last session of the Legislative Council :—

(1) An Act further to amend the City of Bombay Municipal Act, 1888.

(2) An Act further to amend the Bombay Local Boards Act, 1923.

The next business is : Questions.

*Mr. L. B. BHOPATKAR : I do not wish to put any questions.

Mr. S. S. DEV : I do not wish to put any of my questions.

Mr. N. R. GUNJAL (in Marathi) : I do not wish to ask my questions.

Mr. W. S. MUKADAM (on behalf of Mr. M. D. Karki) : I do not wish to put any questions on behalf of my honourable friend Mr. Karki.

Mr. W. S. MUKADAM : I do not wish to ask any questions.

COMPARATIVE COST PER STUDENT IN GOVERNMENT AND NON- GOVERNMENT COLLEGES AND SCHOOLS.

Mr. H. M. RAHIMTOOLA (Bombay City) : (a) Will Government be pleased to state if it is a fact that the average cost per student in Government colleges and schools is about 50 per cent. higher than in non-Government colleges and schools ?

(b) if so, will Government be pleased to state the reasons why the cost to Government is so much more ?

The Honourable Mr. B. V. JADHAV : (a) According to the calculation of figures of cost for 1923-24, the average cost per pupil in Government Arts Colleges and Secondary Schools is higher than in non-Government Arts Colleges and Secondary Schools by 55 and 35 per cent. respectively.

(b) The extra cost required for Government Colleges and Schools is due to the fact that better qualified and better paid staffs are employed as a rule and that in the case of Colleges the number of pupils is limited to reasonable dimensions. It may also be mentioned that in certain non-Government Colleges the professors are members of missionary associations and similar bodies and accept pay a good deal below the market rate.

Mr. H. B. SHIVDASANI : I do not wish to ask my questions.

MOULVI RAFTUDDIN AHMAD : I rise to a point of order. As these questions are not asked, will they form part of the proceedings ?

The Honourable the PRESIDENT : The honourable member will get that information when the proceedings of the last Legislative Council

* The following honourable members did not put the questions standing in their names :—

Mr. L. B. Bhopatkar, Mr. S. S. Dev., Mr. N. R. Gunjal, Mr. W. S. Mukadam (on behalf of Mr. M. D. Karki), Mr. W. S. Mukadam, Mr. H. B. Shivdasani, Mr. J. C. Swaminarayan.

[The President]

are circulated to honourable members. It is obvious that when questions are not put, no answers are given and therefore they cannot go into the proceedings.

Mr. J. C. SWAMINARAYAN : I do not wish to ask my questions.

GOVERNMENT BILLS.

The Honourable Sir MAURICE HAYWARD : I should like to make a brief statement as to the business, Sir. The first bill on the list, I understand, will not be proceeded with and I understand the second bill will be withdrawn. And the third bill, I understand, it will be more convenient to take up at the end of the bills on this list ; so that, the first bill to be taken up will now be Bill No. XIII of 1925 (A Bill to impose a tax on totalisator betting), and I have a suggestion to make, Sir, that after that, it might perhaps be convenient to take up the Stock Exchange Bill, and after that, the Children Bill, in order to give a little more time to get together all the amendments on the Major Municipalities Bill.

BILL No. XII OF 1924 (A BILL TO PROVIDE FOR THE COLLECTION OF STATISTICAL INFORMATION FOR PUBLIC PURPOSES).

The Honourable Mr. COWASJI JEHangIR : Government desire to have this bill postponed, Sir.

The Honourable the PRESIDENT : The practice that has been followed in the past has made me look up the procedure as provided in the Rules and Standing Orders. As far as I have been able to make out, Government are privileged to withdraw a bill, but if they desire postponement, a motion to that effect should be put before the House and their decision taken on it. Two courses are open to the Honourable the General Member. One is to withdraw the bill, and that does not restrict Government from bringing it on at the next session. A postponement and a withdrawal have really in effect no difference, except so far as the Council office is concerned. But if you wish to postpone it, you should move a motion and I will put it to the House, and the House will decide.

The Honourable Mr. COWASJI JEHangIR : I formally move, Sir, that this bill be postponed to the next session.

Question proposed.

Mr. R. G. PRADHAN (Nasik District) : Sir, I rise to oppose this motion. I really fail to understand why the Government should go on postponing this bill from session to session. This is an important bill, and the honourable House remembers it was, as a matter of fact, introduced into this Council once and even referred to a select committee. The select committee considered it and again it was introduced and then the Honourable the Home Member called an informal meeting and again that informal meeting considered the bill. So, the bill has passed through several stages and it is really an extraordinary and surprising thing that Government should even at this stage move for a

[Mr. R. G. Pradhan]

postponement of this bill. It is an important bill, and I have a suspicion that this bill is being withdrawn or postponed from time to time out of deference to capitalistic interests. I venture to make that statement with a full sense of responsibility. I am aware that a certain section representing capitalistic interests is hostile to this bill and I venture to think, Sir, that it is under the influence of this section that Government are again and again postponing this bill. I must strongly condemn the attitude of Government and I do hope that the House will not approve of it. There is absolutely no reason why the consideration of this bill should be postponed. The honourable member who has moved this motion has done so without a single word in support of it and I appeal to the House to reject that motion.

Mr. S. K. BOLE : Sir, I rise to oppose the motion and I fully associate myself with what has been said by the honourable member Mr. Pradhan from Nasik. The bill would have been very much useful had the Government taken care to place it before the Council now. It would have been very useful especially during the present time when the millhands are on strike and when they want an enquiry to be taken up by Government. At present Government cannot ask the millowners to produce before them certain figures and other information which are necessary for the enquiry. But Government have been shirking their responsibility and postponing this bill from time to time. There is no doubt that Government have been guided by capitalistic influence. Mill workers will lose their confidence in Government on account of this action of theirs. I hope therefore that the Government will think twice and reconsider this question.

The Honourable the PRESIDENT : I want honourable members to realize that this is a motion for postponement and elaborate discussion is not permitted. If any other honourable member wishes to speak for a couple of minutes, I will not prevent him.

MOULVI RAFI UDDIN AHMAD (Central Division) : I think, Sir, the honourable mover of this motion owes an apology to this House for the manner in which he has asked for the postponement. It may be due to his inexperience. The usual rule is that when a motion for postponement is made reasons satisfactory to the House are given because honourable members are supposed to have spent a good deal of time in considering the bill. Government certainly owes an explanation to this House.

The Honourable Mr. COWASJI JEHANGIR : Mr. President, the honourable members are probably aware of the fact that the Government of India appointed the Economic Inquiry Committee. That Committee has reported and in that report there are suggestions for the collection of statistics. If this Government brought forward a bill of their own just now, it might be rather inconvenient if on account of the report of the committee I have alluded to, the Government of India desired to have a bill of their own. Under the circumstances this Government thought it advisable to postpone the consideration of this bill till the Government of India have decided what steps should be taken on

[Mr. Cowasji Jehangir]

the report of the Economic Inquiry Committee. That is the reason why this Government do not at present desire to introduce this bill. Honourable members are well aware that the Statistics Bill was introduced by my honourable friend the Honourable Leader of the House, and it is quite correct to say that honourable members took great interest in that bill. It was sent I believe to an informal committee and very serious consideration was given to the proposal of Government, but under the new circumstances that have arisen Government think it best to postpone consideration of this bill till we know what the Government of India desire to do in this connection.

Question put and carried.

BILL No. XI OF 1925 (A BILL FURTHER TO AMEND THE BOMBAY SMOKE-NUISANCES ACT, 1912).

The Honourable Mr. COWASJI JEHangIR : Sir, I desire to withdraw this bill.

The bill is withdrawn.

BILL No. XII OF 1925 (A BILL FURTHER TO AMEND THE BOMBAY PORT TRUST ACT, 1879).

The Honourable Mr. COWASJI JEHangIR : Mr. President, the Honourable Leader of the House has already announced that this bill will be the last official bill on the Agenda.

BILL No. XIII OF 1925 (A BILL TO IMPOSE A TAX ON TOTALISATOR BETTING).

(As amended by the Select Committee.)

The Honourable Mr. H. S. LAWRENCE : Mr. President, I present the report of the select committee on this bill.*

The Honourable the PRESIDENT : The report of the select committee is presented.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I
Second Reading. rise to propose the second reading of this bill to impose a tax on totalisator betting. This bill stands substantially in the same form in which it was referred to the select committee and there are therefore no amendments contained in the report of the select committee which require any explanation to the House. There are certain amendments which are being proposed by various members and these will be discussed in detail as they arise. I will take this opportunity of reminding the House that in framing the budget we have ventured to assume that we shall secure the support of the House in the passing of this bill, and that we accordingly took credit in our accounts for a revenue of six lakhs of rupees. This is a sum that we anticipate the proposed rate of tax will secure for us in the coming racing season at Bombay and next year we hope for a larger sum

[Mr. H. S. Lawrence]

and the year after that, a still larger sum. It would be easy for me to mention larger sums that may what the appetite of the House, but I abstain from doing so because this taxation is experimental and the amount of revenue that will be obtained from it in future will depend in a great measure on the revival of prosperity in business and on other factors which will arise for determination by the Government of the day. But this much is certain that as long as we do not kill the goose that lays the golden eggs, it will go on laying the golden eggs. In the minutes of dissent we find some members anxious to raise the sum to be levied above the rate of 4 per cent. These members have, I submit, Sir, omitted to study the Constitutional Law. It is the privilege of this House, as of the House of Commons, to oppose the demands of Government upon the taxpayers and I must admit that this House has on several occasions fulfilled that function very effectively, some of us may think too effectively, but just as it is not within the functions of the House of Common to increase any taxation, so it is not within the functions of this House. As I explained last August, the figure of 4 per cent. has been determined by Government to be the maximum that should be levied and that figure has been arrived at after very careful consideration of the experience and the practice of other countries, and Government desire to determine the actual amount that should be levied within the figure of 4 per cent. in accordance with the various conditions that may be prevailing in future years. I have already explained to this House before that the Turf Club has been compelled in Bombay through the action of various Governmental bodies to relay their racecourse and in order to do so, to reclaim certain swamps and to rebuild their grand stand. This was due primarily to the requirements of a new railway station in Bombay. The cost of the operations has been so great that Government consider it necessary to take them into account and to reduce the charge for this current year below the figure of 4 per cent. Some of these amendments suggest that the words "not exceeding" in the sentence "not exceeding 4 per cent." should be omitted. If these words "not exceeding" were deleted from the clause, the result would be that the House would be raising the demand upon the taxpayer higher than the demand made by Government, and it would thus be performing a function which is contrary to the first law of its being. We are, therefore, advised that that proposal is out of order, and we must submit that objection to the ruling of the President.

I see that in the minutes of dissent an honourable member accuses Government of having a soft heart for the Turf Club. That, I understand, is not the view taken by the Turf Club. I do not know if their views will be voiced in this House, but I suggest to some of my honourable friends opposite that if ever they are in need of any picture que metaphors with an acid flavour to them, all that they need do is to go and listen to some of the flowers of speech of certain members of the Turf Club. The fact of course is that in all such cases, when Government are violently attacked, Government has been wholly impartial and perfectly just. (Laughter).

[Mr. H. S. Lawrence]

The third point of importance on which there is difference of opinion is clause 10 of the bill—the reduction of the entrance fee from 50 per cent. to 25 per cent. One honourable member suggests that that is contrary to the object of the bill, and is therefore *ultra vires*. That question is a point for the decision of the President. I will only say that we have taken legal advice on this point, and while we fully recognise the legal acumen of the honourable member who makes this objection, we must be content to note that it is always the most clever lawyers who differ with the most complete conviction and the most excellent arguments. I suggest that, apart from this legal discussion, there can be little question as to the merit of the proposal. Twenty-five per cent. is the maximum tax on every other kind of entertainment under the Entertainments Tax. When this figure was placed at 50 per cent. for entrance to the racecourse in 1922, this House was anxious to indicate its desire that Government should introduce a tax on betting. Government were not, at that time, ready to put a tax on betting, and now that we have introduced a bill for the taxation of the totalisator. I submit that it would be only just and proper that we should reduce that portion of the tax which falls on the people who frequent the racecourse to the same rate as the tax that falls on people who frequent other places of entertainment. It is not right and proper to differentiate between forms of entertainments, and to say that people who are entertained by visiting the racecourse should pay a higher rate for their amusement than people who visit cinemas and theatres or take their amusement in other ways.

Mr. President, with these words, I ask the second reading of this bill.

The Honourable the PRESIDENT: Before I put the question to the House for discussion, I should like to invite their attention to important points of order that arise in considering this bill and the various amendments of which notice has been given. The question has been decided in the past, but in my opinion it is not free from doubt, and I therefore decided to obtain the opinion of the Remembrancer of Legal Affairs and the Advocate General. That opinion has been received, and I will now place before the honourable House all the points that I referred for the Advocate General's opinion and also the reply that I have received from him. The points that I referred to the Advocate General were as follows:

(1) Whether the words "to introduce any measure" in section 80C of the Government of India Act apply to introduction of legislation or whether they include amendments after a Government bill has been submitted for the consideration of the Legislative Council, varying, altering or amending such proposals.

(2) Whether the words "public revenues of a province" in section 80C mean Government revenues for the time being, or also include prospective revenues resulting from proposals for new taxation sanctioned by the legislature.

(3) Whether the amendments of the kind referred to in paragraph 5 of the minute of the Honourable the President dated the 12th October 1925 are out of order.

[The President]

This refers to the amendment from the honourable member Mr. Bhopatkar with regard to the discretion provided in this bill of not fixing the amount of the tax but of leaving it to the discretion of the Government by fixing only the maximum amount that could be levied. There was doubt as to whether the House could, by way of amendment, remove the discretion proposed to be vested in Government, and consider an amendment eliminating that discretion and fixing a maximum tax. That was the third question that I referred to the Advocate General.

(4) Whether the function of the legislature in connection with money bills is restricted without the previous sanction of the Governor to either accept or reject them as a whole.

I have argued the points and have pointed out the doubts which I entertain on the subject, and this is the opinion that the Advocate General has given :

"As regards the first question, I am of opinion that the words 'to introduce any measure' include amendments after a Government bill has been submitted for the consideration of the Legislative Council, varying, altering or amending proposals. The word 'measure' is very wide and includes an amendment. It cannot be construed as a bill. Whenever a bill only is intended the sections of the Government of India Act use the words 'to introduce a bill'. See sections 72D (5) and 72E. Section 67 (2) uses the word 'measure' and 67 (2a) the word 'bill'. Thus in the same section (section 67) a distinction is made between a bill and a measure. If the intention of the legislature was to confine section 80C to a bill, the words used would have been 'to introduce a bill' and not 'to introduce any measure'."

So that, on the first point, Counsel gives the opinion that section 80C applies not only to bills but also to amendments. The Advocate General further says :

"The words used in the marginal notes to section 80C are 'financial proposals'. Marginal notes to the sections of an Act are not to be referred to for the purpose of construing an Act (31. Indian Appeals, page 132). I have therefore not taken into consideration the marginal notes in construing the section."

"As regards the second question, I am of opinion that the words 'public revenues of a province' include prospective revenues resulting from proposals for new taxation and are not confined to existing revenues. The words of the section are 'affecting revenues' and not 'affecting existing revenues'."

"In paragraph (1) of the minute of the Honourable the President it is stated that section 80C appears to apply to money bills which any member wishes to introduce in the Legislative Council and that in all such cases the previous sanction of the Governor is required and that there is no difference of opinion on the point so far as money bills are concerned. It is therefore conceded that a bill for additional taxation which does not affect the existing revenues cannot be introduced by a member without the previous sanction of the Governor. This shows that the words used in section 80C are not confined to existing revenues and a proposal for levying additional taxation affects the public revenues."

"As regards the third question I am of opinion that the amendments referred to in that question are out of order. They require the previous sanction of the Governor under section 80C of the Government of India Act."

Section 80C deals with the discretion vested in the Governor to regulate the extent of taxation. Then the Advocate General coming to the fourth point gives his views as follows :

"My answer to the fourth question is in the affirmative. Section 80C in my opinion makes no distinction between present and future revenues. The word 'affect' in that section means affecting either beneficially or prejudicially. When a member moves an amendment to a Government taxation bill for increasing or reducing the rate of tax proposed by Government, he introduces a measure which affects the public revenues. Such amendment requires the previous sanction of the Governor under section 80C of the Government of India Act."

[The President]

"It is a well recognised principle of constitutional law that a proposal for taxation or for appropriation of revenue can only be introduced by the Crown or with the assent of the Crown. (See Erskine May, 12th edition, page 462 and page 491; Halsbury, the Laws of England, Vol. XXI, page 766, and Vol. XXIV, page 536).

Section 80C of the Government of India Act is intended to give effect to the principle that a proposal for taxation can only be introduced by the Crown or with the assent of the Crown. It seems to me that section 80C goes further than English Law, for an amendment to a Government taxation bill for *reducing* the rate of tax proposed by Government, needs sanction under section 80C.

I have read with care the learned minute of the Honourable the President. I am unable to agree with the view taken by the Honourable the President. I think that the view taken by the Secretary and the Remembrancer of Legal Affairs is correct."

The effect is that this honourable House can either accept the proposal for taxation which Government may submit to them or reject it, but they cannot move any amendments.

A further question that arises out of the amendments on this bill is whether the House has got the power to say, by means of amendments, that they will sanction the tax conditional upon its being ear-marked for a public purpose. This question was also referred to the Advocate General. But I want the honourable members to realise that their power with regard to rejecting the proposal in toto is unquestionable. On the question of ear-marking the Advocate General gives the following opinion :

"The question for consideration is whether the proceeds of any tax can be appropriated or ear-marked for any special purpose without the previous sanction of the Governor.

"I admit that section 72D (2) (c) and rule 30 of the Bombay Legislative Council Rules apply only to motions for appropriation at the time of the budget. I am, however, of opinion that section 80C of the Government of India Act applies to the case under consideration. Section 80C is not confined to money bills. It also applies to amendments affecting public revenues (see the opinion given by me dated 17th October 1925 on the question whether an amendment increasing or reducing the rate of tax proposed in a Government bill is in order if the previous sanction of the Governor has not been obtained)."

This opinion I have already read out to the House. The Advocate General goes on to say :

"The question therefore is whether the amendments under consideration affect the public revenues. The word 'affect' is a word of ordinary English. It means (a) influence (b) produce an effect upon (c) act upon, (d) operate, (e) concern or touch. (See Webster's New International Dictionary.) Any measure influencing, producing an effect upon, acting upon, concerning or touching the public revenues would be a measure affecting the public revenues. I do not think the word 'affect' is confined to imposing a tax or amending or reducing a tax. A measure for appropriation of revenue would be a measure affecting revenues. The word 'affect' is capable of a very large meaning and was I think purposely used to bring within the scope of the section of the Government of India Act the principle of English Constitutional Law. As pointed out by the Secretary, it cannot have been the intention of the legislature while prohibiting during the discussion on the budget motions for appropriation except on the recommendation of the Governor to permit them at other times, e.g., by way of amendments to bills without such recommendation. I think it would not be disputed that a member cannot introduce a bill without the previous sanction of the Governor proposing that the proceeds of the totalisator tax should be spent only on education. He could certainly introduce such a bill if it did not affect public revenues and therefore did not fall under section 80C. But a bill for appropriation of revenues would certainly be one affecting revenues and would fall under section 80C. The only question in my opinion therefore is whether the words 'to introduce a measure' are confined to money bills or whether they include amendments also. I think to propose an amendment is to introduce a measure under section 80C. I think that the view taken by the Secretary and the

[The President]

Remembrancer of Legal Affairs with which I agree is supported by the ruling regarding amendments of the President of the Legislative Assembly given on 27th May 1924 in connection with the Steel Industry (protection) Bill. The President of the Legislative Assembly at page 2293 of the Legislative Assembly Debates, Vol. IV, Part IV, says :—

‘In dealing with these amendments the principles to be borne in mind are that no motion to impose a tax can be made except on the recommendation of the Crown nor can the amount of a tax proposed on behalf of the Crown be augmented without a similar recommendation. Similarly every motion for grant of money from the public revenues or for creating a charge on such revenues can again be made only on the sanction or recommendation of the Crown. These are constitutional principles which recognize fundamental principles on which bills of this character have to be dealt with and the same principle has been embodied in section 67A of the Government of India Act and section 67 (2) (a) and section 67A clauses 2 and 6.’

I may also point out that looking at the preamble it seems to me to be doubtful whether the amendments are within the scope of the bill. However, the opinion I have given is not based on the amendments being outside the scope of the bill.”

I am sorry that I have taken so much time of the House, but I am sure honourable members will appreciate that the issues involved in this question are of far-reaching importance in regard to the powers and functions of this honourable House. It is, therefore, desirable that they should know exactly what according to expert legal opinion their powers and functions are.

Before concluding I should like to draw the attention of honourable members to the remarks at page 469 of Sir Erskine May’s *Parliamentary Practice*, to which reference has been made. Before I read that, I should like to inform honourable members that the practice in England appears to be this. There it is an accepted principle—and I think it is a very sound principle to follow—that the right to impose a burden upon the subject vests in the Crown and in the Crown alone. It is in pursuance of that principle that the recommendation of the Crown or the sanction of the representative of the Crown in India is necessary before any proposal can be laid before the House to impose additional burdens on the people of this province. It is with that object that the previous sanction of the Crown is made necessary in imposing those burdens. The parliamentary practice, when once that sanction is received and the bill is placed before the House, is, that no amendments increasing those burdens which are proposed on the people can be entertained without the previous sanction of the Crown. The Crown has by sanctioning a measure determined the extent to which further burdens should be imposed upon the people, and no honourable member is authorized to propose any amendments which would have the effect of increasing such burdens without the previous sanction of the Crown. But when we come to the question of reducing the burden, the powers of the House of Commons are considerably widened, and this paragraph in Erskine May clearly shows what happens when amendments for reducing those burdens are placed before the House :

“It follows as a matter of course that a motion to alleviate the burthens upon the people is not within the scope of the standing orders relating to the imposition of charges upon the people. A bill for diminishing or repealing a tax or other public burthen, unless the imposition of a new tax is proposed by way of substitution, is introduced without the Royal recommendation or preliminary committee stage. Amendments, also strictly confined to relief from pecuniary burthens can be considered both in committee and with the Speaker in the Chair.”

[The President]

That shows that in England the practice is that while no member of the legislature can move an amendment which would have the effect of increasing the burden on the people, without the previous sanction of the Crown, they are entitled by way of amendments to reduce the proposed burden. In England they go further. As I have just read out, even bills by non-official members can be introduced reducing existing taxation or repealing taxation Acts without the previous sanction of the Crown. Section 80C, in my opinion, definitely prohibits this in India. As regards whether amendments which propose a reduction of taxation proposed by Government are in order or not, I have, in spite of the legal opinion, considerable doubts. I am still inclined to think that honourable members are entitled to move amendments reducing the amount of additional taxation proposed by Government, without the previous sanction of the Governor. But at this stage I do not propose to act on that doubt. I have put these doubts before the Advocate General.....

The Honourable Sir MAURICE HAYWARD: I should like to say just a few words on that particular question, Sir, as to whether reductions can be moved to a money bill by any member of this House without the sanction of the Governor. We are indebted to you, Sir, for the very great care and industry which you have displayed in this very difficult subject which is one of considerable complication and one in which it is not at all easy to come to an accurate legal decision. As regards the major points decided by you we have nothing further to say. But upon this particular question of reductions, we have precedents in this honourable House. We have precedents of reductions moved without sanction in the case of the Court-fees Act Amendment Bill and in the case of the Stamp Act Amendment Bill, and we are quite ready to follow those precedents. I see also that that procedure was followed in the Legislative Assembly. In a recent book on *Parliamentary Procedure in India* by Mr. Chamier, the case is quoted where the president of the Legislative Assembly said that he was thrown back upon parliamentary practice as he did not consider that he was bound in this matter by section 80C: he therefore held that though increases could not be moved, still it was within the rights of honourable members to move reductions and he said that would be strictly in accordance, both in regard to increases and reductions, with parliamentary practice. Therefore, Sir, if you should feel, in this very difficult question, that the better view would be to follow precedents, both here and in the Legislative Assembly, then I am authorised to say that no objection whatever to that course would be taken by Government.

The Honourable the PRESIDENT: The Honourable Leader of the House has made the statement interrupting me just when I was going to inform the House that since this opinion was given I have personally discussed the matter with the Advocate General, who is fortunately here, and placed my doubts before him. After careful consideration he has intimated to me that he is prepared, in view of the further light that has been thrown on the question of parliamentary procedure,

[The President]

to hold that amendments for reducing the burdens proposed to be imposed upon the people, would be in order without the previous sanction of the Governor. Following the rules and precedents both in the Assembly and in this House, I propose to allow all amendments which propose to reduce the extent of the burdens that are proposed to be imposed upon the people by any legislative measures introduced by Government.

Question proposed that Bill No. XIII of 1925 (A Bill to impose a tax on totalisator betting) be read a second time.

The Honourable the PRESIDENT: In connection with this motion a notice of amendment has been received from the honourable member Mr. Surve, asking that it should be postponed to the next session. Honourable members know that on postponement motions elaborate discussion is allowed.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move:

That the second reading of Bill No. XIII of 1925 (A Bill to impose a tax on totalisator betting) be postponed to the next session.

Sir, my object in moving this amendment is that the question should be threshed out in all its aspects by a special committee consisting of official and non-official members, experts and others. From my minute of dissent it will appear that all the aspects of this question have not been considered as they should be. (Hear, hear). It is evident that we are looking only to the financial aspect of this bill. But the other aspect, namely, its effect on the moral well-being of the people is not considered. Perhaps I may state to this House that very recently Government have issued a notification whereby they have extended the operation of the Racecourses Licensing Act to several other places. They have extended it to Mahableshwar and to the cantonments of Karachi, Belgaum, Kirkee, Hyderabad (Sind) and several other places. In all six new places are going to be included under the operation of the Racecourses Licensing Act. The implication of that notification is that though at present in these places there have been no legalized race bettings, still in the very near future in all these places Government can legalise them. At present race-betting is confined only to two places, namely, Poona and Bombay, and the number of days is also very limited. It is only 36 days in a year. To two new places at least, that is to Kirkee and Hyderabad (Sind), licenses have already been issued and the terms and conditions imposed in them are that twelve more days in a year are legalised for holding race meetings. That is one thing. Another is that the stakes are lowered. In Bombay and Poona the minimum stake is Rs. 3 and the maximum is Rs. 10. But in Kirkee which is very close to Bombay the minimum stake is Re. 1, and it would directly encourage poor people to go and bet, and its consequences will be that there would be ruin and breaking up of numerous poor families.

I might also mention several other factors which contribute to expansion of the racing evil. For instance formerly there was not the third enclosure. There were not the race specials. But now the railway company offers punters to carry them from Bombay to Poona and in the reverse direction at reduced fares in special trains. The third enclosure

[Mr. A. N. Surve]

enables the poor to participate in race gambling; These are direct encouragements to gambling, and I think it would not be fair on our part to allow this bill to pass without taking into account all these factors. Let me mention that in 1897 the race meetings were held on only 19 days. But when they were increased to 42 days in a year Government introduced the Race Licensing Bill and curtailed the number of days to 30, but gradually the number has again increased. At present the number is 36, and if Government will sanction 12 days to each of the new six places then there will be gambling for 72 additional days in a year. 36 days are already legalised, so in a year there would be gambling for 108 days. That means in every three days one day will be a day set apart for gambling. Is that a thing which we as representatives of the people can tolerate? It is well known that people who go to the race courses do not go there for the sake of sport. They go there only either to make money or to lose it. Very often they lose it and yet they go there only in the false hope that they will regain what they have lost and get something more also. Therefore under these circumstances I think it is our duty to scrutinize the proposal that is before us very carefully.

May I mention that our presidency surpasses even Monte-Carlo? Notorious as that State is for its huge gambling it imposes a limit on the stakes. A maximum stake on a single coup is prescribed and enforced; but in our race enclosures there is absolutely no limitation whatsoever. The only limitation that is operating is physical, *viz.*, the amount of money that one has in his pocket. If he has plenty of it he can gamble it all away. It will be nobody's concern even if the gambler's family will be involved in ruin. Let me mention the practice that is in force in the first enclosure. Though the stake is nominally of Rs. 10, in the first enclosure multiples of Rs. 10 can be sold in one ticket up to a maximum of Rs. 100 and a punter is at liberty to buy any number of multiple tickets. I am told that once in Poona a man came from Bombay with one lakh of rupees in his pocket and when he lost about rupees sixty thousand in a race meeting his heart was broken and he fell down dead. (Mr. C. N. Wadia : When did it happen?) I do not know the exact date. I have asked a question whether there were such accidental deaths in the race course at Poona, but it has not been answered yet. But what I stated is from information obtained by me from non-official sources. (Mr. C. N. Wadia : May I know what he lost?) He lost rupees sixty thousand. That is what I was told, but of course I have no official information on the point. I have asked a question on the point, but as I have said it has not yet been answered. Perhaps the answer may be given during the course of this session. (Mr. C. N. Wadia : Can the honourable member state the year in which this took place?) It occurred within the last three years. (Laughter.)

The Honourable the PRESIDENT: Order, order.

Mr. A. N. SURVE: Perhaps I may bring to the notice of this House a resolution passed by a public body in Bombay in the month of

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September last. The Bombay Christian Council which represents 28 Protestant Unions in Western India, six hundred missionaries and more than one lakh Indian Christians, has passed the following resolution which reads :—

“The Bombay Christian Council views with concern the increase in the racecourse gambling in Western India and the widespread demoralisation caused by it and appeals to Government and to the Bombay Legislative Council and the leaders of public opinion to use every effort to protect the people from this evil.”

Here is a direct call from one community, which by reason of its education and organization is well fitted to give us that call. It asks us that we should do everything in our power to restrict gambling. Therefore, I place it before this House that we should not allow this bill to be rushed through. Nothing will be lost because the adjournment is going to be up to the next session. By that time we can appoint a committee and the committee can go into all the aspects of this question, and then we will be in a better position to judge our position and decide one way or another. Therefore, I hope that my motion will be accepted by the House.

Question proposed, that the consideration of the bill be postponed till the next session.

The Honourable Sir MAURICE HAYWARD : I am anxious on one point only, Sir, and that is to correct the information of my honourable friend opposite as to the extension of the Racecourses Licensing Act to other places beyond Poona and Bombay. I do not feel that my racing information is sufficiently good to answer the other points raised by him. He seems so very much better informed than I am on these particular incidents of racing of the last few years. Moreover, the particular reasons he has given for postponing this subject are not at all plain to me. He says nothing will be lost by delay. Perhaps he thinks that six lakhs is nothing, for I believe that six lakhs would be lost by delay. He also asks us to make every effort to protect the people from the evil of gambling, to restrict gambling, and yet he says “Do not tax this racing association”. It seems to me, Sir, that he has in his own speech given us very good reasons why we should proceed with the utmost speed, with this particular measure, both on financial grounds and moral grounds.

These points, however, will no doubt be disposed of by my honourable friend the Finance Member. But, Sir, I should like to explain quite apart from those points that the reason for extending the Racecourses Licensing Act to those other places was merely to enable us to control race meetings. It is not a fact that there were no race meetings before in these places or that racecourses have suddenly sprung up in them. There have been racecourses and race meetings there for as long as I can remember, and that extends to a good many years' service in India. There has been a racecourse at Kirkee for years and years. Possibly my honourable friend has not visited that racecourse though his information seems to be extensive with regard to other places.

Mr. A. N. SURVE : But was there gambling at Kirkee before ?

The Honourable Sir MAURICE HAYWARD : I believe there was gambling at Kirkee, that is to say, betting both with bookies and by totalisators. But such betting as went on is now controlled by the license issued under the Racecourses Licensing Act. The number of races is strictly limited and the operations on the totalisator are now strictly limited by the license issued under that Act.

Then, with regard to Mahableshwar, there is a little racecourse there which my honourable friend may perhaps have seen, and I believe that there is a day's racing there about once in three years. So, that averages about one-third of a day a year. That is not really a very serious matter. But even there spectators were able to indulge in betting with bookies or through the totalisator. They will now be controlled under the license issued under the Racecourses Licensing Act. The other places are Hyderabad (Sind) and Karachi. In both these places there have been racecourses for years and meetings have periodically been held. The meeting at Hyderabad is quite a small one and the race meetings at Karachi are quite small, compared with those in Poona and Bombay. I believe also in Ahmednagar there have been races. I remember riding in a race there about 35 years ago. That was not a very serious affair. I do not think my honourable friend need be in any fear that the morals of the people will be in any way spoiled by the races in Ahmednagar being controlled under the Racecourses Licensing Act. I put it to him seriously that this extension is really in the nature of control and not expansion. It is no reason whatever for not proceeding at once with this bill which will have the effect of further controlling or restricting the evil which he has so much at heart in restricting in this Presidency.

MOULVI RAFIUDDIN AHMAD (Central Division) : Mr. President, I rise to oppose the motion of my honourable friend behind me. But before I do that, I express my great admiration for the earnestness with which he comes forward to take up this cause, and I really sympathise with him for the manner in which he has brought forward the racing evil and dwelt upon its extension. Sir, I think it would be a right thing, before extensions are given or this Act is applied to any other place except Bombay or Poona, to obtain the sanction of this Council.

Mr. D. B. ADWANI : I rise to a point of order. Are the honourable member's remarks relevant ?

The Honourable the PRESIDENT : I am afraid much of the discussion which has proceeded is not relevant. I must rule that the issue before the House is simply whether a tax should be levied on the amount of bets put in the totalisator and whether that tax should be levied at a percentage not exceeding 4. That is the only issue in the bill. I have admitted that much of the discussion has been irrelevant, but now that a point of order has been specifically raised, I must strictly restrict the discussion to the issue before the House. The issue is a very simple one : the House has to decide whether they will tax the Turf Club or not, and if they decide to tax it, what the extent of that tax should be—not exceeding 4 per cent. The amendment is that the consideration of this bill be postponed till the next session and the relevant reasons that can be urged are that

[The President]

the House is not prepared to sanction this tax at this session, that they want further time to consider and therefore they want to postpone it.

MOULVI RAFIUDDIN AHMAD : Every member must be allowed to develop his own point in the way he likes. I was just coming to the point which I wished to make and I was interrupted, I am very sorry to say, and the interruption has caused two or three minutes' waste.....

The Honourable the PRESIDENT : The point of order prevails.

MOULVI RAFIUDDIN AHMAD : Yes, Sir. I would like to answer the honourable member's statement that the other aspects of the question excepting financial aspects have not been taken up. The other aspect which he brings forward is the moral aspect, and I believe we have sufficiently dealt with the moral aspect of the question in the first reading of the bill and if there is any serious objection that can be taken, I think, there is time yet for the House to take it up. I do not see any reason why the matter should be adjourned till the next session. Besides, the honourable member wants a select committee....

The Honourable the PRESIDENT : It is not in the motion, it is simply postponement.

MOULVI RAFIUDDIN AHMAD : We have had already a discussion by the select committee. No other committee is necessary.

Mr. A. N. SURVE (Bombay City, North) : Sir, the only point which is made is that in the places which I have named there were races held before and there was some amount of gambling also.....

The Honourable the PRESIDENT : I hope the honourable member will bear in mind the ruling I have given. Considerable latitude has been allowed but I do not propose to allow any more latitude.

Mr. A. N. SURVE : I am answering only one point, Sir, but the gambling going on there was illegal gambling. In the Racecourses Licensing Act Government have reserved the power of exempting any horse-race from the operation of the Act, and the only exemption made thereunder is in favour of the mounted sports of the Bombay gymkhana ; such sort of exemption was not made in the case of places to which the Act has been recently extended. Therefore I say that if there was gambling, it was illegal gambling, or gambling which the eye of law did not choose to notice on account of its blindness. I think that the question is of serious importance and that the welfare of the people is at stake. Therefore I submit the consideration of the bill should be adjourned to the next session.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I have done my best to understand the honourable member's objections but it appears to me that these objections are based on matters which are quite irrelevant to the principle of the bill before the House. His objections have been based on certain things done under the Racecourses Licensing Act and this bill whether it is a good bill or a bad bill, is not in any way concerned with the actions of my honourable friend here (the Honourable the Home Member) under the Racecourses Licensing Act. My

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honourable friend says that with the very best of intentions he took certain actions under that Act, but honourable members seem to think those actions are very bad and probably suspect that the intention also was very bad. These are considerations with which we are not concerned at the present time, and I respectfully submit to this House that no reason has been given why we should not proceed with the consideration of this bill. I admit that it is a financial bill and I have already stated that the bill if passed will give us six lakhs of rupees.

This financial consideration does not enter into the mind of my honourable friend opposite who regards six lakhs as a matter of no moment; but to the Financial Department naturally another point of view appeals. We request this House to proceed with this bill feeling perfectly satisfied that it will not have any of the deleterious, detrimental moral effects that my honourable friend foresees and that on the other hand it will have a very practical result in giving the State the money which the State very seriously needs.

Question put and lost.

The Honourable the PRESIDENT: We now proceed with the consideration of the motion for the second reading.

Mr. R. G. PRADHAN (Nasik District): Sir, I rise to oppose the second reading of the bill not only on the grounds on which I objected to the first reading of the bill at the last session but also on other grounds, in fact, on the general merits of the bill. When last time I opposed the first reading of the bill, my honourable friend Moulvi Rafiuddin Ahmad described me as a missionary of anti-gambling. I may tell him that I am not at all afraid of the appellation thus given to me; rather I feel elated at finding that my missionary spirit has succeeded at least in making one convert. I am very glad to find that the leader of the non-Brahmin party, the honourable member who just now spoke in support of the motion of postponement, has now come round to exactly the same view about this bill which I took at the first reading of the bill. In view of the rulings that have been given with regard to the several amendments and after the various views which have been expressed in the several minutes of dissent that have been written by members of the select committee, I ask this honourable House, is it at all worth while proceeding with this bill? The Honourable the Finance Member has just now told us that this bill is expected to bring six lakhs of rupees and he has shown a very characteristic concern about the interests of the Finance Department over which he has the privilege to preside. I can quite understand his extraordinary solicitude about finance; in fact it appears to me that his solicitude for the financial interests of Government will go to such an extreme that he would like to jump at any source of revenue however objectionable it may be. All that he seems to care for is money. "Give me money, whatever may be the source from which you give it. I want money, money, money." That seems to be the whole burden of his song and he does not care at all for any other considerations

[Mr. R. G. Pradhan]

bearing on the bill. He wants money, but certainly we are not bound to show such extraordinary sympathy with his demands. We are the representatives of the people; we are concerned not only with the finance of the presidency but also with the well-being of the people of the presidency; we are concerned not only with the financial interests but also with the general and moral interests of the people; and it seems to me that this bill can be described in a nutshell in this way: is this Council going to barter the souls of the people, the souls of those people whose interests, whose progress, whose well-being, are in our hands, I say, are we going to barter the souls of the people for a mere mess of pottage consisting in a few lakhs of rupees? That seems to be the essential nature of the thing. If this bill is passed, we shall be selling away the moral interests of the people. And for what? For increasing the revenue of this presidency by Rs. 6 lakhs. Is the statesmanship of the Government so bankrupt—I put it plainly—is the statesmanship, the financial ability of the Honourable the Finance Member so bankrupt that he cannot find out any other source of revenue, which would not be open to such grave and serious objection? If he cannot do it, I must say plainly, with due respect to him, that it would be much better if some other gentleman is allowed to take his place, and to bring in proposals which would not be open to such objection. But I do not believe that the Government of Bombay is so bankrupt in financial wisdom and financial ability that if they only courageously apply their mind to all these financial questions, they will not be able to make satisfactory proposals to which no objection could be taken on any ground whatsoever. As it is, the bill is open to serious objection. I emphatically say that this House would be betraying the interests of those who have elected them, if they consent to an immoral tax of this kind, which would result in bartering away the souls of the people for a mess of pottage, consisting of Rs. 6 lakhs.

The Honourable Mr. H. S. LAWRENCE: Mr. President, the speech that we have just listened to with the greatest respect from the honourable member Mr. Pradhan is very similar to the speech which I hold in my hand which was delivered in this House on the 30th July last. I do not know if there is anything new in the arguments which he has brought forward, and those arguments, at that time, failed to move this House. I trust, Sir, that that will be the result of the present arguments on the present occasion. The considerations which the honourable member has brought forward represent the high ideals which he desires to press upon this House. But we know there is the ancient saying that the advocate of the best cause is always the enemy of the good cause. Such a high standard of morality may be pressed upon the people, that as experience has often shown, far greater evils do in fact result. If we do not have this racing under control, if we do not have betting under some form of control, the betting and gambling that goes on in our markets and in the side-streets throughout the country becomes even a greater evil than the betting which is regulated on the

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racecourse. I do not myself deny that betting on the racecourse is a bad thing. But we do know that the evil of gambling is very widespread; we do know that people with the weaknesses of human nature which are not represented in this House do fall victims to gambling under every sort of pretext. We know that horse-racing affords temptation for gambling not only in this country but in every country in the world, and so, with this knowledge, Government have arrived at the conclusion that it is necessary to keep this evil under control, and that it is advisable in the best interests of the country to derive some revenue from an evil which cannot be stopped but which can be kept under some form of control. On this ground, Sir, I ask that this House will give this bill a second reading.

Bill read a second time. Question put and carried.

Bill read clause by clause.

Clause 1 (*Short title*) ordered to stand part of the bill.

Clause 2 (*Extent*) ordered to stand part of the bill.

Clause 3 (*Operation*).

(1) It shall come into operation on the first day of 192 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.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move the amendment standing in my name, as follows :—

In clause 3 (1), add the following words, *viz.*, " and shall be in force for two years thereafter " after the figures " 192 " .

The object of this amendment is to reserve to the Council the power of seeing whether the money which is promised to be appropriated for a specified purpose is applied to that purpose. Very often, the benches opposite have held forth the allurements that money coming out of a specified fresh taxation, *e.g.*, Entertainments Duty Act, will be applied for a named purpose, *viz.*, expansion of primary education. But unfortunately we have absolutely nothing at our disposal whereby we can see whether the money that is ear-marked is applied to that particular object. Therefore I think it would be very desirable to reserve that power in the Council by adding a clause as to the duration of the bill, so that, if we find at the end of the period that we are not satisfied, we may not sanction renewal of the Act. With this object I have moved this amendment, and I hope it will be accepted.

Question proposed.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I do not think that we can accept this amendment. There is no reason why this taxation once introduced should not continue from year to year. There are certain arguments with regard to certain taxes which we accepted a couple of years ago, for instance, on the Court-fees Bill because at the time it was imposed, money was given definitely for a temporary purpose. Government had a serious financial difficulty at the time, and it was hoped that after two years in one case and four years in another, the finances might improve. But in this case, we wish to have this revenue for the general purposes of the State, and not to meet an emergency which could in any sense be called temporary. I submit, therefore, there is no reason for applying the precedent which was created in the case of the Stamp Act and the Court-fees Act to a bill of this character. I ask the House, therefore, to reject this amendment.

Question put and lost.

Mr. A. N. SURVE (Bombay City, North): Sir, the next amendment reads as follows:

"Add the following words to clause 3 (2), line 1:
'after the approval of the Legislative Council expressed in a resolution is obtained' before the words 'the Governor in Council'."

The object of this amendment is that power should not be given absolutely to Government. If it is so given they will extend the Act to any place and gambling will increase. This is a matter which concerns the welfare of the people. Therefore I think that unless Government do obtain the previous sanction of this House they should not have the power to extend the operation of this Act to other places. I wish therefore that this House should not give away the power it now enjoys.

Question proposed.

Mr. G. WILES: Sir, I think the honourable mover of this amendment seems to be under a misapprehension. The restriction he wants to impose by his amendment will not achieve the object he has in view. This bill can only be extended to places to which the Racecourse Licencing Act has already been extended. His object can only be achieved by amending the Racecourses Licensing Act. When once a license under that Act has been given, Government are merely taking authority to extend the present Act to such places. This is a bill to impose a tax on the totalisator which has been established in places to which a license has already been given.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I rise to support the amendment. The Honourable the Finance Member said that this was an evil. At the same time he said: "Let us get some money out of this evil, if we cannot absolutely stop it." In other words he said that we should not stop the evil but must get some money out of it. This amendment is a very proper one, and I think Government will have no objection to accept it. License for a racecourse has already been granted to a small place like Hyderabad, and I do not know to how many other equally small places it will be extended. Government will do well to accept this amendment. This provision in the bill should not be extended to any

[Mr. Noor. Mahomed]

place without the previous sanction of this House. I hope Government will see their way to accept this amendment.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, after the speech of the honourable member the Finance Secretary some confusion has arisen. He says that the object of the present amendment could only be attained by moving an amendment to the Racecourses License Act and not to this bill. If that be so, I desire to know whether Government will enable us to move an amendment to the original Act, and will assure us that they will take the sanction of the House before the extension of that Act to any other part of the presidency. That assurance is not forthcoming. I think the House will agree with the principle underlying this amendment, and show their sympathy with it. We are giving under this clause a *carte blanche* to Government. What we want is to reserve the power of extending the provisions of this bill in future to this House and I think every honourable member will sympathise with the contention that the House should have this power and not the executive.

The honourable the Finance Secretary says that an amendment should be moved to the original Act ; but neither he nor any other member from the Government benches has expressed any sympathy with the object of this amendment, nor has any of them assured us of his desire to give an opportunity to this House for moving an amendment of the kind suggested by the honourable member the Finance Secretary. In the absence of any such assurance from the Government benches, I think the House will do well to show its sympathy with the amendment by supporting it.

The Honourable Mr. COWASJI JEHangir : Mr. President, there seems to be some misunderstanding on this point. There is an Act by which Government grants licenses to existing or new racecourses in this presidency. Licenses have been granted to Bombay and Poona. (Mr. Noor Mahomed : To Hyderabad). It has been granted to certain small centres also. Licenses are granted by the Home Department. The object of this bill is to tax such racecourses which can afford to pay the tax. Government in the Home Department may sanction racing, say for instance, in Sholapur, or any other town. That town may be capable of paying the tax. If this honourable House deprives Government of the power of extending this Act to say Sholapur, the Home Department will be able to give license for a racecourse at Sholapur but the Finance Department will not be able to impose this tax which Sholapur can perhaps well pay. Therefore if the honourable House desires that a license should not be granted to any place without the previous sanction of this House, the best way to do so will be to bring in an amending bill to the Racecourses Licensing Act, under which Government grant licenses.

MOULVI RAFIUDDIN AHMAD : Will Government bring in an amending bill ?

The Honourable Mr. COWASJI JEHangIR : I am pointing out to the honourable member a remedy. He can bring in an amending bill providing that Government cannot grant a license without the previous sanction of this House or move a resolution requesting Government to bring in an amending bill to that effect. But to deprive Government of the right to tax a racecourse which they have the right to license is a measure which is not either in the interest of the House or of Government. Therefore, I suggest to honourable members the remedy I have proposed for attaining the object that has been advocated by several honourable members.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I think we cannot accept this amendment chiefly on the ground that it would be not only ineffective but inconvenient. As a matter of fact it is very improbable that the Government would wish to bring this Act into operation in any other area in Bombay Presidency in present circumstances. The racing at so many centres, which has aroused the anxiety of my honourable friend opposite, is such a very trifling affair—it is almost entirely confined to what are known as Gymkhana meetings, where none of the public excitement is aroused and where no crowds are attracted as we find in Poona and Bombay—that the extension of this Act would not have any money in it. As I said, Sir, it is purely a financial measure in order to bring in money by the lakh. We do not want to scratch about in places where there are only two or three rupees to be obtained. Sir, it is very improbable that we should want to extend this Act, but we require to have the power in reserve, because it is quite possible that where there are important interests at stake the gentlemen concerned with this racing—might set up a racecourse somewhere else than in the city of Bombay or the cantonment of Poona. In fact there have been some suggestions to do so. If that was done, it would be desirable that we should extend this Act as soon as we are made aware of the proceedings that were taking place. Now, this House only meets at intervals of three or four months. It is quite possible that in the future gentlemen connected with this sport might steal a march on Government and get away with several lakhs of rupees taxation. I do not say that is going to happen immediately, but it is one of those contingencies which it is just as well to avoid, if in so avoiding it we do not effect any serious breach of official propriety.

Now, there is nothing, I submit, Sir, no solid argument, to justify this amendment. It is really based on some form of suspicion, the same kind of suspicion that we have already heard in the speeches of the honourable members Mr. Surve and Mr. Pradhan, that Government are for mysterious reasons desirous of extending the whole scope and area of betting. We have no such desire : our whole purpose is of the most moral character. We want to control this evil and we want to obtain a revenue for the

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State in so doing. Therefore, Sir, as this amendment is, I submit, based on an unworthy and unsubstantiated suspicion, I ask that it be rejected.

Question put: House divided: Ayes 8; Noes 32. Motion lost.

Division No. 1.

Ayes

AHMAD, MOULVI RAFIUDDIN
COOPER, Khan Bahadur D. B.
NAVLÉ, Mr. N. E.
NOOR MAHOMED, Mr.

RAHIMTOOLA, Mr. HOOSENALLY M.
SARDESAI, Mr. S. A.
SHINDE, Mr. R. D.
SURVE, Mr. A. N.

Tellers for the Ayes: MOULVI RAFIUDDIN AHMAD and Mr. A. N. SURVE.

Noes

ABDULL LATIF HAJI HAJRAT KHAN, Mr.
BOLE, Mr. S. K.
BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan
Bahadur SHAIKH
HAMID M. ABDUL ALI, Mr.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HARRISON, Mr. R. T.
HOSSACK, Mr. W. B.
HOTSON, Mr. J. E. B.

JADHAV, the Honourable Mr. B. V.
JEHANGIR, the Honourable Mr. COWASJI
KAMBLI, Mr. S. T.
KOKANI, Mr. G. J.
LAWRENCE, the Honourable Mr. H. S.
MANSURI, Khan Saheb A. M.
MASTER, Mr. A.
MCKEE, Mr. W. G.
MEHTA, the Honourable Sir CHUNILAL
MONTGOMERIE, Mr. A.
MUJUMDAR, Sardar G. N.
OWEN, Mr. A. C.
PATEL, Mr. A. E.
THOMAS, Mr. G. A.
WILES, Mr. G.
WOODS, Mr. E. E.

Tellers for the Noes: Mr. E. E. WOODS and Mr. A. C. OWEN.

(After recess.)

The Honourable the PRESIDENT: Order, order. Swearing in of new members.

Mr. J. B. KANGA took the prescribed oath of allegiance to His Majesty the King-Emperor and took his seat in the Council.

The Honourable the PRESIDENT: The next amendment which stands in the name of the honourable member Mr. Surve is out of order as already explained. Then the next amendment from the honourable member Mr. Adwani is also out of order. The next amendment is from Mr. Nariman who is not here. Then the next amendment from the same honourable member is out of order. The next amendment from Mr. Karki is also out of order. Then again the next amendment from Mr. Karki is also out of order. Then the next two amendments from the honourable member Mr. G. B. Pradhan are also out of order. Then the next amendment from the honourable member Mr. Dev is also out of order.

Clause 3 ordered to stand part of the bill.

Clause 4 (*Definitions*) ordered to stand part of the bill.

Clause 5 (*Tax on totalisator and payment thereof*).

"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."

Mr. C. N. WADIA : (Bombay Millowners' Association) : Sir, I rise to move an amendment which is to substitute $2\frac{1}{2}$ per cent. where the figure and the words 4 per cent. are mentioned in the bill in regard to the tax on the totalisator income.

My reasons are that the Western India Turf Club has to incur a great deal of expense in subscribing money for its establishment and it has also to spend money in giving considerable help to deserving charities. The club should therefore also have the sympathy of this House because it distributes large amounts annually in charity.

Then in regard to horse-breeding I would like to mention that this House should realise that the object of racing is anything but gambling. As a matter of fact, gambling is a very small part of it. Its main object is the improvement of the breeding of country bred horses and I am able to say that the Western India Turf Club has very largely helped towards that end in the last thirty years. If any honourable member will compare the country breed of horses now with that of thirty years ago he will realise the vast difference that racing has done to the improvement of the horses. Owing to the generosity of the Raja of Dhar, I might mention that certain horses were sent to England this year. They were shown amongst many English and other horses. Well, Sir, three of these horses got first, second and third places in the show. At the Olympia, which is the best show in the world, they got highly commended. Well, Sir, the Turf Club has done in this matter what Government cannot do by any generosity on their part. Now they want to stop the Turf Club from continuing its work. Once this House passes this bill as it is, there will be no room for generosity on our part for improving the horse breeding or for anything else. The balances of the Turf Club will be such that we cannot well afford to be generous, and Government will either have to pay to the institutions helped by the Western India Turf Club or let them stop. We cannot help them. Therefore, I think the proposal contained in the bill before the House is objectionable in two directions, that it would be indirectly stopping the species of the horse improving, and I ask honourable members what will they in future do if they have got Swaraj and have not got properly bred horses. It is most paramount, of the greatest importance to this country, that the species of the horse should be improved as far as possible and we should be prepared to meet the contingency of invaders coming at any time and fight the enemy, and how can we do that if we are just going to cut the revenue of the Turf Club straightaway now by heavily taxing them—to the extent of 40 per cent. of its gross income ! Forty per cent. of the gross income,

[Mr. C. N. Wadia]

Mr. President! No one even heard of such taxation. My honourable friend the Honourable the Finance Member (Mr. Lawrence) smiles. When he talks of the gain of six lakhs, does he realise the harm he is about to do? So, on these grounds I appeal to the House that it may see its way to substitute $2\frac{1}{2}$ per cent. instead of the 4 per cent. in clause 5.

MOULVI RAFI UDDIN AHMAD (Central Division): Sir, I was considerably amused by the remarks which have been made by the last speaker. I am almost inclined to think that he has been purposely put forward here to move his amendment so that the Government's proposals should look moderate. I fail to see, Sir, the force of the arguments that the Turf Club would not in future be so charitable. Let me inform him that it is very easy to be charitable with other persons' money. Where does the Turf Club bring the money from to be charitable? One might as well assert that money is wanted by all organisations that promote some kind of vice to be charitable.

Then, Sir, they say that the Turf Club exists for the purpose of breeding good horses. I should like to know whether it is not a fact that 90 per cent. of the people that frequent the races care anything for the breed of horses. Then, the honourable member brought forward a most extraordinary argument—a comical argument—that when Swaraj comes we want good horses to fight the enemy and that therefore the race goers are busy making ready the horses to face the enemy. I am afraid, when the enemy comes the race goers would require the fastest horses to run away with. (Laughter). Well, Sir, I am glad that the Turf Club has been represented in this debate, but I am sorry that when even an alien Government considers 4 per cent. as a reasonable tax to be put on the income of the Club an Indian gentleman proposes only $2\frac{1}{2}$ per cent. ! After that, I think I can fully appreciate the Honourable the Finance Member's telling us to go to the Turf Club to hear the complaints with regard to the excessive nature of the tax. We say that the races are increasing gambling. There may be some advantages in horse-racing but the disadvantages far outweigh the advantages. Every sensible person must acknowledge that. The Honourable the Finance Member himself says that it is an evil but some money must be extracted from this evil. My honourable friend the Honourable member Mr Wadia says it is a virtuous thing, it is to be cherished, to be encouraged. It is bad enough when Government, proposes to collect money from a growing vice, but it is intolerable when an Indian gentleman asks us to sanctify a sin, and to bless it. I hope there will not be a single person to support his amendment.

Mr. S. K. BOLE: Sir, I rise to oppose the motion. I am against horse racing. It is nothing but gambling. But in this case I would support the present bill on the ground that the revenue comes to the coffers of our Government. It has been said that the Turf Club is charitable and is encouraging horse breeding and several other things. But, Sir, it is known that in India in ancient times there were no machine guns

[Mr. S. K. Bole]

and other modern instruments to be used on the battlefields. At that time people, even women, took part in battles on horseback. Even they were well known for their prowess in the battles that were fought on horseback and horse breeding is not new to India and that was carried on in India without the evil of gambling, that is to say, horse racing. At the present time racing is nothing but gambling pure and simple. My honourable friend asked the honourable member Mr. Surve whether people have lost money in betting. But I have come to know that during the last session of the council several members of this House lost money heavily on races (Laughter), and then in Bombay I know of cases where people had to commit suicide on account of troubles owing to betting on racecourse. So, this horse racing may be sport to a fortunate few, but it is a curse to many poor people. And in that case let us get as much as we can from those who indulge in such sort of gambling. One may say that it is tainted money, but I think when gambling is going on, why not take advantage by taxing the same. That will act as a check in one form on gambling. No doubt the money would not come from the pocket of the Turf Club or from the members of the Turf Club; that would come from the pockets of those persons who indulge in gambling. Under these circumstances, I was in the first place inclined to support the amendment of the honourable member Mr. Bhopatkar—I was in favour of levying a tax to the extent of 10 per cent. but as I am not allowed according to the Standing Orders to move such an amendment, I would be satisfied with the proposal in the bill to get revenue from the coffers of the Turf Club. The Turf Club is enjoying all the profits. That is not their own money. That money is taken from the pockets of the poor people as well as those rich people who indulge in gambling. That is not their own money.

Mr. A. N. SURVE (Bombay City North): Sir, it is rather anomalous to see a donor acting the part of a supplicant. If the money is to go to charity, I think, the honourable member should have come forward with the proposals that instead of reducing the amount to 2½ per cent., it should be increased to more than 4 per cent. because thereby more money would go to such charitable objects as expansion of education, medical relief, etc. Sir, I am very sorry to hear the argument that the Turf Club should be taxed at a lower rate because it gives some money to charitable objects. There is a feeling that money coming out of a tainted source should not be accepted even for charity. I have quoted sometime before one resolution passed by the Bombay Christian Council. I quote another resolution which is relevant to the present point. It reads thus:—

“The Bombay Christian Council instructs its executive committee to keep a close watch on every aspect of this question and recommends that inasmuch as thousands of homes are ruined by betting and gambling, no grants should be taken by any Christian body from any Turf Club, etc.”

Sir, the public feeling on the point is emphatically stated in this resolution and it will show to the honourable mover of the amendment in what light the recipients of charity of the Turf Club look at its vaunted

[Mr. A. N. Surve]

charity and the decision they have taken of not accepting it even if it is forced upon them.

The Honourable Mr. B. V. JADHAV : Sir, much as I appreciate the cogent arguments brought forward by the honourable member, the representative of the Millowners Association, I think it is my duty to oppose this amendment. The Turf Club, it has been said, is a great charitable institution which gives out large amounts of money for charitable purposes and also has been spending in encouraging horse breeding. The honourable member Mr. Wadia gave instances to show that the Turf Club of Bombay gave large rewards for improvement of horses in the Punjab. I would like to know, Sir, what amount of money has been spent in this province of Bombay for this very purpose and whether the breed of Indian horses has been improved by the big amounts spent by the Turf Club, who are collecting all this money from the people of Bombay and Poona. As a matter of fact, Sir, the country horses that are now patronized by the Turf Club are the progeny of English sires and English dams. I do not think it is an encouragement to the improvement of the indigenous breeds of horses but it is an encouragement, I may submit, to the foreign breeds. I do not at all admire the enterprise of the Maharaja of Dhar or any Chieftain who has sent horses from here to England. I think it would be much better if he would take care to improve the indigenous breeds here. There were very fine Deccani breeds which were known in former days; they were very hardy and very plucky and were found to be very useful in military operations. Where is that breed now? May I ask what the Turf Club has done for improving that breed? Is the breed of Sindhi horses improved? What about the Kathiawar breed? All these indigenous breeds have deteriorated and no attention is paid to their improvement and something is trotted out before us to show that the Turf Club is very anxious to improve the breed of country bred horses. One thing has come to my notice and that is that although lakhs of rupees are spent by the Turf Club in giving large stakes to the winning horses, a small portion is reserved as stake money for the country bred horses and that small amount too has been stopped from next year. There will be no country bred races either in Poona or Bombay next year. That is the sort of encouragement that is given to country bred horses. The Turf Club may be generous in giving out large amounts to the breeders in the Punjab or perhaps across the border, but I do not think that they have done their duty by this Presidency in giving sufficient encouragement to country bred horses. They have been very generously contributing large amounts to charitable purposes, and I must admit that my conscience is not so very tender as to refuse any donations if they are offered to any charitable institutions with which I am connected; I would go to the Turf Club and ask for grants and if the Turf Club gives those grants I shall accept them thankfully. I must recognize that they have been doing a great deal in this respect, but I do not think that the levying of 4 per cent. from the totalisator will cripple to any appreciable extent the resources of the Turf Club. The Turf Club, it is notorious I may say, have been spending

[Mr. B. V. Jadhav]

money very lavishly and if they will practise a little economy, I donot think that they will find it very difficult to pay the 4 per cent. At the same time there is another side to the question. They have been paying very heavy income and super tax up to this time ; taking advantage of some provision in the law, they have managed to escape that heavy payment of the super tax and now what they have up to this time been paying to the Government of India, they will have to pay to the Government of Bombay, and I think the net profits of the Turf Club will not be reduced to any appreciable extent. So I have every reason to say that this amendment ought to be rejected.

Sir VASANTRAO A. DABHOLKAR : Sir, there are two amendments, one by which the member for the Western India Turf Club is trying to reduce the tax to 2½ per cent., and there is clause 10 of the Bill which wants to reduce the gate money by 50 per cent. The Council should sympathetically consider both the amendments provided an assurance is given to this Council by the honourable member interested in the Western India Turf Club that the third enclosure would be abolished. In the select committee I brought this to the notice of the Honourable the Finance Member and he gave me to understand that after consulting the Home Department he would inform the committee whether the third enclosure could be abolished, but when he moved the second reading of this bill he did not give us to understand what the intentions of the Home Department were as regards the abo'ition of the third enclosure. The Honourable the Finance Member has advised this House that we should not kill the goose that lays the golden eggs. Here is an opportunity for him not to kill the goose that lays the golden eggs by accepting 2½ per cent. ; then we shall accept the reduction of the gate money by fifty per cent. provided the third enclosure is stopped. Much has been said about ruination, but the ruination that is caused is to the poor people and that is on account of the third enclosure. I am quite sure that if this gate money is decreased by 25 per cent. under clause 10 about which I shall have to speak later on I think our energetic Finance Member can manage to secure 4 lakhs of rupees somewhere. I support the amendment moved by my honourable friend Mr. Wadia and I certainly appreciate the good work which the Turf Club has done in giving monetary help to the charitable institutions, but now when trying to get money for purposes of compulsory education and medical relief, my honourable friend on my right will forget all those charities which the Turf Club has so far helped and he will quote resolutions passed by the Bombay Christian Council and with the same breath he will move an amendment that this money should go to the Education Department, I do not want to follow a policy like this. I should like to appeal to all members, particularly the one representing the Western India Turf Club whether he would see his way to abolish the third enclosure; and the Honourable the Finance Member if he wants to carry the amendment to reduce the gate money by 25 per cent., should see that the third enclosure is abolished.

[Sir Vasantao A. Dabholkar]

When we come to clause 10 of the bill, I will give the Honourable the Finance Member the views of the city of Bombay.

Mr. HOUSENALLY M. RAHIMTOOLA (Bombay City): Sir, from the speech of the honourable mover of the amendment one would be led to believe that the Western India Turf Club are doing a very laudable and a very patriotic work in providing for the day when Swaraj will be granted to this country. That is, they are encouraging horse-breeding, so that if Swaraj is granted to this country, India, it may have enough horses to fight her enemies. What are the facts? From a statement which has been circulated to the members of this House, we find that the Western India Turf Club gives the handsome donation of Rs. 30,000 annually for horse-breeding. Now, what is the annual income of the Western India Turf Club? It is about Rs. 60 lakhs, and out of this Rs. 60 lakhs they spend the handsome sum of Rs. 30,000 which amounts to about half per cent. on horse-breeding; and they want to reduce the betting tax from 4 per cent. to $2\frac{1}{2}$ per cent. on this ground of horse-breeding.

Then, Sir, in this statement it is stated: "and as far as stakes are concerned, the proportion given to Country-breds is far in excess to that of any other class of horse. In Poona about $2\frac{1}{2}$ per cent. of the horses racing are Country-breds". Two and a half per cent.! Is it not magnificent? The statement continues to say "while the stakes allotted are about 6 per cent.". It is less than one anna in the rupee. I hope the Council will consider these figures before accepting the amendment.

Mr. A. MONTGOMERIE: Sir, I should like to draw attention to one point in the speech of the honourable member Sir Vasantao Dabholkar. He suggested that his reason for supporting this amendment is his desire that the third enclosure might be abolished, and he referred to the attitude of the Home Department on that question. I cannot say what the attitude of the Finance Department is with regard to the third enclosure, but so far as the Home Department are concerned, we are strongly against the abolition of the third enclosure in its present form. And the reason is this, that we regard the third enclosure not as an incitement to gambling, but as a means of reducing gambling to order. Before the third enclosure was opened—the honourable member, I know, is unaware of the fact, because I know that he has never been to a race meeting in his life in Bombay, and I think he has never seen a race meeting in his life—before the third enclosure was opened, if he had been to a race meeting, he would have seen that always in the middle of the race ground, over which the race authorities had no control, a large and disorderly mob engaged in betting with the book-makers, despite the efforts of the police. He would have seen that most of these book-makers could not pay their bets and they were running for their lives, the rest of the crowd trying to beat them for not paying their bets. He would have seen that betting was going on on the streets outside the racecourse, and almost everywhere outside the race course. In the third enclosure there is at least a certain amount of order, and if a man goes into the

[Mr. A. Montgomerie]

third enclosure and puts on a rupee, he knows he will get the product of his bet. He will not find himself in the position of having paid his money to the book-maker and after the race is over, of not finding the book-maker. It would, therefore, considerably embarrass the police if the third enclosure were stopped. From the point of view of law and order, the third enclosure has been a distinct improvement on the previous state of affairs. I do not suppose that it has increased gambling the least little bit. I do not suppose any bets are not made which would not have been made, if there had been no third enclosure. The only thing is they are now made on the totalisator in the precincts of the Turf Club in an orderly manner, whereas before that they were betting on the streets with book-makers and in the middle of the race course, and under conditions of disorder. That is the point of view of the Home Department with regard to the third enclosure. I am aware that the Turf Club find that they are not able to make enough profit for the amount they are spending on the third enclosure, and are themselves thinking of closing it, but from the point of view of the Home Department, we are distinctly opposed to any closing of the third enclosure, and the Commissioner of Police, Bombay, is also of the same opinion. To use that as an argument for reducing the amount of tax, I think, will not gain the support of the House.

Mr. C. N. WADIA (Bombay Millowners' Association): Sir, I rise to hasten to correct my honourable friend Moulvi Rafiuddin Ahmad when he said that I was put up by Government to put forward my proposition. I assure him that I do not like Government. I do not like Government particularly for this action; in fact, I dislike them very much, and I have told them so. Probab'y my honourable friend made that remark in a humorous spirit, which I do not quite appreciate. In regard to the other criticism, I wish to state that 40 per cent. of a taxation on an enterprise is quite unfair. It is an enormous tax. I do hope that honourable members will see their way to reduce it to the dimension I have indicated.

As to the grants given by the Turf Club, I may say that the amount of Rs. 30,000 mentioned by my honourable friend is not the only item. There are the stakes, and then there are the horse shows all over the country that the Turf Club supports. In the Punjab there are the breeders whom the Turf Club considerably helps. There are many items, and many directions in which the Turf Club helps breeders, but I shall not mention them here. I do not think I need say anything more. With these words, I hope that the House will accept my amendment.

The Honourable Mr. H. S. LAWRENCE: Sir, it seems to me that the feeling of the House as represented in so many quarters is distinctly against this amendment. I do not think it is necessary for me to say more than that the very special pleading of the honourable member Mr. Wadia does not persuade Government that they are in the wrong in the figure they have put in this bill. I oppose the amendment.

Question put and lost.

The Honourable the PRESIDENT: The next amendment is by Mr. G. B. Pradhan. It is:

"delete the words 'at the rate notified as aforesaid by the Governor in Council in this behalf'."

This amendment is out of order. Mr. Adwani has an amendment to the same effect, which is also out of order. Then Mr. Hoosenally M. Rahimtoola has given notice of two amendments as follows:

Add the following to clause 5:

"Provided that a separate account shall be kept of all the receipts of this tax and that such receipts shall be utilised only for the purpose of making contributions to local bodies in the presidency towards free and compulsory primary education."

Add the following to clause 5:—

"Provided that the amount realised from this tax shall be held by Government in reserve to meet the loss of revenue which shall accrue when the policy of total prohibition of alcoholic drink will be brought into force."

Both these amendments are out of order.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): Sir, the amendment standing in my name runs as follows:

"Add the following to clause 5:

'Provided that 90 per cent. of all monies paid into any totalisator shall be distributed among the winners'."

We are now imposing a tax of 4 per cent. on the monies paid into the totalisator. The Turf Club are at present taking out of the moneys paid into the totalisators 10 per cent. for themselves. Now that we are imposing a tax of four per cent. on the totalisator, the Turf Club will take instead of 10 per cent. 14 per cent. to pay the tax. The result will be that the amount of the tax will come not out of the pockets of the Turf Club but from the public. The object of my amendment is that the tax must come from the pockets of the Turf Club and not from public.

Question proposed.

Mr. G. WILES: Sir, however welcome this amendment might be to the betting public, I submit that it is entirely out of place in this bill, which is a taxation bill seeking to raise money. This amendment relates to a detail of the license which is given to the Turf Club by the Home Department. It might be appropriate to move this as an amendment to the Racecourses Licensing Act, but it has got nothing to do with this bill which only proposes to take a share of the amount paid into the totalisator. What happens with the balance of money has nothing to do with us at present.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): Sir, I do not see the point of the honourable member the Finance Secretary. We are now proposing a tax on the Turf Club. What I want is that in order to safeguard the interest of the public the Turf Club should not be allowed to charge the public extra, as they have done in the case of the Entertainments Duty. My amendment provides against any such contingency. If it had been intended that the amount of this tax should come from the public this bill would have been passed two years ago.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I had hoped that the honourable member who had spoken on behalf of the Turf Club would have given his views on this proposal. I fear that he is severely discouraged by the hostile atmosphere around him. This amendment encroaches on the right of a private body to control its own affairs. I understand various bodies in Bombay at present are seriously opposed to any interference by Government. A private body which controls such large revenues as the Turf Club may surely be credited by this House with having sufficient intelligence in their directing agency to look after their own interests to the best possible degree. This proviso is undoubtedly an encroachment upon the discretion of the directing agency ; and will be regarded in some quarters as an insult to the intelligence of the directing agency.

The question is whether the Turf Club should be entitled to take 12½ per cent. or 14 per cent or any other figure out of the monies paid into the totalisator. The honourable member wants to restrict it to 10 per cent. so that those people who wish to gamble may get better dividends. Is that the point ?

Mr. HOSENALLY M. RAHIMTOOLA : The point is that this money should come out of the pocket of the Turf Club and not from the public. If it was intended that it should come from the public this bill would have been passed two years ago.

The Honourable Mr. H. S. LAWRENCE : This is open to several objections. Firstly I am voicing the opinion of my honourable friend the honourable member Mr. Surve that it will be a distinct encouragement to gambling. Further it is distinctly uncomplimentary to the Turf Club to say that they do not know their business. Whatever amount the Turf Club is able to extract from the public, the Government will have a share in it. If they think that they can extract more money by putting the percentage of 10 per cent. we will share in it. The proviso is distinctly objectionable from every point of view. Therefore I ask the House to reject it.

Question put and lost.

Clause 5 (*Tax on totalisator and payment thereof*) ordered to stand part of the bill.

Clause 6 (*Totalisator tax to be paid to Government*) ordered to stand part of the bill.

Clause 7 (*Inspection of totalisator accounts*) ordered to stand part of the bill.

Clause 8 (*Method of recovery of totalisator tax*) ordered to stand part of the bill.

Clause 9 (*Rules*) ordered to stand part of the bill.

Clause 10 (*Amendment of section 3 of Bom. I of 1923*).

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

Mr. HOSENALLY M. RAHIMTOOLA : Sir, the amendment standing in my name stands as follows :

"Delete clause 10."

[Mr. Hoosenally M. Rahimtoola]

Before I move my amendment, Sir, I request your ruling whether this clause is within the scope of the bill. The preamble says :

“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.”

But this clause does not increase the revenue nor does it impose a tax on the totalisator. How can this clause then be relevant ?

Mr. E. CLEMENTS : Sir, the clause is within the scope of the bill. The scope of the clause is not defined solely by the preamble. It has to be gathered from the whole bill. In this case the object of Government is to raise additional revenue by imposing a tax on the totalisator and by incidentally giving a concession with regard to gate-money. This section helps to attain the object of the bill. I think that it is within the scope of the bill, and the objection raised is not valid.

The Honourable the PRESIDENT : The preamble says that “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.” The point of order raised is not free from doubt, and I expected some other honourable members to address the House. As they have not done so, I should like to point out that the question for consideration is whether the whole effect of the bill is to increase the revenues of Government or not. It appears to me clear that the effect of the whole bill is to make an addition to the public revenues. The only point of doubt is in regard to the words “for that purpose to impose a tax on totalisator betting.” There is no mention in the preamble that a relief is proposed to be given to the Turf Club as a concession against the imposition of this tax. But merely on that point it is not proper, in my opinion, to rule the clause out of order. It is within the power of the House itself to reject that clause on merits. The net result of the bill is to increase the revenues or in other words to give additional revenues to Government and therefore I hold that the clause is in order.

Mr. HOOSENALLY M. RAHIMTOOLA : Sir, the object of this clause seems to be that as Government are levying a special tax on the Turf Club some relief should be given to the Turf Club by way of reducing the rate of entertainment tax. The Honourable the Finance Member in one of his speeches said to-day that there is no reason why the Turf Club should not be treated on the same footing as theatres and cinemas and such other places of amusement. I would like to ask him whether the Turf Club or the race course does really stand on the same footing as theatres and cinemas. Theatres and cinemas are merely for recreation purposes and for the entertainment of the public. They are places where the poorer classes by spending a few annas can spend an hour or two of pleasant time. But the Turf Club or the race courses are considered by the Indian public to be places of legalised gambling. It was because the racecourse was considered a place of legalised gambling that when the Entertainments Act was passed by the former Council, a special tax at the rate of 50 per cent. was imposed on the racecourse as against a lower rate for other places of entertainment. There is absolutely

[Mr. Hoosenally M. Rahimtoola]

no reason why this concession should be given to the Turf Club. I therefore move my amendment.

Question proposed.

Mr. S. K. BOLE : Sir, I rise to support the amendment. The effect of the passing of this clause will be a reduction in the amount that is ear-marked under the Entertainments Duty Act for educational purposes. The tax realised under the Entertainments Duty Act is ear-marked for education, and if the tax realisable under it is reduced, it will affect the amount available for education.

The next thing is that Government think that they should not tax the Turf Club both ways. If the Turf Club themselves think that this tax is heavy on them, then I would suggest that they should shut up their shop. That would at least save the people from ruin. Nobody wants these places of gambling. Therefore, it would be in the interests of the public if these shops are closed altogether.

Sir VASANTRAO A. DABHOLKAR : Sir, I have also given notice of a similar motion, and so I rise to support the amendment. I was never so much surprised in my life as I was when the honourable the Home Secretary got up and said that the Home Department approved of the third enclosure because gambling could be brought under control. With such an energetic Home Secretary and the Police Commissioner we have got in Bombay, it would not be a difficult task to bring offenders to book who gamble outside the racecourse. I think that by sanctioning the third enclosure Government are encouraging gambling. Sir, Government would realise a duty of 7½ lakhs under clause 5, but they want to reduce the entertainments tax from 50 to 25 per cent. If Government want to increase their revenues, I do not understand why they want to reduce the duty to 25 per cent. Three years ago the Bombay Corporation sent a representation to Government asking them to stop the third enclosure. Do they mean to say that the Corporation have no regard to the fact that the public should be encouraged to go in for legalised gambling instead of allowing the public to gamble outside the racecourse so that control will be difficult if the third enclosure is abolished. If Government think that the police are undermanned they may ask this honourable House for additional grants to police. They can take one or two per cent. out of the proceeds of the tax which now goes to the education department. If the rate of the entertainments duty is reduced then there will be so many people going to the racecourse and especially to the third enclosure. Even the railway company is giving much temptation. The railway company would not give any concession to people going on pilgrimage—the pilgrims are stuffed in goods waggons like sardines. But here, Sir, return tickets from Bombay to Poona are given for Rs. 6 which includes entrance fee. Who will not be tempted under such circumstances? Even the millhands are tempted to go to Poona and attend the racecourse to try their luck. What has been the result? Disaster!

The Honourable Sir MAURICE HAYWARD : Sir, I should like to point out one fact, and that is that there is no third enclosure at Poona.

Sir VASANTRAO A. DABHOLKAR : I do not mean to say that there is a third enclosure at Poona. But I say that the third class special train is so crowded because of the low fares ; I may point out to the Honourable the Home Member that in the first class race special there are 100 passengers ; in the second, 200 ; and in the third class so many as 1,500 ; if that is the state, as far as the third class train is concerned in Poona, what must be the state in Bombay in the third enclosure ?

Sir, is it not possible for the Home Department to stop the gambling that may go on outside the racecourse, and also to abolish the third enclosure.

Sir, one more point I should like to bring to the notice of this House is that may I know from the honourable member the Home Secretary whether it was at the recommendation of the Home Department that the Turf Club opened the third enclosure ? (The Honourable Sir Maurice Hayward : No.) Then, why do they now appreciate the third enclosure ? May I know how many prosecutions police had undertaken against those gambling on the roadside of the racecourse before the third enclosure came into existence ? We have never heard of any prosecutions. Perhaps the police may have encouraged outside gambling. The third enclosure came into existence in 1922. The honourable member the Home Secretary said that people gamble outside the racecourse and that there is no legal control over them. On what authority the honourable member, the Home Secretary says that ? I should prefer their argument that it was the Home Department that recommended the Western India Turf Club to open the third enclosure in order that there should be legalised gambling. But this Council will not allow the Home Department to continue the third enclosure but that it will order the Home Department to stop the third enclosure. That is my submission to this House and the Council will do well to delete clause 10 of this bill, if the third enclosure is not abolished.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I rise to support this motion. I am rather surprised at the attitude of Government in this respect. They openly avow that they are for checking gambling and in the select committee the Honourable the Finance Member said that he would ask the Home Department whether they would agree to the abolition of the third enclosure. Now we have learnt from the honourable member the Home Secretary that Government are not willing to do so. He says whatever may be the views of the Finance Department his Department is not willing to abolish the third enclosure. That is to say one Department of Government throws responsibility on the other and the public are the losers. When facilities are given for the third enclosure it means that facilities are given everywhere to entrap the masses in gambling. The honourable member the Home Secretary says that he does not think it right to abolish the third enclosure. His only argument is that it is for the convenience of the police. But there are higher considerations than the mere convenience of the police. What is the police for ? They are for keeping order. As my honourable friend Sir Vasant Rao Dabholkar said if Government wanted more police

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force, this Council would be willing to give them more money. but to say that they were entirely helpless to check bucket shops outside the race-course and that therefore they were in favour of the third enclosure is an argument which is very difficult to understand. This, Sir, comes with an ill grace from the lips of a philosophic Home Secretary like my honourable friend Mr. Montgomerie. I am very sorry to say that a large part of this House has gone on strike and the consequence now is the real attitude of the House has not found clear and forcible expression. If this clause is deleted the taxation would be increased. They say it was to get more money from them that facility and concessions are proposed to be given to the Turf Club. For the same reason, it is contended, is put forward the amendment of my honourable friend Mr. Wadia. If more money be the only object then according to Government only six lakhs of rupees would be raised by this tax, if this concession is allowed ; but if it is not allowed eight or ten lakhs would be gained to the exchequer ; why not then secure this amount from the Turf Club, why not get an additional egg from the golden goose. Here is a Government, which says let us go forward with this bill to increase this taxation and, at the same time as has been pointed out, they propose measures which tend to decrease the amount from the impost, which is ridiculous. The public does not think that it would be too hard upon the Turf Club to put 50 per cent. upon their admission fees. I hope therefore that the Government will find their way to accept this amendment. They have not accepted a single amendment as yet and, if they do not feel inclined to accept any amendment, what is the use of our coming and discussing the bill at all. The only reason given for maintaining the third enclosure is the halting one given by the honourable member the Home Secretary, but I hope my honourable friend, opposite, the Honourable the Home Member, will either give us solid arguments to strengthen the excuse put forward on behalf of Government, or he will be pleased to satisfy us by the abolition of the third enclosure.

The Honourable Sir MAURICE HAYWARD : Mr. President, I should like to say a word or two about the betting in the third enclosure and try to persuade my honourable friend that the wickedness is not the whole offence of the Home Department. The Secretary in the Home Department has explained that the third enclosure did not originate in any suggestion of ours. It originated with the Turf Club. But it was found when once started to be a very considerable help to the maintenance of law and order and also to the suppression of outside betting. And I should like to make it plain that there is a third enclosure only in Bombay. There is no third enclosure in Poona. The question has been raised in this debate as regards cheap railway tickets and the third enclosure, but honourable members should not be under any misapprehension. There is no third enclosure in Poona. But with regard to the third enclosure in Bombay it was found that it was a help to the police in the maintenance of law and order and in the stopping of outside bettings, and honourable members of this House will remember what great difficulties we have had in suppressing this outside betting. They will remember the

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discussions we have had over the bucket-shop bill and our efforts to find a suitable way by legislation to stop bucket-shops. If the third enclosure is abolished, it is probable that bucket-shops will flourish again just as before. I believe they have been considerably reduced. (An honourable member: No.) That may be a matter of opinion. But if this third enclosure is abolished, it will probably encourage outside bucket-shops. Because unfortunately people do like gambling. It is a practical fact that has to be faced that you cannot make people moral by legislation. You can discourage them from evil, but you cannot make them moral by law. What we have got to do as practical legislators is to consider what we can do to discourage them. That is the point of view in the Home Department. It is not an immoral Department. We want to check gambling if we can. We believed that the third enclosure had a tendency to this end. From that point of view we thought that the third enclosure was not such a bad thing in Bombay. But, if on the other hand general opinion is to the contrary, namely that the third enclosure encourages people to bet who would not bet otherwise—an opinion which I repeat is open to question—but if that is the opinion of members who have attended the race-courses and understand what goes on there—I mean particularly members from Bombay—if that is the general opinion, then there would be no real objection whatever to having it closed, from the point of view of the Home Department (Honourable members: Hear, hear). If that is really the wish of the House and honourable members think as practical legislators that that really is the right thing to do, there really would be no objection from the point of view of the Home Department. We believe that we should still be able to maintain law and order; we are not going to admit that there is such inefficiency at present in our police force that it would not be able to maintain law and order if there were no third enclosure. But, of course, honourable members will remember the promise made that if it is closed, there will be extra money for the city police. (Laughter.) If that is the general view, it would not be impossible to put a covenant in the next license providing that there shall be no third enclosure. We cannot, of course, interfere with contracts which have already been entered into and licenses which have already been given; so that, this could not take effect at once. Honourable members will have to trust us to put in that clause in the next license issued to the Turf Club.

Sir VASANTRAO A. DABHOLKAR: When will the next license be issued? When will the present license be renewed?

The Honourable Sir MAURICE HAYWARD: The license is from June, I think,—June of one year to June of the next year. It covers the Poona season and the Bombay season. It could not take effect during the coming racing season in Bombay, but it could take effect from the following season in Bombay. I gather that that is the general feeling of honourable members here, that the closing of this third enclosure would be a step towards reduction of betting among the third class sportsmen, and if that is so, we are quite prepared to enter the necessary covenant

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in the next license to be issued by the Home Department and give our assistance in this matter to the Finance Department.

Mr. NOOR MAHOMED (Hyderabad District): Sir, from what little I have seen of the Turf Club racing, I firmly believe that this is an institution which is absolutely unsuited to Indian conditions. Through the courtesy of the honourable member the Chief Secretary I saw these races and saw the pitiable condition of all those who had lost every pie that they had in their pocket. After I saw all that for myself, I made up my mind that if I could contribute anything towards the rejection of this bill, I would do it. But to-day I see that we cannot do anything. We can, however, tell the Government plainly that we have the intelligence to understand what this bill means. With one hand, Government want to take something from the Turf Club, but with the other hand, they want to give them back most of the money they get from it and this honourable House should demonstrate to the honourable gentlemen opposite and to the public outside what the effect of this bill will be and that we are not a pack of fools so as not to understand the exact effect of this bill. It is an insult to the intelligence of the House to say that this bill is for the addition of taxation. I had not understood it at all until my honourable friend from Bombay pointed out that it was a concession to those for whom the Government—they did not admit they had—but for whom they seem really to have a soft corner; and soft corner in a degree which ruins the country. Hyderabad is a small place, and yet gambling has been licensed there. This policy of licensing is ruining people who go to the races. We will therefore be doing well in strongly opposing the bill and particularly this clause. Let us clear the issue at least, though we be defeated.

Mr. R. D. SHINDE (Nasik District): Sir, I oppose the amendment. I thought, after the Honourable the Home Member having let down the honourable member the Home Secretary, who is the most ardent supporter of the third enclosure, and giving an assurance that in the renewal of the next license a clause will be inserted to the effect that there shall be no third enclosure, that it would give satisfaction to this part of the House. But, Sir, the objection to the amendment does not stop there. There is another objection, referred to by my honourable friend Mr. Bole, that the loss of revenue on account of this clause will mean so much money less to education. The proceeds of the Entertainments Tax have been by some understanding ear-marked for education and, as the honourable House is well aware, the Honourable the President has informed us that the legal opinion was against ear-marking any revenue—in this particular case, the revenue from the totalisator betting bill—and in this way if we sanction the bill as it is, we would be crippling to that extent. . . .

The Honourable the PRESIDENT: Order, order. I should like to remove any possible misconception in regard to the ruling I gave this morning. The ruling was that you could not ear-mark any revenue without the previous sanction of the Governor, but that, with such

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sanction you can always do so. I wish to make the point quite clear in order that there may be no misapprehension in the matter.

Mr. R. D. SHINDE: Thank you, Sir. The entire proceeds of this new tax will merge in the general revenues and there will be nothing in the way of ear-marking them. So the objection remains that when we reduce the amount from 50 per cent. to 25 per cent., there will be so much less revenue and on that ground I object to this proposal.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce): Sir, I rise to oppose this amendment. I have been unable to follow, in the general discussion, the meaning of the views placed before us by some of the honourable members of this House. The view propounded by my honourable friend Mr. Noor Mahomed for example was not intelligible to me. The figures which were placed before the select committee and before the members of this House show that after deriving revenue from the taxation on the Turf Club and remitting this 25 per cent. of the Entertainments Duty there would be a net gain to Government of some six lakhs. I cannot see how a gain of six lakhs can be called giving with one hand and taking away with another; nor can I see why an act which gives Government a gain in revenue of six lakhs should necessitate calling upon members of this House to "stand up like men" and oppose it. As regards the other points that have been put forward, the Honourable the Home Member has very correctly said that it is quite impossible to stop gambling by law. I mention this point because it has appeared to me all through that this bill is primarily one for increasing the revenue of Government and not primarily one for stopping gambling. If it had been a bill for stopping gambling I should perhaps have opposed it but as it is a bill for giving revenue to Government I support it. You cannot stop gambling by law. To talk of doing so appears to me very absurd. If people are stopped from gambling on the racecourse they will carry on gambling somewhere else and to any one with a knowledge of Bombay conditions to talk of stopping gambling passes my comprehension. I will only mention a few articles like shares, cotton and silver, or seeds with which I suppose every second man in the Bombay Presidency gambles in some form or shape and then if the impossibility of attempting to stop gambling, in some form or other, is considered, the absurdity of trying to stop gambling on the racecourse will become more clearly pronounced. As this bill appears to be primarily one for giving revenue to the Government I cannot see how the amendment moved by my honourable friend Mr. Hoosenally Rahimtoola is going to help matters. We were told that this bill had been moved after Government had carefully gone into the figures and that they had determined after careful calculation just how much the Turf Club could afford to pay without their revenue being decreased. We were told that if this tax of 4 per cent. was levied it would be necessary to refund 25 per cent. of the entertainments tax in order to enable the Turf Club to continue to keep their revenue up to the pitch which would give Government the revenue which they require. An amendment which will have the effect of taxing the Turf Club with

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this 25 per cent. entertainments duty and at the same time the 4 per cent. tax which has been proposed by Government will, it appears to me, have as its first effect the killing of the goose that lays the golden eggs in the mind of my honourable friend Moulvi Rafiuddin Ahmad!

A further point with reference to this gambling question is that I cannot see how the charging of the 25 per cent. entertainments duty or its remission is going to have any effect whatever on the question of gambling. It has been suggested that if this 25 per cent. entertainments duty is continued to be charged gambling will in some way become less, but surely there must be some relation between the amount of the entertainments duty and the cost of a totalisator ticket. I would ask honourable members who have supported this particular amendment whether they have calculated exactly what proportion the price of a totalisator ticket bears to the 25 per cent. entertainments duty. Actually in the first class enclosure the remission of the 25 per cent. entertainments duty would mean, I understand, eight annas per head whereas a totalisator ticket costs rupees 10. In the third enclosure it will be in the same proportion. Clearly, therefore, the remission of the duty or its detention cannot in any way influence the amount of gambling. From all points view, therefore, I oppose this amendment.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City): Sir, when the entertainments tax was levied about 2 or 3 years ago the Western India Turf Club used to charge 5 rupees for entrance to the first enclosure. Government then expected to realise Rs. 2-8-0 for every ticket sold. The Turf Club increased the rate of entrance from 5 to 6 rupees and Government naturally thought that the Turf Club was very good to them in giving them rupees 3 instead of Rs. 2-8-0. Government has been under that delusion up to now. In the select committee it was pointed out and it was brought for the first time to the notice of the Honourable the Finance Member that the Turf Club were not paying three rupees but were actually paying 2 rupees per ticket to Government as entertainment tax. What the Turf Club did was that they reduced their entrance fee from 5 to 4 rupees, put 2 rupees as tax and thus increased it to six rupees with the result that Government, instead of getting 2-8-0, got rupees 2 only, that is, 8 annas less and still Government think that the Turf Club were good to them. Up to now the Turf Club have been paying several lakhs of rupees every year as super-tax. To avoid it they formed themselves into a private company or an association thereby reducing the super-tax from several lakhs to something less than a lakh. That is how the Turf Club have been treating the Government and still Government want to come to their help by reducing the entertainment duty tax from fifty to twenty-five per cent. Are not the public of Bombay then justified in thinking that Government have a soft corner in their hearts for the Turf Club? What has happened? Government have been considering all along this totalisator tax during the last two or three years and it is only now they have brought the bill forward. Why? To enable the Turf Club to meet out of their revenue all expenses for capital works and for the extension of the racecourse and for the improvement

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of the stands and the enclosures. Do Government give a similar treatment to any business house or any industrial concern if such business house or industrial concern wants to expand their business and construct buildings and does Government give it time of 2 or 3 years and say to it "we shall not charge you a tax for that period. After you have completed the works out of profits, then we will do it" ? Why should then there be such a special treatment to the Turf Club ? Are the public not justified in thinking that Government have a soft corner in their heart for the Turf Club ?

The Honourable the Finance Member opposed my previous amendment on the ground that it was encouraging gambling. In reducing this tax from 50 to 25 per cent. are not Government encouraging gambling by allowing people to pay less for their admission to the racecourse enclosures ? Is his opposition to the previous amendment consistent with his present opposition ?

Then the Honourable the Home Member said that we cannot make an immoral man moral by law. He may be right and it may not be possible to make a man moral by law but it is quite possible to make a moral man immoral by law by throwing temptation in his way such as by opening liquor shops, giving license for the sake of revenue to a gambling house of any kind or even to horse racing clubs. The Honourable the Home Member says that if the representatives of the Bombay city want it, it may be possible to close the third enclosure. Have not the members from Bombay asked several times questions in this House asking Government to close this third enclosure and have not Government refused to do so ? Has not the Bombay Municipal Corporation which represents the public of Bombay made representation to Government to close the third enclosure and what has been the reply of Government ? They said they would not do it. What is the use of the Honourable the Home Member holding out a hope that the third enclosure will be closed, when they want us to agree to the reduction of the entertainments tax for admission to the racecourse from 50 to 25 per cent. ? Is this fair ? Do these two questions, the closing of the third enclosure and the reduction in the amount of tax, stand on the same ground ? Why do they want to confuse the whole question ? If the third enclosure is injurious to the people of Bombay, it is the duty of Government to close it, irrespective of what this Council does with respect to the entertainments tax for admission to the racecourse ; and whether Government closes the third enclosure or not, if this Council thinks that this concession should not be given to the Turf Club, they should not give it.

Then, Sir, I take very strong exception to the remarks of my honourable friend Mr. Grantham that every second man in Bombay gambles. I think it is a calumny of the citizens of Bombay. There may be individuals who gamble, but to say that every second man in Bombay gambles is really going too far and I strongly protest against it.

Another argument used is, if you do not reduce this tax to 25 per cent. it will be a matter of 8 annas to an individual who has to pay Rs. 10 for

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betting. If that is so, then where is the advantage in reducing it? To the man who spends Rs. 10, it does not matter whether it is 8 annas more or less. The argument goes entirely against him. I therefore hope that this House will accept my amendment and delete clause 10 of the bill.

The Honourable Mr. H. S. LAWRENCE: Sir, attacks have been made on this clause 10 from every possible point of view, and some of them are inconsistent one with another. In the first place, we are told that this proposal of Government to reduce the rate of entertainment tax from 50 to 25 per cent. is a method of showing improper favour to the Turf Club. It has been conclusively refuted by the last honourable member, because he has pointed out that this tax is met by the public and not by the Turf Club; for the Turf Club reduced their entrance fee from Rs. 5 to Rs. 4 and took the 50 per cent. on that, that is Rs. 2 raising the payment to the public to Rs. 6. Therefore, by this reduction of 50 per cent. to 25 per cent. there will not be a benefit to the Turf Club, but there will be a benefit to the people who visit the races, who will pay rupee one in place of rupees two. It is an unfortunate point of view that some honourable gentlemen have here, chiefly gentlemen who have never been to the races, that nobody goes to the races except for the purpose of gambling. Let them go there and see that people do go to the races not for the purpose of gambling but for the purpose of innocent amusement and entertainment. Sir, people go to races in every country in the world, and not less in India, because it is a pleasant way of spending an afternoon, absolutely without any reference to gambling.

Now, Sir, the point of view of the Government is that this can be and should be regarded as an innocent entertainment, and that there are not so many innocent entertainments in any part of the world—and I do not think Bombay is an exception to the rest of the world—there are not so many innocent entertainments that we should make it difficult for people to go to one without imposing upon them a tax of so heavy a liability as is not imposed on any other entertainment. It is quite unjust to levy from people who like the outdoor entertainment of a racecourse taxation of a higher rate than you levy from people who like the indoor entertainment of a cinema. If we are to become teachers of morality through the operations of this Council, why not put up the duty on cinemas another 100 per cent.? There is really no difference between the two; they are both amusements, and some people like one and some people like another. I have given the history of this 50 per cent. It was proposed quite definitely at a time when we wanted to introduce the totalisator tax, but we found we were not able to do so for reasons which seemed good to the Government three years ago, and we then substituted this figure of 50 for the ordinary rate which was applied to other entertainments, namely, 25 per cent. Now that we have got the totalisator tax practically passed by this House, we consider that it is a proper addendum to this legislation to put the rate of the entertainments tax for entrance to the racecourse back to 25 per cent.

Then, Sir, there is another point. The honourable member opposite said that we were encouraging gambling by this proposal. He said

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that we were very inconsistent, because we had objected to his previous proposals of a proviso that 90 per cent. of the money should be paid to the winners on the ground that that would be encouraging gambling. Now he says that with a total lack of conscience and utter inconsistency we are encouraging gambling in this way, by reducing the rate of tax on the entrance fee. Sir, this is part of the unfortunate mentality of the honourable member that he cannot look on the racecourse as anything but a means to gamble.

Sir, my point is that the reduction of the rate is not intended to encourage gambling but to encourage people to go to innocent entertainments. If at the same time it has the effect of bringing more people there and enabling a larger number of people to bet on the totalisator, this is one of those unfortunate evils which no Government can control. If by that means the revenue is increased that can be no objection to the section from a financial point of view. I trust that is clear. If the revenue is increased by this measure the State will not suffer. In regard to the point which, I venture to say, you very rightly ruled, Sir, that this section which appears to reduce the revenues of the Government is not in its proper place in an Act intended to increase the revenues of Government. I would like to illustrate what is well known to many members here that when Government want an increased revenue from customs, they sometimes reduce the rates of customs duty on a particular article. It is not unknown to business men of Bombay that sometimes greater revenue is acquired by reducing the rate of duty. From that point of view this clause has been entered in this bill and it is definitely intended to be a part of the measure for increasing the revenue of Government.

Then, Sir, there is the question of the third enclosure. That has been fully dealt with by my honourable friend the Leader of the House. I hope that his assurance has satisfied many members who were previously prepared to vote against this clause. The assurance given by my honourable friend on behalf of the Home Department is that in the next license that will be issued to the Turf Club a proviso will be put in that there will be no totalisator for the third enclosure. I presume if there is no totalisator in the third enclosure there is no objection on the part of the members of this honourable House to the existence of an enclosure in which there are shelters and benches for the comfort and convenience of people so long as they have no inducement to bet on a totalisator within that enclosure. Is that correct? (There was silence.) The gist of the condition in the license that will be issued to the Turf Club next June will therefore be that they should not put a totalisator in the third enclosure. If for the comfort and convenience of people there is a third enclosure, that is a matter in which this Council will have no interest. I hope that this honourable House has been satisfied that there are arguments in favour of the action that has been taken by Government in regard to this third enclosure; but since there appears to be a feeling in the House that the third enclosure with the totalisator added to it has done more harm than good we are prepared to bow to the feeling of the House and take the measures that are necessary accordingly. It has been explained that

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during the next racing season in Bombay we cannot alter the terms of the license which has already been issued. But this measure will be brought into force next June when Government issue the license to the Turf Club. I hope that those honourable members who based their objection to this clause on that ground will withdraw their objection.

The honourable member Moulvi Rafiuddin Ahmad told us in impassioned tones that we have not accepted a single amendment. Sir, I think the honourable member was a member of the select committee and the fact that none of these amendments that are proposed stand in his name is sufficient proof that we satisfied him in the select committee and the other members of that committee that the bill as drafted was in remarkable accord with their wishes.

MOULVI RAFIUDDIN AHMAD: I have added a dissentient minute on this point and on clause 5.

The Honourable Mr. H. S. LAWRENCE: The bill has taken a long time to prepare and, I think, the fact that it has passed unscathed through this House is a tribute to the carefulness with which this preparation has been made.

This remission, which was supposed (quite incorrectly) to be given to the Turf Club by this clause, is believed in some quarters to be approximate in amount to the tax which will be levied on the totalisator. The honourable member Mr. Grantham has already disposed of that point. In this season now opening we expect to get $7\frac{1}{2}$ lakhs from the Bombay racing season and the remission of the entertainments tax will be $1\frac{1}{2}$ lakhs. So, the net gain to Government will be 6 lakhs. So, the honourable member who thought that we were giving back to the Turf Club with the one hand just as much as we were taking from them with the other hand, was a little mistaken in his figures and also in his facts. It is not from the Turf Club that we take the entrance fee but from the public who go to the racecourse. In any case it is inaccurate to compare the $1\frac{1}{2}$ lakhs reduction in the entrance fee with the $7\frac{1}{2}$ lakhs from the totalisator.

Mr. Bole said that we were taking money that was earmarked for education. That is a plausible point, but there is really nothing in it. The money that is earmarked for education is not earmarked under the Act: it is granted in accordance with an undertaking given by Government. As a matter of fact the amount given by Government for primary education is many lakhs in excess of the amount secured by the entertainments tax. Therefore I think the honourable member will give us his confidence and may rest assured that when there is more money to be distributed, as will be the case when we get this taxation, the Government who have already paid for primary education many lakhs in excess of that recovered from the entertainments tax may be trusted to pay to primary education a portion of the further money that they will receive.

I think, Sir, that with all these arguments this House may be satisfied that the public revenues will not be damaged by the acceptance of the

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clause proposed by Government, and that, on the other hand, some measure of proper concession will be given to those people in Bombay and Poona who seek an innocent recreation in the afternoon and who should not be suspected of partaking in this vice of gambling.

Question put and motion declared lost.

Mr. HOSENALLY M. RAHIMTOOLA : I call for a division.

The Honourable the PRESIDENT : The tellers for the Ayes to be Sir Vasant Rao Dabholkar and.....

Sir VASANTRAO A. DABHOLKAR : Sir, after the assurance I am not going to support the amendment.

The Honourable the PRESIDENT : That is not the point. The honourable member can vote any way he likes, I have nominated him as a teller and he has to act as such.

Question put.

House divided : Ayes 18 ; Noes 30 : Motion lost.

Ayes

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
AHMAD, MOULVI RAFI UDDIN
ANGADI, Mr. S. N.
BOLE, Mr. S. K.
DALVI, Mr. B. K.
KAMBLI, Mr. S. T.
KAZI INAITULLAKHAN
MANSTUL, Khan Sahab A. M.
NAVLE, Mr. N. E.

NEKALJAY, Mr. R. S.
NOOR MAHOMED, Mr.
PATEL, Mr. A. E.
PATHAN, Mr. A. F. I. K.
PATIL, Mr. D. R.
PRADHAN, Mr. R. G.
RAHIMTOOLA, Mr. HOSENALLY M.
SARDESAL, Mr. S. A.
SHINDE, Mr. R. D.

Tellers for the Ayes : Sir VASANTRAO A. DABHOLKAR and Mr. HOSENALLY M. RAHIMTOOLA

Noes

BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
GRANTHAM, Mr. V. A.
HAMID M. ABDUL ALI, Mr.
HARRISON, Mr. R. T.
HATCHE, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HOSSACK, Mr. W. B.
HOTSON, Mr. J. E. B.

JADHAV, the Honourable Mr. B. V.
JEHANGIR, the Honourable Mr. COWASJI
LAWRENCE, the Honourable Mr. H. S.
MASTER, Mr. A.
MCKEE, Mr. W. G.
MEHTA, The Honourable Sir CHUNLAL
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
MUJUMDAR, Sardar G. N.
OWEN, Mr. A. C.
PAINTER, Mr. H. L.
THOMAS, Mr. G. A.
WADLA, Mr. C. N.
WILES, Mr. G.
WOODS, Mr. E. E.

Tellers for the Noes : Mr. V. A. GRANTHAM and Mr. A. C. OWEN.

Clause 10 ordered to stand part of the bill.

The Preamble ordered to stand part of the bill.

The Honourable Mr. H. S. LAWRENCE : Sir, I move that the bill Third Reading. be read a third time and passed.

Bill read a third time Question put and carried.

The Honourable the PRESIDENT : The bill is read a third time and passed.

**BILL No. XXIV OF 1925. (A BILL TO REGULATE AND CONTROL
CERTAIN CONTRACTS FOR THE PURCHASE AND SALES
OF SECURITIES IN THE CITY OF BOMBAY).**

The Honourable Sir MAURICE HAYWARD : I suggest, Sir, that it is rather too late to take up a new bill, and if honourable members desire, it might well be taken up to-morrow.

The Honourable the PRESIDENT : A suggestion has been made that the House should adjourn now till to-morrow. I could act on it, but I do not wish to exercise my powers under the Rules and Standing Orders without in the first instance ascertaining the sense of the House. I should like to know whether honourable members would prefer to adjourn now or to continue till 7 o'clock. Those who are in favour of adjournment will signify the same by raising their hands. (All honourable members indicated assent by show of hands.)

The House is adjourned to 2 o'clock to-morrow, Thursday, the 22nd October 1925.

22 Oct. 1925] *Thursday, the 22nd October 1925.*

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Thursday, the 22nd October 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
 ABDULPURKAR, Mr. N. A.
 ADWANI, Mr. D. B.
 AHMAD, MOULVI RAFIUDDIN
 ANGADI, Mr. S. N.
 BAPTISTA, Mr. J.
 BEDREKAR, Khan Bahadur I. M.
 BHOPATKAR, Mr. L. B.
 BHUTTO, Khan Bahadur S. N.
 BOLE, Mr. S. K.
 BUNTER, Mr. J. P.
 CHAUDHARI, Mr. L. S.
 CLEMENTS, Mr. E.
 COOPER, Khan Bahadur D. B.
 DABHOLKAR, Sir VASANTRAO A.
 DADACHANJI, Dr. K. E.
 DALVI, Mr. B. K.
 DEHLAVI, the Honourable Mr. A. M. K.
 DELVES, Mr. R. H. A.
 DESAI, Rao Saheb D. P.
 DEV, Mr. S. S.
 DIXIT, Dr. M. K.
 FERNANDEZ, Dr. COSMAS
 FRAMJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
 GRANTHAM, Mr. V. A.
 GUNJAL, Mr. N. R.
 HAMID M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOSSACK, Mr. W. B.
 HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JAYAKAR, Mr. M. R.
 JEHANGIR, the Honourable Mr. COWASJI
 JOG, Mr. V. N.
 JOSHI, Mr. P. G.
 KALBHOR, Mr. G. M.
 KAMBLI, Mr. S. T.

KANGA, Mr. J. B.
 KAZI INAITULLAKHAN
 KOKANI, Mr. G. J.
 KOTHARI, Mr. V. R.
 LALJI NARANJI, Mr.
 LALLJEE, Mr. HOOSEINBHOY A.
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MCKEE, Mr. W. G.
 MEHTA, The Honourable Sir CHUNILAL
 MEHTA, Dr. M. M.
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 MUKADAM, Mr. W. S.
 NANAL, Mr. B. R.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAHALAJANI, Mr. B. G.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATEL, Mr. G. I.
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. G. B.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOUSENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. D.
 SHIVDASANI, Mr. H. B.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 VELKAR, Dr. M. B.
 WADIA, Mr. C. N.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order. Questions.

CAUSEWAY AT TAKLI, SHOLAPUR DISTRICT.

Mr. ABDUL LATIF HAJI HAJRAT KHAN (Poona and Sholapur Cities): Will Government be pleased to state when they propose to take in hand the building of the causeway at Takli on the Sholapur-Bijapur road in the Sholapur district?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: It was the intention of Government to construct the causeway at Takli on the Sholapur-Bijapur road and accordingly the plans and estimate for the causeway were prepared. Another proposal has, however, since been made and is under the consideration of Government to construct the causeway at another site, viz., Chanegaon, at a distance of about 2½ miles downstream of the present natural crossing on the Sholapur-Bijapur road at Takli which is reported to be a more suitable one. The question of taking the work in hand will be considered when the site has been finally selected, the plans and estimate sanctioned and funds become available.

MEDICAL STAFF, KAMARAN.

* MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state the names of the Mahomedan members of the medical staff engaged at Kamaran?

The Honourable Mr. COWASJI JEHangIR: The following are the names of the Mahomedan members of the permanent medical staff employed in Kamaran:—

1. Captain Noormohamed Kasembhai Chohan, F.R.F.P. & S., L.M. & S., D.T.M., D.P.H., Director of the Kamaran Lazaretto.
2. Dr. Moulvi Abdul Razzak Nakshbandi, L.M. & S., Assistant Director of the Kamaran Lazaretto.
3. Mr. H. A. Yousufzai, S.M.S.

In addition to these Mr. Sayed Ali Reza Yemani, an officer of the subordinate medical service, was deputed for temporary duty at Kamaran for a period of six months during the last pilgrim season.

MOULVI RAFIUDDIN AHMAD: May I know whether there are any Moslem lady doctors or nurses there?

The Honourable Mr. COWASJI JEHangIR: I would like notice.

† Mr. L. B. BHOPATKAR (Poona City): I do not put my question.

PRIMARY TEACHERS, KOLABA DISTRICT.

Mr. S. K. BOLE: Will Government be pleased to state—

(a) the number of posts carrying postal allowance held by primary teachers in the Kolaba district;

* This question was asked at the meeting held in July-August 1925, when an *ad interim* reply was given.

† The following honourable members did not put the questions standing in their names:—

Mr. L. B. Bhopatkar, Mr. N. R. Gunjal, Mr. M. R. Jayakar, Mr. W. S. Mukadam on behalf of Mr. M. D. Karki, Mr. W. S. Mukadam, Mr. G. I. Patel, Mr. J. C. Swaminarayan.

(b) how many of them are held by Brahmins and by backward and depressed classes respectively;

(c) the number of unpassed teachers in the Kolaba district and how many of them belong to the Brahmin and other communities?

The Honourable Mr. B. V. JADHAV: Information is being obtained.

POSTAL ALLOWANCE FOR TEACHERS IN SELECTION GRADE.

Mr. S. K. BOLE: Will Government be pleased to state how many teachers drawing salaries according to the selection grade get the postal allowance in the Kolaba district and how many of them belong to the backward Maratha classes?

The Honourable Mr. B. V. JADHAV: Information is being obtained.

KHOTS AS POLICE PATILS.

Mr. S. K. BOLE: Will Government be pleased to state whether it is a fact that the khots themselves are police patils in some villages?

The Honourable Sir MAURICE HAYWARD: In Kolaba district there are 42 villages in which the khots themselves are police patils. In Ratnagiri district khots are not generally appointed as the police patils but in villages where no other literate and suitable men are available a khoti sharer is appointed to the office of police patil.

Mr. N. R. GUNJAL: I do not put my questions.

MOULVI RAFIUDDIN AHMAD: Sir, I wish to put questions on behalf of Haji Adbullah Haroon.

Mr. L. B. BHOPATKAR: On a point of order, Sir. Has the honourable member the written authority of the honourable member Haji Abdullah Haroon for putting his questions on his behalf?

MOULVI RAFIUDDIN AHMAD: Yes, Sir, I have handed in to the Council Office the required authority.

The Honourable the PRESIDENT: The honourable member can in that case put the questions on behalf of the honourable member Haji Abdullah Haroon.

PRIMARY SCHOOLS.

* MOULVI RAFIUDDIN AHMAD on behalf of HAJI ABDULLAH HAROON (Karachi City): Will Government be pleased to state—

(a) how many villages there are with a population of five hundred and over in each taluka of Sind;

(b) how many of such villages in each taluka have no school buildings;

(c) which of such villages in each taluka have no local board primary schools at all, and which of them have only a Mulla school?

The Honourable Mr. B. V. JADHAV: (a), (b) and (c). Statements† A, B and C containing the information required by the honourable member are placed on the Council table.

* This question was asked at the meeting held in February-March 1925, when an *ad interim* reply was given.

† Kept in the Secretary's office.

SUKKUR BARRAGE APPOINTMENTS.

* MOULVI RAFIUDDIN AHMAD on behalf of HAJI ABDULLAH HAROON (Karachi City): Will Government be pleased to state whether it is a fact—

(a) that in the Sukkur Barrage establishment, not a single Mussalman occupied any administrative post or any post of Executive Engineer;

(b) that out of the 51 lower posts, *i.e.*, those of Assistant Engineers, only 4 are held by Mussalmans;

(c) that several qualified Mussalmans have applied for the post unsuccessfully;

(d) whether any of such unsuccessful candidates has, before this, served Government, or anywhere else, in the Engineering Department?

The Honourable Mr. COWASJI JEHANGIR: (a) Yes.

(b) There are 18 permanent and 29 temporary Assistant Engineers or a total of 47, not 51. Those especially engaged for this work are the 29 temporary men and of this number 7 are Mahomedans.

(c) No Mussalmans with the necessary qualifications who are prepared to serve at rates of pay at which men of other communities of the same calibre are obtainable, have been refused employment.

(d) The information is being collected.

ENGLISH-TEACHING IN PRIMARY SCHOOLS.

MOULVI RAFIUDDIN AHMAD on behalf of HAJI ABDULLAH HAROON (Karachi City): Will Government be pleased to state in which of the primary schools in Sind English is taught to boys and girls respectively in standards V, VI and VII under Government Resolution, Educational Department, No. 605 dated the 12th June 1922?

The Honourable Mr. B. V. JADHAV: English classes are attached to standards V, VI and VII of the five primary schools in Sind noted below:—

- (1) Bhian (Karachi District).
- (2) Durbello (Nawabshah District).
- (3) Ubarao (Sukkur District).
- (4) Thul (Upper Sind Frontier District).
- (5) Nashirabad (Larkana District).

These are boys' schools but girls are not excluded from admission.

HEAD CLERK MR. KISHINCHAND AMBALDAS HINGORANI.

MOULVI RAFIUDDIN AHMAD on behalf of HAJI ABDULLAH HAROON (Karachi City): Will Government be pleased to state—

(a) whether there are any existing orders regarding the period of retention of a gazetted officer in one district continuously and, if so, what these orders are;

* This question was asked at the meeting held in February-March 1925, when an *ad interim* reply was given.

(b) how long Mr. Kishinchand Ambaldas Hingorani has remained as head clerk (both permanent as well as acting) to the Deputy Commissioner, Upper Sind Frontier District;

(c) what the number of clerical appointments held by Chandikais, Mussalmans and other non-Mussalmans, respectively, in the Revenue Department of the Upper Sind Frontier district has been during the time Mr. Kishinchand was head clerk;

(d) how many graduates, matriculates and persons who had passed the school-leaving examination but were not Chandikais, have failed to get appointments, and how many appointments of Chandikais have been made in the Revenue Department of the Upper Sind Frontier district in Mr. Kishinchand's time; and

(e) how many of the Chandikais appointed during the said time have passed the school-leaving or the matriculation examination?

The Honourable Sir CHUNILAL MEHTA: (a) There are no definite orders in the matter. Officers are retained in a district according to the needs and exigencies of service.

(b) to (e) Inquiries are being made.

Mr. M. R. JAYAKAR (Bombay University): I do not put my questions.

Mr. W. S. MUKADAM: I do not wish to put Mr. Karki's questions on his behalf.

STAFF IN OFFICES OF EDUCATIONAL INSPECTORS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(a) the number of Hindus and Mahomedans separately in the clerical staff in the offices of—

- (1) Educational Inspector, Northern Division,
- (2) Educational Inspector, Southern Division,
- (3) Educational Inspector, Central Division,
- (4) Educational Inspector, Bombay Division,

(b) the period of their service,

(c) the steps, if any, taken to recruit Mahomedans in the clerical staff of the said offices?

The Honourable Mr. B. V. JADHAV: Information has been called for.

ENCOURAGEMENT OF EDUCATION AMONG MOSLEMS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(a) whether they are aware of the fact that in spite of Government resolutions to encourage education amongst the Moslems, the number of Moslem students in Government schools has not increased and is far from being satisfactory;

(b) whether they are aware that the Elphinstone High School, Bombay, has only 25 to 30 Moslem students out of 900 pupils, and the R. C. High School, Ahmedabad, has only 20 Moslem students?

The Honourable Mr. B. V. JADHAV : (a) The number of Mahomedan pupils in Government secondary schools has increased by 40·7 per cent. during the last 5 years, while the total number of pupils in such schools has increased by 5·5 per cent. only.

(b) There were 20 Mahomedan pupils in the Elphinstone High School, Bombay, and 24 in the R. C. High School, Ahmedabad, on 31st March 1925. With regard to the former school, it should be noted that the Anjuman High School is in the same locality and has 230 pupils and that there are also 3 Aided High Schools in the Fort with 504 pupils. As for the Ahmedabad High School it is understood that the majority of Mahomedans in Ahmedabad belong to the artisan class, and the boys are sent out young to earn their living.

Khan Saheb A. M. MANSURI : It seems no provision has been made by Government as far as Mahomedans are concerned.

The Honourable Mr. B. V. JADHAV : I do not think so.

Khan Saheb A. M. MANSURI : Is it a fact that Mahomedan students are not given proper convenience so far as admission to this Ahmedabad Government High School is concerned ?

The Honourable Mr. B. V. JADHAV : It is not a fact.

Mr. W. S. MUKADAM : Sir, I do not wish to ask my questions.

Mr. G. I. PATEL : Sir, I do not wish to ask my questions.

AIDED PRIMARY SCHOOLS.

Mr. R. G. PRADHAN (Nasik District) : Will Government be pleased to state—

(a) the number of private primary schools that stood on the list of aided institutions on 31st March 1925 ?

(b) how many of these schools were aided at the rate of one-half or more of their admitted total expenditure ?

(c) how many of those aided at such rates would suffer pecuniary loss on account of the transfer of primary education to local bodies, by having their grants reduced ?

(d) in the case of such schools, whether any steps have been taken or are proposed to be taken to compensate them for their loss ?

The Honourable Mr. B. V. JADHAV : (a) 2,144

(b) 32.

(c) and (d) It cannot yet be stated whether these schools will receive less grant than under the present conditions.

FIXED POST POLICEMEN AND PATROL SYSTEM IN BOMBAY CITY.

Mr. HOOLENALLY M. RAHIMTOOLA (Bombay City) : Will Government be pleased to state if they have come to any decision regarding the question of the fixed post policemen and patrol system in the city of Bombay, which was under examination in last October ?

The Honourable Sir MAURICE HAYWARD : It is still under examination. Detailed proposals are expected shortly.

Mr. HOSENALLY M. RAHIMTOOLA : When do Government expect to come to a decision ?

The Honourable Sir MAURICE HAYWARD : I cannot give the exact date, but the Commissioner of Police is examining the question and will report to Government.

DEPORTATION OF FOREIGN PROSTITUTES.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City) : Will Government be pleased to state in how many cases during each of the last ten years the Foreigners Act, 1864, has been used for the purpose of removing foreign prostitutes from the City of Bombay ?

The Honourable Sir MAURICE HAYWARD : 10 in 1914 and 1 in 1923. There has also been one case in each of the years 1923, 1924 and 1925 of foreign prostitutes leaving the country in anticipation of deportation orders under the Foreigners Act.

Mr. HOSENALLY M. RAHIMTOOLA : Were there no fit cases for deportation during the period 1915 to 1922 ?

The Honourable Sir MAURICE HAYWARD : Apparently not.

PROSECUTIONS UNDER THE BOMBAY PROSTITUTION ACT.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City) : Will Government be pleased to state—

(a) how many prosecutions under sections 3, 5, 7 and 8 of Act No. XI of 1923 have been initiated and

(b) in how many of these convictions were secured ?

The Honourable Sir MAURICE HAYWARD : Information is being obtained.

SUBMERGED LANDS IN KOLABA DISTRICT.

Mr. A. N. SURVE (Bombay City, North) : Will Government be pleased to state—

(a) whether it is a fact that some rice and garden lands have been submerged along the coast of the Kolaba district during the past five years ?

(b) If so, their extent and situation ?

(c) What steps they have taken to help the people who have suffered by this calamity ?

The Honourable Sir CHUNILAL MEHTA : Inquiry has been made.

MARATHI SCHOOLS IN KARWAR AND HALIYAL TALUKAS.

Mr. A. N. SURVE (Bombay City, North) : Will Government be pleased to state—

(a) whether it is a fact that in the Karwar and Haliyal talukas of the district of Kanara though there is a large Konkani or Marathi

speaking population, there is not a single Marathi school for the children of these people ;

(b) whether any representations were ever made for starting Marathi schools there ;

(c) If so, will Government place on the table their copies, and also

(d) state what action they have taken on them?

The Honourable Mr. B. V. JADHAV: Information has been called for.

KHOTI SETTLEMENT ACT FOR KOLABA DISTRICT.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) whether they had promised the khots of the Kolaba district to extend the Khoti Settlement Act to that district?

(b) what are the reasons for not extending the Act to that district though Government have reserved the power of extending it to that district?

The Honourable Sir CHUNILAL MEHTA: (a) No.

(b) Government do not think it desirable to extend the Act to the Kolaba district, as its operation in the district to which it has been applied has not proved entirely successful.

THE BOMBAY PROSTITUTION ACT.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) the extent of improvement brought about by the passing of the Bombay Prostitution Act ;

(b) whether they have consulted the magistrates and other people responsible for the administering of the law on the desirability of increasing punishments under that Act, which was promised to the questioner at the time of the second reading of the Prostitution Bill, *vide* Council Debates, Volume X, page 521 ;

(c) if so, will they place copies of those opinions on the table ?

The Honourable Sir MAURICE HAYWARD: (a) It is not possible to give a specific reply to a question of this nature.

(b) and (c) The question is under the consideration of Government.

WATER FOR DAKORE SHRINE PILGRIMS.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) the annual number of pilgrims visiting the shrine at Dakore in the Kaira district ?

(b) What provisions in respect of water-supply to the pilgrims are in existence ;

(c) if they are not adequate, what steps Government have taken or propose to take to remove the grievance.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : (a) The honourable member is referred to the answer given by Government to part (a) of the question put by the honourable member for the Indian Merchants' Chamber at the last meeting of the Legislative Council.*

(b) and (c) The honourable member's attention is invited to the answer given by Government to the question put by the honourable member for the Kaira district.†

PRIMARY TEACHERS DRAWING POSTAL ALLOWANCE.

‡ Mr. A. N. SURVE (Bombay City, North) : Will Government be pleased to state—

(a) the number of primary teachers in the Ratnagiri district drawing postal allowance ;

(b) how many of them are Mahomedans, (Hindu) non-Brahmins and Brahmins ?

The Honourable Mr. B. V. JADHAV : (a) 94.

(b) 2 Mahomedans, 13 (Hindu) non-Brahmins and 79 Brahmins.

Mr. A. N. SURVE : May I enquire why Mahomedans and non-Brahmins are treated so badly in this matter ?

The Honourable Mr. B. V. JADHAV : I am sorry I am not in a position to give a reply.

Mr. N. E. NAVLE : Is not this proportion inconsistent with the present policy of Government, namely that of encouraging the backward classes ?

The Honourable Mr. B. V. JADHAV : This is the legacy of the past so many years, but now, under the present policy of Government, I think matters may improve.

MOULVI RAFIUDDIN AHMAD : Is not the Honourable Minister going to take any measures to remedy this defect ? "May" is a very indefinite term.

The Honourable Mr. B. V. JADHAV : The schools are being handed over to the district local boards, and it will be the duty of the district local boards to see that the postal allowance schools are properly apportioned among the various interests.

Mr. B. K. DALVI : Before the schools are actually handed over, are not Government going to take any measures to remedy the injustice ?

The Honourable Mr. B. V. JADHAV : The district local boards will see to it.

MOULVI RAFIUDDIN AHMAD : Has the Honourable Minister no power to give instructions to the local boards in this matter ?

The Honourable Mr. B. V. JADHAV : I do not think there are any such powers.

* Vide Vol. XIV pages 1031, 1032, 1256 and 1257.

† Vide Vol. XV pages 684 and 685.

‡ This question was asked at the meeting held in July-August 1925, when an *ad interim* reply was given.

Mr. N. E. NAVLE: Is not the policy of Government binding upon the local bodies? Will not Government be pleased to instruct the local bodies to follow Government instructions?

The Honourable Mr. B. V. JADHAV: The question has not as yet arisen.

MOULVI RAFIUDDIN AHMAD: It has arisen now.

Mr. J. C. SWAMINARAYAN: Sir, I do not wish to ask any of my questions.

THE DAPOLI-BURANDI ROAD.

Mr. A. N. SURVE (Bombay City, North): (a) Will Government be pleased to state whether they are aware that the Dapoli-Burandi road (Ratnagiri district) has been closed by putting a wire-fencing across it near the Bishop's Church in Dapoli Town?

(b) Will Government be pleased to state who has put the wire-fencing, when it was put and under whose authority?

(c) Is it a fact that the said road is repaired by the local board of Dapoli out of its funds?

(d) Is it a fact that only the postal runner is permitted to pass along the closed portion of the road, whereas the public are shut out from using it?

(e) Will Government kindly state the length of this road between Dapoli and Burandi in miles and the length of its portion in feet, closed between wire-fencing?

(f) What is the distance between Dapoli and Burandi along the road by which the public are now compelled to go in consequence of the closing of the said road?

(g) Was any representation made to the Collector requesting that the obstruction be removed?

(h) Will Government be pleased to place upon the table the copies of the representation to the Collector and his reply thereto, if any?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: (a) No. Dapoli-Burandi road, which is a local board road, has not been closed at all. A cart track across private fields that made a short-cut to Burandi has been closed by wire-fencing.

(b) Lieut. Laxmanrao Kadam, M.B.E., has put up probably in 1924 wire-fencing to the north and south of the land granted to him in 1923 by Government in order to prevent cattle from entering upon the land and damaging crops. He did not require any authority to enclose his land.

(c) No.

(d) It is the choice of the owner of the land to allow anybody to pass through his land.

(e) The length of the Dapoli-Burandi local board road is 7 miles and that of the closed cart track is 2,570 feet.

(f) The distance is 7 miles, 6 furlongs and 220 feet.

(g) Yes.

(h) The papers* containing the representation and the Collector's reply thereto are put up.

The Honourable Sir MAURICE HAYWARD: Sir, I should like, with your permission, to invite the attention of honourable members to the printed papers which have been laid on the table referring to the Legislative Bodies Corrupt Practices Bill, which is at present before the Legislative Assembly. The Legislative Assembly have expressed a desire to obtain the views of the local legislatures on this measure before it comes in January next before the select committee of the Legislative Assembly. I suppose that if no motion is moved by any honourable member in this House, it would be taken that the bill generally has the approval of this local legislature, but if any honourable member desires to move any motion in respect of this matter, then, if such a motion is permitted by the Honourable the President, no objection to its being moved at a convenient time will be taken by Government.

Mr. R. G. PRADHAN: May I suggest to the Government that in this particular matter a motion may be moved by the Government, and then honourable members may express their views thereon.

The Honourable Sir MAURICE HAYWARD: I suggest, Sir, that the procedure proposed by me is the better one, because it is the opinion of the local legislature that is required. If any honourable member would desire to move any motion, and, as I said before, obtains the permission of the Honourable the President, no objection to his moving it would be raised by Government.

The Honourable the PRESIDENT: I should like to inform honourable members that I recognise the importance of this Council expressing its opinion on a question affecting non-official members of this House, and therefore if any honourable member wishes to table a resolution on the subject, I will suspend the rules or condone the delay as the case may be, and allow him to move that motion. I think it is very necessary to ascertain in that way the views of this House in regard to such an important matter.

The Honourable Sir MAURICE HAYWARD: Sir, I should like, with your leave, to mention one other matter. There is that small bill to amend the Bombay Port Trust Act, 1879, which, I mentioned yesterday would be taken up later. My honourable colleague in the General Department is quite ready to take it up to-day after the Stock Exchange Bill and the Children Bill. It is quite a short bill, and he is quite ready to take it up to-day, if there is no objection from any member of this House or no objection on your part.

The Honourable the PRESIDENT: I take it that honourable members have no objection to allow the Honourable the General Member to move for the third reading of the Port Trust Act Amendment Bill. The first two readings have been passed; all that has remained over from the last session is the motion for the third reading, and I propose to permit the Honourable the General Member to move it if there is no objection in the House. I take it that

* Kept in the Secretary's office.

[The President]

there is no objection, and the Honourable the General Member will be allowed to move his motion after the Stock Exchange Bill and the Children Bill.

GOVERNMENT BILLS.

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.)

The Honourable Mr. H. S. LAWRENCE: Sir, I rise to ask for the first reading of 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). This bill is an attempt made by Government to meet the demand that has been voiced by many organs of the public press in Bombay and which appears to be backed by a solid volume of public opinion. On the other hand, the measure has not been received with favour by a considerable section of the members of the Stock Exchange.

I may perhaps remind the House of the circumstances which have led up to the introduction of this measure. In October 1922, a resolution was moved in the previous Council by the honourable member Mr. Havelivala, and was carried after amendment in the following terms:

"That this Council recommends to Government that a Committee consisting of two representatives of each of the following interests, namely, investors, industrialists and brokers, and presided over by an officer of judicial experience be appointed to enquire into the present constitution, status and working of the Bombay share and stock exchange, and to consider what reforms and actions are necessary in order to place the exchange on a sound, efficient and healthy footing so as to secure the confidence of the investing public and safeguard their interests."

Some time elapsed in the formation of a committee of enquiry but eventually a committee was appointed which began work in November 1923. The President of the Committee was Sir Wilfrid Atlay, a gentleman who had been Chairman of the London Stock Exchange, and was by universal consent admirably fitted for his task. The members of that committee were some of the most distinguished citizens of Bombay, their names being, Sir Fazulbhoy Currimbhoy, Sir Purshotamdas Thakurdas, Mr. R. Lindsay, Captain E. V. Sassoon, Mr. Bhulabhai J. Desai, and Mr. Pheroza M. Dalal, while Mr. G. Davis acted as Secretary.

The Committee took evidence and in three months produced a very valuable report which was unanimous with one dissentient. This dissentient, Mr. Bhulabhai Desai, submitted a minority report. The report was forwarded to the Stock Exchange for their opinion: and their views were received by Government in July 1924. After these were very carefully considered by Government, Government issued a resolution in January 1925. A copy of that resolution has been placed before every member of this House.

The Stock Exchange had accepted almost all the recommendations of the Atlay Committee and agreed to work in accordance with these

*Vide Appendix C.

[Mr. H. S. Lawrence]

recommendations. There was however one important recommendation which dealt with Rule 26 of the Stock Exchange Rules on which the Stock Exchange Committee held out; and on this important point, Government agreed with the minority report of Mr. B. J. Desai and the views of the Stock Exchange in preference to the recommendations of the Atlay Committee.

In the resolution to which I have referred, Government asked the Stock Exchange to amend their rules in accordance with the recommendations which they had then accepted and have asked the Stock Exchange at various times to expedite action thereon. The Stock Exchange Association has been at work discussing the revision of their rules, but have not up to date complied with the requisition of Government at all fully. Government are not in possession of the statutory powers to enable them to compel the Association which is commonly known as the Stock Exchange to revise their rules; and the object of the present bill is to give Government that statutory power which they are at present lacking. It is for this House to express by vote their decision whether they consider it suitable and proper that Government should be put in possession of this power.

It may perhaps be of some service to the House, if I attempt, however imperfectly, to put before the House a brief sketch of the history and functions of this body of gentlemen whose operations this House is now being invited to regulate and control, and the extent to which such regulation and control is proposed.

The Stock Exchange is a body of men who deal with the purchase and sale of shares of joint stock companies. The greater part of the commercial and industrial business of the world is conducted by joint stock companies, a system of management which in the last 100 years has to a great extent taken the place of the older proprietary concerns. In so far as this purchase and sale is conducted for cash we do not propose any form of control or regulation, for no complaint has arisen on this score. The bill, you will observe, Sir, is limited to the control and regulation of dealings in what are called futures. It is difficult to define futures; and our legal advisers have overcome this difficulty by defining cash transfers and regarding all other transfers which are not on a cash basis as being futures.

This body of gentlemen has behind it a history of about 40 years; for the Native Share and Stock Brokers' Association of Bombay was formally constituted in December 1887; and they claim that they have played a very important part in the growth of the prosperity of the citizens of Bombay. I think that that claim may be accepted without cavil for a large part of their existence. Every Stock Exchange of the world has had its periods of crisis which coincide with times of public excitement when human nature succumbs to the temptation of gambling. At such periods some part of the investing public is bound to lose a considerable share of their wealth and they do not submit to that loss without recrimination and imputation of bad faith. It is necessary to discount very heavily those complaints which arise at such periods.

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The public confidence in a body which has so important an influence upon the fortunes of men as the Committee of the Stock Exchange depends largely on the presence on that committee of men of high reputation. For many years the affairs of the Stock Exchange prospered. For many years recently the Stock Exchange enjoyed a large measure of public confidence through the reputation of one of their great names, Sir Shapurji Broacha. It is unfortunate that his death in 1920 was followed by a period of intense speculation which has resulted in the present period of severe depression. Fortunes have been won and lost in rapid succession, and the ambitions of men have been inflamed with the desire to secure immense gains by methods which the law cannot touch but which the public conscience condemns as illegitimate. These methods are technically known as bull raids and bear raids and are generally recognised as detrimental to the interests of the public and the careful conduct of commerce and industry.

I wish it to be clearly understood that I make no charge against the personal conduct of the gentlemen who now constitute or have recently constituted the Stock Exchange Committee. Government recognise that these gentlemen have discharged very difficult functions and have undertaken very heavy responsibilities.

The Committee presided over by Sir Wilfrid Atlay found that the chief weakness of the position of the Stock Exchange Committee lay in the chaotic condition of their rules. It will perhaps be best for me to quote their exact words :

" We recognise the fact that in the past few years the Association has been labouring under unusual difficulties due, we believe, in a great measure to that mistaken policy of fixing prices with which we shall deal hereafter ; but so long as the policy and the rules which give it effect remain, so long we cannot see how that general consensus of opinion which appears necessary to pass the rules can come into existence. But it is necessary in the public interest that the rules and regulations of a great market in securities should be clearly laid down, should be easily ascertainable and should be strictly enforced.

" There are in the draft rules and regulations of the Association many excellent rules and regulations but they are of no value if they are not passed and they are of no value if, when passed, they are not enforced. And we are constrained to remark that there has been on the one hand laxity in enforcing the present rules and on the other hand a neglect of their observance on the part of certain members of the Association, which is to be deplored."

Sir, it is a remarkable phenomenon, for which the Stock Exchange may justly take considerable credit, that there has been very little litigation in courts of law on the interpretation of these rules ; and I think it is only right to admit on behalf of Government that the Committee have acted as arbitrators and have decided many difficult problems so completely to the satisfaction of their clients that these clients have not found it necessary frequently to claim the protection of the courts of law. Government, however, believe that the close relations which, if the bill is accepted, by this House, will be set up between Government and the Committee may not result in any friction but may conduce to a restoration of the public confidence in the Stock Exchange and to the protection and prosperity of the investors.

It will no doubt be argued that Government does not regulate or control the operations of the Stock Exchange in London and other

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countries in India, and that this bill should be rejected on that ground. This argument, however, fails, and it is not applicable to the present bill: for in this present bill we do not undertake any direct control of Stock Exchange operations. These operations will remain entirely in the hands of the directors as at present. We propose to assume power only to see that proper rules are framed, and not in any way to interfere with the administration of those rules. I should like to emphasize the point that in the present bill Government merely intend to take power to approve and enforce rules for the proper conduct of speculative transactions.

I understand that one ground on which the Association is opposed to the measure is that Government offered them a charter and that they have agreed to accept that charter; whereas this bill is something different. It is true that we offered them a charter, but the Association rejected that offer, and this bill was prepared in consequence of that rejection. Subsequently when the Association saw that Government meant to carry this legislation through, they altered their mind somewhat in a hurry and said that they would accept a charter. But it was then too late; for we had no time to draw up the fresh legislation necessary in regard to the grant of a charter, and we had no time to obtain the sanction of the Government of India to that legislation. The tactics pursued by the Association, therefore, would have postponed any action on the part of Government until next July, and Government did not consider that the interests of the public would be served by such a postponement. The present bill therefore does not touch the grant of a charter, but it is not inconsistent with that grant. It will be possible, if Government are so advised, to bring in fresh legislation for the grant of a charter next year.

Government fully admit that this measure is a new departure and that it is necessary to proceed in this new field of State activity with the utmost caution. If the House is prepared to accept the first reading of this bill, it is our intention to refer it to a select committee for immediate and most careful scrutiny and discussion.

Sir, I move the first reading of this bill.

Question proposed.

Mr. D. R. PATIL (East Khandesh District): Mr. President, I support the first reading of this bill. Really it is a matter for congratulation that the Honourable the Finance Member has brought this bill forward to protect the interests of the speculators. This bill will go a long way to save these persons from ruin in their speculative activities.

Sir, I have to say this much. This bill should be referred to a select committee only for this purpose. Certain powers are given to Government to frame rules. Under the Children's Protection Act some power is given to this House to amend such rules. I think the same power ought to be vested in this House and it should be possible for honourable members of this House to bring in motions to modify the rules. With these remarks I support the first reading of this bill.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce): Sir, while I do not entirely agree with all the provisions of the bill under discussion, I must congratulate the Government of Bombay on their decision to put forward a bill controlling in some measure the actions of the Bombay Stock Exchange.

It has been said and rightly said in my opinion that a stock exchange is a body carrying on a public utility service, that it owes a duty to the public and that in view of the intimate relationship between its administration and the growth and progress of commercial and industrial ventures, it is a function of Government to see that its duty is properly performed. It is equally clear that the commercial and investing public regard the administration of the stock exchange in Bombay with profound suspicion and would therefore welcome some measure whereby control of its affairs can, in case of need, be exercised. This suspicion has been generated not only by the existing rules regarding corners but also by the complete disregard by the Stock Exchange of suggestions made by the public in connection with the various other matters dealt with under the rules and it has not been lessened by the failure of the Stock Exchange to introduce without delay many of the minor reforms suggested by the Atlay Committee, many of which are quite straightforward, and are not contentious in the sense that the rule suggested by the Atlay Committee for dealing with corners may be termed contentious.

However it would be out of place to discuss at this stage the actual rules that govern the business of the Stock Exchange. Those will be dealt with subsequently and all that we are now concerned with is the Act to control the making of those rules.

I must say at once that in my opinion, this Act, as drafted goes too far. The Stock Exchange is admittedly a body carrying on a public utility service, but it is, none the less, a commercial body and the proposed Act, to my mind, contains a dangerous measure of interference by Government in the affairs of a commercial body.

The 2 clauses in the bill to which I take exception are:—Clauses 4 (3) and 4 (6), in which the Governor in Council takes powers to add to, amend, vary or rescind rules, and as an ultimate resort, to make rules.

It is undesirable, I think, that Government should have such wide powers. All that is necessary is that Government should have the power to refuse to sanction rules, and then, the actual rule making may safely be left to those directly interested in the making and interpretation of those rules.

A complete safeguard against the making of inadequate rules, or the making of no rules at all, can be obtained by Government granting a Charter to one body, after seeing and approving the initial set of rules, for a definite period, and enacting that contracts contravening those rules are void in law. This, coupled with the knowledge that the Charter might not be renewed at the end of the given period, with the result that all dealing in futures would be automatically stopped, would ensure that proper and adequate rules were made and the important point would be gained that the Stock Exchange would be dealing on the basis

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of rules framed by themselves without undue Government interference.

The Honourable the Finance Member has told us that a Charter was offered to the Stock Exchange and refused and that it is now too late to repeat the offer. His suggestion now is, I gather, that the present Act should be passed and that next July, Government should bring forward a second bill in which they will relinquish the plenary powers for which they now ask. This, I submit, is not satisfactory and I cannot agree to such a procedure.

We have a precedent for a Charter in the one granted to the East India Cotton Association Limited, which has, I venture to say, worked exceedingly well, and I venture to say that if Government had taken powers in that connection to frame and alter rules, the same measure of success would not have been attained. Such interference, I submit, is undesirable also from Government's own point of view inasmuch as the blame for a crisis, following the making of compulsory rules and the insistence upon their use, would be laid at Government's doors, and then again there is the fact that a deadlock may be produced by the Stock Exchange refusing to trade at all under rules not drafted by them.

I have spoken at some length on this matter as I gather that Government cannot consider, in select committee, such amendments to their Act as I have indicated. If they cannot do so, I regret that I cannot support the first reading of this bill.

Mr. C. N. WADIA (Bombay Millowners' Association): Sir, I rise to congratulate Government on taking action speedily in this matter. I find that such action ought to have been taken and delay avoided in bringing legislation on a measure of this character.

There is only one thing that strikes me that might be slightly altered in this bill, and that is clause 4 which states that the 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 the ready delivery contracts. I should like these rules to be placed on the table of this House before they are sanctioned. Otherwise the House will have no opportunity of criticising such rules until they are passed and put into force, and then any criticism offered by this House will be entirely valueless. But otherwise I wholly support the bill.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I take it that the reluctance of honourable members to speak on this point is an indication not so much that they do not understand the bill, but that they cordially support it (hear, hear). And it is therefore, Sir, that I may proceed to ask that the bill be expedited.

On the point raised by the honourable member Mr. Grantham as to whether in the select committee the bill can be so amended as to provide for the grant of a charter, we had hoped that that might be possible, but our legal advisors tell us that it is not possible. The grant of a charter would mean such a complete alteration of the terms of this bill that it

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cannot come within the power of the select committee to modify the bill and to enable us to grant a charter.

The matter must therefore be postponed until a future date. The public demand has been urgent that this bill should be brought forward. As we have seen in the last two years, there has been so rapid a movement of public interest upward and downward in this matter at short intervals that since it is important that the stock exchange should be improved, we think that it is important to take this present opportunity of pushing through this legislation. We believe it will result in an improvement of the working of the stock exchange. It may not be the perfect solution that the honourable member Mr. Grantham desires, but at any rate it is very much better than the existing state of affairs.

With regard to the amendment suggested by the honourable member Mr. Wadia, that certainly is a point that can be discussed and advised upon by the select committee. With these words, I ask that the matter be put before the House.

Bill read a first time. Question put and carried.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I ask now that the bill be referred to a select committee consisting of the following members:

1. The Honourable Sir Chunilal Mehta
2. Mr. J. B. Kanga (Advocate General)
3. Mr. Lalji Naranji
4. Mr. V. A. Grantham
5. Mr. M. R. Jayakar
6. Mr. J. Baptista
7. Mr. W. McKee
8. Mr. Hooseinbhooy A. Lalljee
9. The Finance Secretary
10. The Honourable the Finance Member.

Quorum to consist of six members and the report to be submitted within a week.

Mr. M. R. JAYAKAR: I do not wish to serve on the committee, Sir.

The Honourable Mr. H. S. LAWRENCE: In that case I shall be satisfied with only 9 members, Sir, and five will form a quorum.

M. D. R. PATIL: I propose the name of Mr. C. N. Wadia.

The Honourable Mr. H. S. LAWRENCE: I accept that addition, Sir.

Bill referred to select committee. Question put and carried.

BILL No. XVIII OF 1925 (A BILL TO AMEND THE BOMBAY CHILDREN ACT, 1924).

(As amended by the Select Committee.)

The Honourable Sir MAURICE HAYWARD: Mr. President, I present the report of the select committee.

The report of the select committee is resented.

The Honourable Sir MAURICE HAYWARD: I move that the bill*
Second reading. be now read a second time.

Bill read a second time. Question put and agreed to.

Bill read clause by clause.

Clause 1 (*Short title*) ordered to stand part of the bill.

Clause 2 (*Insertion of new sections 10A, 10B, 10C, 10D, and 10E, in Bom. XIII of 1924*):—

After section 10 of the Bombay Children Act, 1924, hereinafter called the said Act, the following sections shall be inserted, namely:—

“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.

Explanation.—For the purposes of this section 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 any intoxicating liquor except upon the order of a duly qualified medical practitioner, or in case of sickness or other urgent cause shall be punishable with fine which may extend to fifty rupees.

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.

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.

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."

Penalty for taking pawn from a child or young person.

Mr. D. R. PATIL (East Khandesh District): Sir, the amendment which I wish to move to this clause (2) runs thus:—

In line 6, clause 2, substitute "ten" for "seven".

If we read this sub-clause we find that the object is to prescribe penalty for being drunk while the person in charge of that child is incapable of taking care of that child because of his drunkenness. It is very clear that our object is to help children so far as their own protection is concerned, in the hands of their drunken custodians. The limit prescribed in the bill is seven years. Why is it so? Because a child is incapable of taking care of itself especially when it is with a person who is in a drunken state and it is his duty to afford protection to that child. I want to raise that limit to 10 years for the simple reason that even a child up to that age is not capable of taking care of itself when it happens to be in the charge of a drunken custodian. When that object is before our eyes, I think, there is no objection to substitute the word "ten" for the word "seven". With these words I move my amendment.

The Honourable Sir MAURICE HAYWARD: Mr. President, I may point out that this question was discussed in the select committee and it was decided I believe with one dissentient to retain the age of seven. The clause is intended to safeguard children who cannot look after themselves and it is copied from the English Act. It was considered that a child up to seven years cannot probably properly take care of itself, over that age probably it can and if we introduce the word "ten" there would perhaps be difficulty in proving before a Magistrate whether the child was in charge of the drunkard or the drunkard in charge of the child. Because it might occur that an adult, who was not quite capable of taking care of himself having taken too much liquor, was led home by a child between seven and ten years. I think, therefore, it would be better to follow the previous experience of the English Act and to retain "seven" instead of "ten".

Question put and lost.

Mr. S. K. BOLE: Sir, I beg to move the amendment that stands in my name, namely:

"In clause 10B, delete the words 'in any highway or other public place whether a building or not or any licensed premises'."

Sir, the bill as originally drafted did not contain these words; these words have been put in by the select committee. Sir, the object of the bill is to protect children. I do not understand why, in the case of giving liquor to a child only, the place should be restricted. Government have already decided that prohibition of liquor is their goal, and I do not

[Mr. S. K. Bole]

know why objection is being taken in this case. A penalty should be imposed for giving liquor to a child in any place whether public or private, and you must protect children from drink, which is no doubt a great evil. Under these circumstances, I urge that my amendment should be accepted.

Question proposed.

Mr. A. MONTGOMERIE: Sir, I have very considerable sympathy with the amendment which has been moved. I have very considerable sympathy with the motive which has induced the honourable member to move this amendment. I quite agree with him that it is a crime to give children strong drink. The difficulty is that though it may be morally a crime, it is a question whether it is expedient to make it an offence under the criminal law. It involves, as can be seen, a very considerable interference between parents and children. It gives opportunities for spiteful persons to bring charges against their neighbours. It may lead to enquiries into what goes on between parents and their children in private houses. It seems to me that the evils of introducing this amendment may be greater than the benefits which are likely to be gained from it. There are reasons why even a parent should be prohibited from giving liquor to a child in a public place. The action is scandalous in any case, and when such scandalous action takes place in public, then a stop should be put to it. But, as I have already said, I consider that the danger of interfering with the conduct of the parent in regard to his own children in his house is even more important than the benefit which would be received by allowing this amendment.

Mr. A. N. SURVE (Bombay City, North): Sir, I rise to support the amendment. The point is that if drinking by a child on a high street is to be an offence, I really do not see any reason why the same rule should not apply if intoxicating liquor is given to a child in a house or any private place. There are several cases in which children are ill-treated, and in spite of their being ill-treated in the privacy of their homes, the cases do come out. Similarly, if any body gives liquor to his child, then I think that, in course of time, those cases will come to the notice of the keepers of law. I might mention that every year there have been cases where children under the age of 14 are tried for drunkenness by the Chief Presidency Magistrates in the police courts of Bombay. I might tell this House that in the City Police Administration Report for 1924, mention is made of 10 children under the age of 14 years who were arrested and were tried for drunkenness by the Presidency Magistrates. Mere drinking is not punishable, but a person becomes liable to punishment only if he becomes rowdy, or is guilty of bad behaviour, or if he is unable to take care of himself. The cases which I have mentioned refer to this kind, i.e., cases which became cognisable by the police. If there are a few extreme cases, naturally there must be many in which children become drunk as the result of some body giving them drink, because under conditions of licence a shop-keeper cannot sell liquor to a person

[Mr. A. N. Surve]

under 15 years of age. If Government prohibits a shop-keeper from selling liquor to children, should it not equally do so in the case of other persons also? It is admitted that drink has an injurious effect on the health of children, therefore the distinction which is sought to be made between private and public places is really undesirable. For this reason, I think it is necessary that we should make a statutory provision that drink should not be given to children as laid down in the amendment, *i.e.*, whether in a private place or on a high road. With these remarks, I heartily support the amendment that is before the House.

Mr. R. D. SHINDE (Nasik District) : Sir, I think that clause 10C should be retained. It is well known that the vice of smoking is rapidly increasing, especially among small children.

An Honourable MEMBER : We are dealing with clause 10B, which refers to giving liquor to children.

Mr. R. D. SHINDE : I think that the amendment now before the House is necessary, and that the same penalty should be provided for giving liquor to a child in a house or private place as is provided in a case of giving liquor to a child on a high way. I support the amendment.

Mr. S. K. BOLE : Sir, I have nothing to add, but I only wish to say that whenever it is convenient to Government, Government do not hesitate to interfere in the private affairs of parents. Here, in this case, why should Government insist upon not interfering in the case of a parent giving liquor to a child in a private house. I think, they are making too much of interference in this case. With these words I think Government would reconsider the matter, and my amendment would be accepted.

The Honourable Sir MAURICE HAYWARD : Mr. President, I know that much wickedness is supposed to lurk in the Home Department. But in this case we were guided after very careful consideration by the majority of the members of the select committee. The two dissentients on this particular point were my honourable friend opposite (Mr. D. R. Patil) and the honourable mover of this amendment. Therefore, we have put forward the wishes of the select committee. Their view was that it would be wiser not to interfere, more than would be reasonably safe, with the private domestic arrangements of people when introducing a measure of this sort. The danger of going too far in this direction will result in the provision being a dead-letter; and it would be wise to go only so far as is reasonable and to hope for some real improvement being effected. There is a real danger in allowing neighbours to interfere with the domestic affairs of others and suggesting that this is going on and that is going on; and the select committee thought it would be better to leave this particular question outside such interference. I think, therefore, that the House will be well advised in accepting the opinion of the majority of the select committee and reject the amendment moved by my honourable friend.

Question put. House divided. Ayes 7; Noes 33. Amendment lost.
Division No. 3.

Ayes.

BOLE, Mr. S. K.
 KALBHOR, Mr. G. M.
 NEKALJAY, Mr. R. S.
 PATIL, Mr. D. R.

SHANKARRAO JAYARAMRAO ZUNZARRAO
 SHINDE, Mr. R. D.
 SURVE, Mr. A. N.

Tellers for the Ayes : Mr. S. K. BOLE and Mr. R. D. SHINDE.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
 BUNTER, Mr. J. P.
 CLEMENTS, Mr. E.
 DABHOLKAR, Sir VASANTRAO A.
 DADACHANJI, Dr. K. E.
 DALVI, Mr. B. K.
 DERLAVI, the Honourable Mr. A. M. K.
 FERNANDEZ, Dr. COSMAS
 FRAMJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan
 Bahadur SHAIKH
 HAMID M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCHE, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOSSACK, Mr. W. B.

HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JEEHANGIR, the Honourable Mr. COWASJI
 KOKANI, Mr. G. J.
 LAWRENCE, the Honourable Mr. H. S.
 MASTER, Mr. A.
 MCKEE, Mr. W. G.
 MEHTA, The Honourable Sir CHUNLAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 OWEN, Mr. A. C.
 PAINTER, Mr. H. L.
 PATHAN, Mr. A. F. I. K.
 THOMAS, Mr. G. A.
 WILES, Mr. G.
 WOODS, Mr. E. E.

Tellers for the Noes : Dr. COSMAS FERNANDEZ and Mr. E. E. WOODS.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move the amendment standing in my name, namely :

In clause 10 B, line 3, substitute the word "spirituous" for the word "intoxicating".

The idea underlying this amendment is that a child should not be given alcoholic drink. There may be intoxicating drinks, but only if they contain alcohol it should be a crime to give them. For that reason I think it would be better to use the word "spirituous", because it would convey the idea of alcohol. It is with that object that I move the amendment.

Question proposed.

Mr. A. MONTGOMERIE: Sir, I am afraid I must oppose this amendment. I am not quite sure that I understand what the object of the honourable member is in proposing this amendment. I think "intoxicating" is a very much wider word than "spirituous". There may be intoxicating liquors which contain no spirit at all in the sense of alcoholic spirit, and those would be covered by the word "intoxicating". Our objection to the use of the word "spirituous" is that there is a great number of patent medicines which are given to children without a doctor's order and which are of popular use, which do contain a certain amount of alcohol and will therefore come under the term "spirituous liquor", although they cannot be regarded as intoxicating. I think the honourable mover will serve his purpose better by keeping the word "intoxicating". "Intoxicating" covers anything which induces a state of intoxication whether it contains alcohol or not, and the honourable member's amendment will leave out some intoxicating liquors without adding anything to the force of the section. I think, after this explanation, he will agree to withdraw the amendment.

Mr. A. N. SURVE : Sir, in view of the explanation given, I do not wish to press my amendment.

Question put and leave granted.

Amendment by leave withdrawn.

Mr. S. K. BOLE : Sir, I beg to move :

After clause 10B, add the following clause :

" 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."

Sir, you know how the evil of smoking is spreading. This clause was originally in the bill. But for the convenience of those persons who are in the habit of employing minor children it has been deleted. These persons employ minor children for their business or for office or home work and they very often ask the children in their employ to fetch bidis and cigarettes for them. The children are thus exposed to the temptation of smoking from which it is necessary to protect them. But more regard is paid to the convenience of the employers of such children and no heed is paid to the welfare of the children. But I hope, Sir, that those honourable members who have some regard for the children will see their way to vote for my amendment.

Question proposed.

Mr. D. R. PATIL (East Khandesh District) : Mr. President, I heartily support the amendment moved by my honourable friend Mr. Bole. I have also given notice of an amendment to the same effect. If really you want to stop children from getting into the evil habit of smoking, it is necessary to retain clause 10D, which was very wisely inserted in the bill for the welfare of the children so far as smoking is concerned. I think those persons who sell bidis, etc., to children should be made punishable with fine. This clause was framed on the lines of section 39 of the English law. The Honourable Leader of the House said, when I moved my last amendment, that the words "seven years" were taken from the English law, and at that time he approved of the English law. So, I hope he will agree with the rule of the English law in this case also. With these words, I heartily support the amendment.

Mr. A. MONTGOMERIE : Sir, so far as Government are concerned, they are neutral on the amendment. The clause was deleted in the select committee, because the majority of the mofussil members said that it would be a distinct nuisance to people in the mofussil if a person was prohibited from sending his child of 12, 13 or 14 to get bidis or cigarettes from the bazaar. It is entirely a matter for honourable members opposite, who know more about the condition of affairs in the mofussil than we do, to decide whether the inconvenience to the parents should be removed or whether it should be made penal to sell cigarettes to a boy of 14 sent by his parent to get cigarettes.

MOULVI RAFI UDDIN AHMAD (Central Division) : Mr. President, I infer from the speech of the honourable member the Home Secretary that Government will not take any part in the voting on this amendment and they will leave it to the House. I hope that the Honourable the

[Moulvi Rafuaddin Ahmad]

Home Member will read it in the sense that Government would not interfere in this matter. I am quite willing to accept the suggestion of the Home Secretary.

Mr. R. D. SHINDE (Nasik District): Sir, I think this clause should be retained for the simple reason that it is our common experience that the habit of smoking is becoming more and more prevalent among small children. Some of the honourable members may have seen even small children of ten smoking in the public streets. To my mind this habit is growing simply because the parents of the children are in the habit of sending them to shops to purchase for themselves cigarettes or bidis. If it is the intention of this particular enactment to protect children from this temptation, I think such a provision is necessary.

Mr. B. K. DALVI (Belgaum District): Mr. President, I am sorry that I have to differ from my honourable friends and to oppose the amendment which has been moved so ably by my honourable friend Mr. Bole. I have done similarly in the select committee on the ground that it would work a very great hardship. The members who come from the mofussil know that we do not send our children to buy cigarettes or bidis unless we are required to do so by circumstances. Sometimes it so happens that some of our friends come to us, and at that time we do not happen to have any servants about, but at the same time if we are inclined to treat our friends with some cigarettes we might send a child of seven or eight years to get some bidis or cigarettes. At the same time we might take due care that the child does not contract the habit of smoking. Besides, this amendment does not punish the parent who is responsible for sending the child, but it punishes the shopkeeper who has to do his business and who does not care whether he sells them to the child or to his parent. But at the same time I think the next clause is a sufficient safeguard against the habit of smoking in the case of children. And as the clause is there, I think the other clause which punishes the shopkeeper will work a very great hardship in the case of persons in the mofussil, and therefore I oppose the amendment.

Mr. S. K. BOLE: Sir, I have nothing much to say in reply, but I would say only this much that Government were not willing in the first place to accept my amendments which were moved when the original bill was passed in this House. Then they gave a promise to introduce the amendment in a fresh bill which they would bring in; and they have tried to delete the section on some ground or another. And if such clauses are deleted, the whole force of the bill will be taken away and the bill will have no real effect. I place this amendment before the House and trust it will be carried.

The Honourable Sir MAURICE HAYWARD: Mr. President, I am sorry my honourable friend has a short memory. The retention of this item or otherwise was of no great moment to the Government. The bill had been brought in by Government at first with this clause in. It was put before the select committee and the majority of the select committee thought it better to cut it out. Therefore, I have put the

[Sir Maurice Hayward]

bill now before the House with that amendment cut out. There was a good deal of opinion in the select committee that it would be better not to go too far in this legislation and that it would be quite sufficient to leave in the second clause and not retain the first. It was pointed out in the select committee that though the first clause was put in as found in the English Act, it was as a matter of fact found practically to be a dead-letter in England and it was not likely to be of use in practice in India. It was thought it would not be much use to retain it in India, and therefore the select committee cut it out. It is a matter entirely of indifference to us whether the clause was retained or not, but I should personally be inclined to suggest that it would be much better for this House to agree with the opinion expressed by the majority of the select committee appointed by this House. The select committee looked into it and came to that conclusion, and I think the safest course in a matter of this sort is to go cautiously and that the opinion of the select committee should be accepted by the House.

Question put. House divided. Ayes, 11; Noes, 34. Motion lost.

Division No. 4.

Ayes.

AHMAD, MOULVI RAFIUDDIN
BOLE, Mr. S. K.
KALBHOR, Mr. G. M.
NAVLE, Mr. N. E.
NOOR MAHOMED, Mr.
PATEL, Mr. A. E.

PATHAN, Mr. A. F. I. K.
PATIL, Mr. D. R.
RAHIMTOOLA, Mr. HOOSENALLY M.
SHINDE, Mr. R. D.
SURVE, Mr. A. N.

Tellers for the Ayes: Mr. S. K. BOLE and Mr. D. R. PATIL.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
BHUTTO, Khan Bahadur S. N.
BUNTER, Mr. J. P.
CLEMETS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DALVI, Mr. B. K.
DEHLAVI, the Honourable Mr. A. M. K.
FERNANDEZ, Dr. COSMAS
FRANJL, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan
Bahadur SHAIKH
HAMID M. ABDUL ALI, Mr.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, The Honourable Sir
MAURICE

HOSSACK, Mr. W. B.
HOTSON, Mr. J. E. B.
JADHAV, the Honourable Mr. B. V.
JEHANGIR, the Honourable Mr. COWASJI
KOKANI, Mr. G. J.
LAWRENCE, the Honourable Mr. H. S.
MANSURI, Khan Saheb A. M.
MASTER, Mr. A.
MCKEE, Mr. W. G.
MERTA, the Honourable Sir CHUNILAL
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
MUJUMDAR, Sardar G. N.
OWEN, Mr. A. C.
PAINTER, Mr. H. L.
THOMAS, Mr. G. A.
WILES, Mr. G.
WOODS, Mr. E. E.

Tellers for the Noes: Mr. J. P. BUNTER and Mr. E. E. WOODS.

Clause 2 ordered to stand part of the bill.

Clause 3 (*Amendment of section 51 of Bom. XIII of 1924*) ordered to stand part of the bill.

The preamble ordered to stand part of the bill.

The Honourable Sir MAURICE HAYWARD: Mr. President, I
Third reading. move the third reading of the bill.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT : The bill is now read a third time and passed.

BILL No. XII OF 1925 (A BILL FURTHER TO AMEND THE BOMBAY PORT TRUST ACT, 1879).

The Honourable Mr. COWASJI JEHangIR : Mr. President, I beg to move the third reading of Bill* No. XII of 1925 and in doing so, with your permission, I propose to offer a few remarks. The honourable House will recollect that during the second reading of this bill an amendment was moved and accepted by this honourable House which altered clause 2 of the bill and introduced the figure 11 for the figure 7. I will not at the present stage go into the merits of the case, but to put it very shortly, Government find that it is not a wise policy to force the Bombay Port Trust to accept the greater responsibility which has been thrown upon their shoulders by this amendment. Therefore Government desire to give this honourable House another opportunity of reconsidering this amendment. The Port Trustees have unanimously informed Government that they do not recommend Government to impose this higher responsibility upon them and therefore Government propose to adopt a procedure which with your permission I will explain. Section 81A of the Government of India Act is as follows:—

“ When a Bill has been passed by a local legislative council, the governor, lieutenant-governor or chief commissioner may, instead of declaring that he assents to or withholds his assent from the Bill, return the Bill to the Council for reconsideration, either in whole or in part, together with any amendments which he may recommend, or, in cases prescribed by rules under this Act, may, and if the rules so require, shall, reserve the Bill for the consideration of the Governor General. ”

The first part of the section is relevant. Under this section of the Act we propose to recommend His Excellency to recommit this bill for the consideration of this honourable House with a recommendation. By rule 20C (3) of the Rules of Business this House will have before it an amendment embodying the recommendation of His Excellency. The rule runs as follows:—

“ Where during the passage of a Bill the Governor makes a recommendation in respect thereof, and any clause of the Bill has been agreed to or any amendment has been made, in a form inconsistent with the form recommended, the member in charge of the Bill may move any amendment which, if accepted, would bring this Bill into the form recommended. ”

Therefore when the bill is recommitted I will have the privilege of moving an amendment for the consideration of the honourable House. While moving that amendment I will place before this honourable House the reasons which prompt Government to bring this measure before the honourable House for reconsideration. This is not the time to go into the merits of the question. I merely wanted to inform the House of the procedure we propose to adopt for more than one reason. The first reason is that this procedure is being adopted for the first time in this Council and the second reason is that no honourable member should be taken unawares. At present I merely move the third reading of the bill.

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, we were not prepared for an intricate problem and a new departure from the usual practice of this House and I think we have been taken entirely unawares. The right procedure would have been to give us a little more notice about this and as Honourable the General Member has thought fit not to do so, the only thing left to me is to make a few observations.....

The Honourable the PRESIDENT: In order to remove any possibility of misunderstanding, I should like to inform the honourable member that what I understood the Honourable the General Member to say was that at present the only motion before the House is the ordinary motion to read the bill a third time and to pass it. There is nothing more at present before the House. I will permit the honourable member to speak if he desires to say anything in connection with what has fallen from the Honourable the General Member, but the actual fact is that he has merely moved for reading the bill a third time. What Government intend to do after the third reading is passed is that the bill, as provided by the Government of India Act, will be sent up to His Excellency for his assent. The Honourable the General Member wishes to take the House into his confidence as to what will be done afterwards. Government will recommend to His Excellency to recommit the bill to the House when the Honourable the General Member will move an amendment to the effect he has explained. The effect of the explanation is that honourable members get intimation now of what will come before them at least two or three days hereafter. I wanted to explain the position, in order to avoid further discussion on this subject. The motion before the House at present is merely the ordinary motion to read the bill a third time and pass it.

MOULVI RAFIUDDIN AHMAD: I am very much obliged to you, Sir, for the lucid explanation which you have given about this matter. I support the motion that this bill be read a third time.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): May I draw your attention, Sir, to the fact that in the marginal note to section 61A (2) the words used are "Goods not stored in licensed warehouses to remain at risk and expense of owner if not removed within seven days". I think it ought to be eleven days and not seven days.

The Honourable the PRESIDENT: The point holds good, and the bill will be read a third time with the word "eleven" in the marginal note instead of the word "seven". It is a typist's error. The bill which will be sent to His Excellency will contain the word "eleven" and not "seven".

The Honourable Mr. COWASJI JEHangIR: Sir, there is very little for me to add. It was very kind of you to have explained the position very clearly. I have only to add that the object Government now have in view is to inform honourable members of the procedure Government propose to adopt.

If I had merely asked for the third reading of the bill without this explanation, honourable members would have been under the impression

[Mr. Cowasji Jehangir]

that Government are now in agreement with the amendment that has been passed. Because Government cannot see their way to agree, Government propose to adopt the procedure which I have explained; that is, the bill will be recommitted under section 81A of the Government of India Act, and an amendment will be moved by myself under Rule 20C (3) of the Rules of Business. My honourable friend might look up both the section and the rule. There will be still two or three days before the bill will be recommitted. Because, it will be a new procedure, we thought it our duty to explain what will happen two or three days hence when the bill is recommitted.

Question "That the Bill be read a third time" put and carried.

The Honourable the PRESIDENT: The bill is read a third time Bill read a third time. and passed.

(After recess.)

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.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I present the report of the select committee.

The Honourable the PRESIDENT: The report of the select committee is presented.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: With your permission, Sir, I move that the bill* be read a second Second reading. time.

Bill read a second time. Question put and agreed to.

The Honourable the PRESIDENT: The bill is read a second time.

(Bill read clause by clause)

Clause I (short title)—(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.

Mr. NOOR MAHOMED (Hyderabad): Sir, I beg to move:

"That clause 1A be deleted."

Clause 1A reads as follows:

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

This clause was not included in the original bill and it has now been inserted by the select committee. We in Sind are far removed from the headquarters of Government, and therefore the administration in minor matters is carried on by the Commissioner in Sind. Since the introduction of the Reforms Act all these powers are practically vested in the Ministers who carry on the administration of the transferred departments. Under the Commissioner in Sind Act, the Governor in

[Mr. Noor Mahomad]

Council has power to delegate the powers conferred on Government to the Commissioner in Sind. What I wish to urge is that the Sukkur Barrage is to come into being and no one can foresee the future of Sind. In the near future we are going to have a Chief Court for Sind. It will be a point to see what should be the status of the province.

Now, Sir, the taking away of this clause or its retention does not matter so far as the municipal government is concerned, because if we take away this clause the Commissioner will be having the powers that every other Commissioner is possessing. There will practically be no difference. Further this clause does not exist in the Local Boards Act passed in 1923 and amended in 1925. So, it really lies upon those who are responsible for the insertion of this clause to show in what way this clause is important. Now, Sir, as I said the province is developing. There will be a chief court. In these circumstances it will be necessary to examine what will the future status of Sind be. Personally I think it makes very little difference whether this clause is retained or deleted, for the Minister will be in charge of the Local Self-Government. The insertion of this clause simply shows that there is an attempt to bring down the Commissioner from the position he now occupies. As some other honourable members from Sind will speak on this motion, I will say what I have to say in reply. I formally move the amendment regarding the points that I may wish to state to a later stage.

The Honourable the PRESIDENT: The honourable member will be permitted to reply only to the points made during the discussion.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, under the provisions of the Commissioner in Sind Act of 1868, the Government of Bombay have the right of delegating any of their powers in regard to local self-government to the Commissioner in Sind. As the amendment relates to local self-government, I shall confine myself to that point.

Now, Local Self-Government is a transferred subject, and that fact has completely changed the aspect of the question. Now, the Governor has to act with the advice of the Honourable Minister. That was the consideration that prompted the insertion of this amendment. Some of the members remarked that they have a Minister from Sind in charge of Local Self-Government who ought to know the municipalities in Sind much better than the municipalities in other parts of the presidency. If, in spite of me, the powers were delegated, the position would be anomalous. However, I find that my honourable friend from Sind wants this clause to be removed. I leave it to the Council: I am entirely in their hands. Even if this clause is not there, I understand that the Governor cannot, without my advice, delegate any of the powers under Act V of 1868 to the Commissioner in Sind. Whether the clause is there or not, the Governor must consult me if he wants to delegate the powers. Whether this clause is there or not, it does not affect the position of the Honourable Minister very much. If the Governor wants to delegate the powers, he must consult me, and I do not think any Minister would like to

[Khan Bahadur Shaikh Ghulam Hussain]

part with his powers. I leave the question entirely in the hands of the Council.

Question put and lost.

Clause 1 ordered to stand part of the bill.

Clause 2 (Definitions).

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.

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

(11) "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 1st 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 person 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 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.

Mr. D. R. PATIL (East Khandesh District): Mr. President, the amendment which stands in my name runs thus:

"At the end of clause 2, add the following as sub-clause (22):

'Slaughter house' shall mean a place where animals are slaughtered to supply meat for local consumption."

Now, Sir, if you look to the Municipal Act itself, you will find that slaughter houses are meant for supplying meat to persons belonging to a particular locality. If that is the meaning in this bill also, I think we must have a definition in the Act itself just to define what a slaughter house means. And with that object I have brought this amendment just to define 'slaughter house'. This is my object in bringing forward this amendment.

Question proposed.

MOULVI RAFI UDDIN AHMAD (Central Division): Mr. President, I do not think it is necessary to add any definition to the section. 'Slaughter house' is a term known to all, and the object of the honourable mover will be served without the amendment, unless he has any other motive which he has not stated. I think that the amendment should not be accepted.

Mr. D. R. PATIL (East Khandesh District): Now, Sir, when the object has been made quite clear that meat should be supplied to persons of a particular locality where meat is required, I do not see any reason why we should not add that definition of slaughter house in the statute. By putting that definition in the statute book we shall be fulfilling the objects of the Act. So, I do not see any reason why we should not add this definition.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, this definition is superfluous. A slaughter house, under the old Act as well as this, is understood by all to be a place where animals are slaughtered for local consumption, and up to date absolutely no difficulty has arisen. It is a common term which is understood by anybody, and I think it will be simply spoiling the statute book by putting this superfluous definition in it.

Question put and lost.

The Honourable the PRESIDENT: I overlooked the honourable member Mr. R. G. Pradhan's amendment to sub-clause (20) of clause 2. The honourable member may move the amendment.

Mr. R. G. PRADHAN (Nasik District): Sir, the amendment which stands in my name runs as follows:—

In clause 2 (20) add the word 'tax' after the word 'any'.

In other words, if this amendment is carried the definition of tax will read thus:

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

Now, honourable members will see that the definition of "tax", as it originally stood, was "'Tax' shall *include*"—not '*mean*', etc. When the word 'include' was used, I quite understand that there was no necessity of making the definition quite clear by using the word "tax". But in the definition of "tax" as amended by the select committee, the word "include" has been omitted, and the word "mean" has been substituted for "include". Now if we define "tax" as *meaning* toll and so on, it seems to me that it is necessary to make the definition absolutely clear by using the word "tax". Tax shall mean any tax, toll, etc. Well, I do not mean to say that the definition as it stands does not cover "tax". I do not mean to say that, because there is the phrase "other impost" which will include tax. But when we are defining an expression, when we say "tax" means toll, etc., it is necessary, in the interests of good drafting, to make the definition more clear by adding the word tax also. And therefore if my amendment is accepted, the clause would read: tax means any tax, toll, etc. This is in fact intended to make the definition more clear, and I hope that Government will accept my amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I am not unwilling to accept this amendment, but I do not think the definition requires the additional word "tax". It is superfluous, and it is bad phraseology. I have consulted my legal advisers, and they think the definition is very clear. It includes toll, rate, cess, fee or other impost leviable under this Act and shall include a water rate, and I do not think anything could be more clear than this. On the contrary the wording "tax includes any tax" would be mere repetition. I hope with this explanation my honourable friend will withdraw his amendment.

Mr. R. G. PRADHAN (Nasik District): Sir, I have very great respect for the legal advisers of Government, but I do not think that the legal advisers of Government are infallible and I do maintain that in spite of all the expert advice that the Honourable Minister may have received, the definition should be amended as I have proposed.

Question put and lost.

Clause 2 ordered to stand part of the bill.

Clause 3 (*Extension of Act to and withdrawal of Act from municipal districts and boroughs*) ordered to stand part of the bill.

Clause 4 (*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*) ordered to stand part of the bill.

Clause 5 (*Transfer of rights, etc., on inclusion in Schedule I*) ordered to stand part of the bill.

Clause 6 (*Preliminaries before notification*).

(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.

(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.

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move:

In clause 6 (1) substitute the word 'three' for 'two' in the first line.

Sir, it is absolutely necessary that the rate payers should know what their exact position would be when there is a proposal either to include in or exclude any municipal district or borough from Schedule I. For this purpose two months period is a small one as we know the general indifference of the ratepayers and the length of time they require for arriving at a correct conclusion. With this object in view I have proposed this amendment and I hope Government will accept it.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, if the House thinks that the amendment is necessary I have no objection to accept it.

Question put and carried.

Clause 6 as amended ordered to stand part of the bill.

Clause 7 (*Incorporation of Municipalities*).

"In every municipal borough there shall be a municipality, and every such municipality shall be a body corporate 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."

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move:

"At the end of clause 7 of the bill add a proviso to the following effect, namely:—

'Provided that no suit shall be defended without the approval of the municipality and that no suit shall be filed without the approval of the municipality.'

Sir, I beg to propose this amendment because the clause as it stands is a little ambiguous. The chief officer of a municipality should have no power or right to file or to defend a suit without the approval of the municipality. The municipality should have the sole right to determine whether a suit should be filed or defended. I therefore think that the amendment that I have proposed is absolutely necessary.

Question proposed.

Mr. R. D. SHINDE (Nasik District): Sir, as the drafting of the amendment is rather clumsy I suggest the following words:—

“ Provided that no suit shall be defended or filed, etc.”

Mr. S. T. KAMBLI: Sir, I beg leave of the House to accept the amendment to my amendment proposed by the honourable member from Nasik.

Question put and leave granted.

Mr. A. MASTER: Sir, the wording of the section as it stands at present is that “ every such municipality shall be a body corporate by the name of ‘ the municipality of — ’ and shall have a perpetual succession and a common seal and may sue and be sued in its corporate name through its chief officer ”. I think the word “ through ” makes the amendment absolutely unnecessary. The Chief Officer is not empowered to sue or to be sued but that he can only do it with the permission of the municipality. The amendment is to the effect that no suit shall be brought without the approval of the municipality, but as the municipality is alone empowered to sue, the proposed proviso need not be added.

Mr. S. T. KAMBLI (Dharwar District): Sir, as I said at the outset the clause as it stands is ambiguous. It simply says that the municipality may sue or be sued through its chief officer, and so there is this ambiguity, namely whether the chief officer can sue or be sued without the permission or approval of the municipality, and therefore to make it clear I have proposed this amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the clause as it stands is very clear and the doubts of my honourable friend are groundless. The clause states that a municipality may sue or be sued. That means that any suit that is filed will be with the consent of the municipality, or when the municipality wants to defend any suit the consent of the municipality will be necessary. The reason why we have added the words “ through the chief officer ” is that a municipality is a corporate body, and the councillors cannot go into a court of law to defend or sue. We have here purposely put the words “ through the chief officer ” so that the summons issued may be served on the chief officer. We cannot have all the members of the corporation going together to defend or file a suit. One man is authorised, and the clause as it stands is very clear that, unless the municipality desires to file or defend a suit, the chief officer cannot do so without its consent. In fact, Sir, these words were added at the suggestion of two of our great lawyers in this House, the Deputy President and the Honourable member from Thana, Mr. Pradhan. They said that a corporate body should sue or be sued through some one person. Therefore, Sir, the amendment is not necessary, as the clause is very clear as it stands.

Question put and lost.

Clause 7 ordered to stand part of the bill.

Clause 8 (*Municipalities to consist of elected and nominated councillors*).

- (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 Government :

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

In specified proportions. 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 a councillor under section 27 may, notwithstanding anything in this Act, be filled up by nomination by Government.

(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 councillor.

Mr. S. T. KAMBLI (Dharwar District) : Sir, my amendment relates to sub-clause (3) of clause 8. It runs thus :

In clause 8, sub-clause (3), delete the words "and councillors shall be electedcouncillors" and substitute therefor "and councillors shall be co-opted in place of such councillors."

The reason for my amendment is this, that when a municipality is brought under the operations of this Act and the Government notifies that the whole body shall be an elective body, then under the provisions of this bill as they stand, the nominated members shall have to resign their seats and their seats will be vacant, and, under the law as it stands, fresh elections will have to be held. If we look at the constitution of the wards in the mofussil, we shall find that wards are so arranged as to return nearly four times the number of nominated members. So it will be very difficult for all the wards together to return only one-fourth of the number which they are ordinarily returning. I will make my meaning clear by an illustration. Supposing there is a municipality of 30 councillors, elected and nominated together, and that 24 of these are elected and 6 of these are nominated ; if the municipality is brought under the operations of this bill, and is declared to be wholly elective, then the 6 nominated members shall have to resign their seats and the 6 places of these members shall have to be filled up by election. Now, the city is divided into several wards, and has to return 24 members in all ; again it is divided into Mahomedan and non-Mahomedan wards. It will be very difficult or even impossible in certain cases for the municipality with the existing wards to make an arrangement to return only 6 members more to fill the places rendered vacant by the resignation of nominated members. Otherwise the city will be called upon to rearrange the wards and it will take a long time to do it. The re-arrangement of the wards and the distribution of the seats of the nominated members in the new wards will again entail great difficulties. To obviate these difficulties, for the first time when a municipality is brought under the

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operation of this bill and when the nominated members resign their seats, I propose a small amendment that those places should be filled up by co-option by the elected members instead of being elected. That will avoid the difficulty of re-arranging the wards and of wasting so much time over it. So I beg to submit that in such a case when a municipality is brought under the operation of this Act, when nominated members resign their seats, it will be very easy to fill up their places by co-option rather than by election by dividing the different wards and again dividing them into Mahomedan and non-Mahomedan, and thus wasting time over it.

Question proposed.

Mr. R. G. PRADHAN (Nasik District): I am afraid, Sir, I shall have to oppose this amendment. It appears to me that the amendment proposed strikes at the root of all sound constitutional principle. Whenever a seat has been rendered vacant, it is necessary that there should be a fresh election, and I do not think it would be a wise or sound policy from the constitutional point of view to fill a vacancy not by election but by co-option.

Mr. R. D. SHINDE (Nasik District): I support this amendment, Sir, because under this clause, when a particular municipality will come under the operation of the present Act, the members who are already elected will be returned by election. The only difficulty will be as regards the nominated members, and I think that so long as the term of the nominated members does not expire, it will not be fair to those members to make their seats vacant and have election for those particular seats.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to support the amendment because I have seen that many members who are not willing to come forward for election, when they are so co-opted do render very valuable service to the municipality. So there should be no difficulty in their way to come in by co-option.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I feel rather confused by the speech of the last speaker. As a rule there are two or three members of the Mahomedan community in a municipality and it would be very unfair to leave the representation of Moslems in their hands. Indeed such a course would not at all deserve the term "representation". There are bound to be rival jealousies and many other evils arising from local politics and it would be quite unfair that co-option should be adopted. I think that election is absolutely necessary and I hope the honourable member will withdraw his amendment.

Mr. S. T. KAMBLI (Dharwar District): Sir, I have nothing to add anything new to what I have said. The great difficulty will be the difficulty of holding fresh elections, of constituting fresh wards, of the expenses of a fresh election and of the excitement consequent upon election and that too for only the unexpired portion of the term. I therefore beg to submit that the Council will be justified in accepting my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, as the section stands at present, every municipality will have a four-fifths elected majority. That is the least number, but Government have reserved to themselves the power to make any municipality shown in schedule I wholly elected. In that case, the seats of the nominated members will be filled by election. I think the amendment of my honourable friend is a very retrograde measure. He says that those places should not be filled by election but by co-option. This would deprive the voters, all those who contribute to the finances of the municipalities and who have the franchise, of their right of electing members. Besides, he bases his whole case on imaginary difficulties. When Government intend to make any municipality wholly elected, they will give that municipality sufficient time and sufficient notice that after a specified period, say six months or so, or at the next election, that municipality will be made a wholly elected body. That notice will give the municipality enough time in which to re-distribute their wards. The honourable member says "suppose there are 30 members, 24 elected and 6 nominated". I do not think with the existing wards any difficulty will be found; they may tack on one member to each existing ward, and thus dispose of the six seats. But as I have said, when Government makes up its mind to make any municipality wholly elected, it will give sufficient notice to the municipality to arrange its wards, and in that case there will be no difficulty.

Question put and lost.

Clause 8 ordered to stand part of the bill.

Clause 9 (*The Government shall determine number of councillors; fix proportion of elected and nominated councillors and make rules for regulating elections*):

(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;

(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.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, the amendment which I wish to move to clause 9 runs as follows:—

“ Add at the end in clause 9 sub-clause 1 (b) after the word ‘nominated’, the words ‘and the proportion of Mahomedan Councillors which shall not be less than one-third of the total number of councillors to be elected.’ ”

Sir, as matters stand now, Mahomedans have not got their due share of representation. Even in the recent nominations in the Kaira district, out of 50 only 2 were Mahomedans although there were more Mahomedans recommended by the District Magistrate. At present we have no practical voice in the management of municipal affairs; so I commend this amendment to this House.

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I own to a good deal of sympathy with the amendment which has been proposed by my honourable friend and the House should know that it is extremely difficult for the Mahomedan minority to get its fair share of representation in the local municipalities. On a matter of principle I think that the honourable member deserves support because the principle underlying the amendment has already been adopted in the Imperial Council representation and the local council representation, of the Moslems; moreover, it has received the consent and the sanction of those representative bodies, the National Congress and Moslem League. There are difficulties in the way, and I do admit that complaints may arise that the representation in the case of certain municipalities would be too large; for instance, the Moslem population of certain places would be only 5 per cent. and in that case certainly we would not be justified in asking for one-third of the total number. But in many other cases I do believe that Moslems would be justified in asking for one-third representation. I take this opportunity of reminding all those who are responsible for recommending nominations that they would not forget the claims of the Moslems. I do hope that even if my honourable friend does not see his way to accept this amendment now he will have in future all the power of making nominations himself, that the Honourable Minister in charge will see the necessity of granting full and effective representation to Mahomedans by nomination. I hope that there will be no difficulty in satisfying the wishes of the Mahomedan community in this respect. With these words I support the amendment.

Mr. R. D. SHINDE (Nasik District): Sir, it appears to me that as already pointed out by the honourable member Moulvi Rafiuddin Ahmad that if the amendment is carried it may lead to the result that in some cities the Mahomedan population would be hardly 5 per cent. and in that case it would be preposterous to give 33 per cent. representation to the Mahomedans. I think the Mahomedans will get the proper share under clause (c), because power is left to the Governor in Council to make new wards in any municipality and seats for Mahomedans, and in any case the population as well as the importance of the Mahomedan communities in any municipal areas will be taken into account in fixing the wards. My request to the honourable mover is that he should

[Mr. R. D. Shinde]

withdraw this amendment and move an amendment to clause (c) if any amendment is necessary.

Khan Bahadur D. B. COOPER (Satara District): Sir, if I oppose the amendment, I hope, the honourable mover will not misunderstand me because I was one of those who supported the representations of Mahomedans on district local boards and their franchise has been embodied in the Local Boards Act. According to that in my district proportionate representation is given to the Mahomedans, and in the district local board in a constituency of 36 members two seats are allotted to Mahomedans according to the strength of their population. Also in municipal representation in the election which is to take hereafter, Government have fixed the number for the Satara City Municipality out of 30 seats 2 seats for Mahomedans. In certain districts the proportion of the Mahomedan population would be too small to ask for representation of one-third in all cases. There is proportionate representation given in all cases, but asking for a general principle of one-third representation for Mahomedans is too much. I therefore hope that the honourable mover will see his way to withdraw his motion.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I have nothing more to add to what I have said. My honourable friend Khan Bahadur Cooper has pointed out that there are two Mahomedans out of 30 in Satara municipality. I was pointing out that there are 12 Mahomedan members out of 48 in Ahmedabad municipality. So, in moving my amendment, I am only asking for four more Mahomedan members in Ahmedabad, to make their number 16. I do not think I am asking for too much, and cases like those of Satara are very rare. I believe the Mahomedans are very meagrely represented on the local bodies, and they have practically no voice in them. The Mahomedans are at the mercy of those people who monopolise all the seats and even the chairmanships and memberships of the sub-committees. They are doing nothing beyond an act of mercy in taking any Mahomedan members on any of the sub-committees. Under these circumstances, I think my amendment is both just and fair, and I hope Government will accept it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I must make my position very clear. I am as ardent an advocate of the rights of the Mahomedans as the mover of this amendment, but I must tell him that I am ready to comply with his request so far as it is legitimate, and does not encroach on the rights of other communities. The section as it stands leaves the power to Government to fix the number, and I am sure Government would fix the number in proportion to the strength of the population of the Mahomedans. But to lay down a hard and fast rule that one-third of the members should be Mahomedans, irrespective of their population is, I think, not fair. Another of my honourable friends, Moulvi Rafiuddin Ahmad, who is also a great champion of the cause of the Mahomedans, has referred to the representation of Mahomedans in the Legislative Council and the

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Legislative Assembly. I may, however, remind him that is due to the mutual understanding between the two important communities, the Hindus and the Mahomedans; that is the result of the Lucknow Pact. Both the parties agreed and went before Government, and Government also acquiesced in the understanding which they had arrived at. If my honourable friends were to induce their Hindu brethren to agree to the general principle of one-third as the number of seats for the Mahomedans, I would have no objection to it, but where the Hindus are in a minority, as in Sind, they ought to be given more representation in their turn. I hope, Sir, with the assurance that Government will determine the number with due consideration my honourable friend will withdraw his amendment.

Question put and lost.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to move: In clause 9 (1) (c) delete the words "by public bodies or associations, if any."

The clause runs as follows:

"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."

I propose that the words "by public bodies or associations, if any" be deleted. This bill, Sir, as you are aware, does not apply to big towns like Karachi or Bombay, but it applies to small towns like Hyderabad, Sukkur, Sholapur, Ahmedabad, and towns of that size. Therefore, if the power of sending representatives to the municipality is given to public bodies or associations, I am sure such bodies or association will rapidly multiply, and it will become very difficult for Government to satisfy the claims of these associations or to give them any representation; and if they are given representation, that will only take away the right of somebody else. In other words, if the Government do not give representation to these special bodies the result will be that there will be a great deal of dissatisfaction. Therefore, from the point of view of the electors as well as of the Government, it is only right that these words should not be retained in the clause. I can only think of one municipality, that of Ahmedabad, where there is the Millowners' Association, to which this principle might be applied. The Millowners' Association is a responsible body, and they may require representation on the municipality, but in towns like Hyderabad, Sukkur, Larkana, etc., once this right is conceded even to Ahmedabad, all sorts of associations like Citizens Association "the Ratepayers Association," "the Sunni Association," "the Bahai Association," and other associations will come into existence; and how will the Honourable Minister satisfy them? If he does not satisfy them, they will say that no effect is being given to the provision in the Act, and if the Government give them representation, it will be only taking away the representation of other people. If the Act were to be applied to towns like Karachi and Bombay I would not mind if very limited representation is given to one or two important associations, but in towns like Hyderabad, Sukkur and Larkana, such a social representation to public bodies and association

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as is mentioned in the bill, is a dangerous step, and I think Government should seriously consider to-day whether they are embarking on a right policy by making such a provision. If they do so, they will only help to bring into existence a number of associations; and every one of them will claim special representation. Therefore, I strongly object to those words being retained in the clause. I would ask the Honourable Minister to seriously consider this matter. There may be only one or two associations to-day, but thousands of others may come into existence when the Act comes to be applied, and it will be very difficult for the Government and the Honourable Minister to manage their representation.

Question proposed.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the amendment. A similar amendment has been given notice of by me. My reason for supporting the amendment is this. The principle on which representation is given in this bill is that every one who pays a municipal tax is entitled to vote. On this principle, every person in a municipal borough who is paying any municipal tax is entitled to vote for the return of members in the general constituency to the municipality. What will be the position if any public bodies or associations are given the special right of sending special representatives to municipalities? If we analyse the position, we shall see that these public bodies or associations are composed of persons who are ratepayers themselves. These ratepayers are given the right to vote for the return of members in the general constituency, and if public bodies are given the right to return a member they will have an additional right to send another member through these public bodies or associations. In other words, every person who has got a right of one vote will have the right of another vote for returning another member through a particular association or body if he happens to be member thereof. If a man has got a right to vote for returning a member in a general constituency there is no reason why he should not select any representative member of any particular public body as a candidate in the general constituency and return him. I do not see any reason why these public bodies should have special representation when in general constituencies thousands of voters have got the right only to return one representative. These so-called public bodies may consist of 10 or 12 persons and it is highly unjust that these 10 or 12 persons should be entitled to return one representative. If they want to get themselves elected why should they not put forward their candidate for election in a big general constituency. I beg to submit that the principle of giving special representation to public bodies is vicious and ought not to be approved. If in the view of Government they think that special representation should be given to any public body, they have the power to nominate on the board of the members of that public body. I do not see any reasons why the ordinary rights of the people to elect representatives should be curtailed. This clause will have the effect of curtailing the rights of voters in the general constituency. This clause will result in

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creating pocket boroughs which ought not to be created in the general interest of the ratepayers. Therefore these words, *viz.*, "public bodies and associations" should be deleted from clause 9 (1) (c).

Mr. A. N. SURVE (Bombay City, North) : Sir, I rise to support this amendment. Our experience in Bombay is very bitter in this matter. Whenever public bodies are given representation by some means or other they always manage to secure representation far in excess of their legitimate share. Those gentlemen who have read the minutes of dissent to the Improvement Trust Bill will have noticed to what extent this abuse has grown. When these bodies seek representation, either as corporate bodies or associations they hardly contribute, so far as I am aware, anything by way of taxes in proportion to the representation they enjoy. I can conceive that individual members belonging to that particular body may be contributing their share of taxes; but in that case these individuals have the right to stand as candidates to get themselves elected. For this reason I think that the public bodies referred to should not be given a favourable treatment. If we are going to have a democratic government let everybody have an equal chance. When these bodies get the privilege of sending a representative they often abuse it as I have already pointed out. It is absolutely necessary that there should be no side doors or loop holes in favour of these privileged institutions. All should enter by means of general elections.

Mr. N. E. NAVLE (Ahmednagar District) : Sir, I rise to support the amendment moved by my honourable friend Mr. Noor Mahomed and my reason is briefly this : If we give special representation to public bodies or associations, some clever people will be very busy in starting bogus associations merely for the purpose of getting representation and in that way public life will become worse. So, I support the amendment.

Mr. R. G. PRADHAN (Nasik District) : Sir, the principle governing election to municipalities as embodied in the Act appears to me to be this : that the ratepayers, the voters, as such, will have the right of election. That is a very sound principle and there is absolutely no reason why that principle should be departed from in favour of any particular public body or association. I think this is a very sound amendment and I hope Government will accept it.

MOULVI RAFI UDDIN AHMAD (Central Division) : Sir, I rise to support this amendment. The Honourable Minister in charge characterised co-option as a retrograde step, because it took away the democratic rights of the masses. I may remind him that one of his colleagues on the Government benches during the last session when the Karachi Port Trust Bill was under discussion said that there were three or four associations which were allowed to send representatives to the Port Trust; but two or three associations were rejected, and as a result there was a good deal of heart-burning. I think the principle is bad and you, Sir, would remember that when this question of separate electorate was being discussed in the Council during the Minto-Morley reforms you emphasised the evils of representation through associations and in

[Moulvi Rafiuddin Ahmad]

the case of the Bombay Anjuman-Islam you protested against that body being allowed to send representatives in the name of Mahomedan community. This is merely a retrograde step. I do not know what kind of associations there will be. Why should not the Government exercise their power of nomination if they found any particular man in any association worthy of the distinction. To single out certain associations is to cause unnecessary confusion and friction in the smooth working of the city municipal institutions. As so many speeches in favour of the amendments have been made, I think the Honourable Minister, who is always inclined to grant concessions when there was practical unanimity of opinion in the House will be well advised in accepting this amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I should like to inform the House that the Government are not responsible for the insertion of these words "of public bodies or associations". They were introduced at the instance of the select committee, of which the two members who preceded me were members.

MOULVI RAFIUDDIN AHMAD : I had opposed it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I see there are strong feelings on this question. I therefore accept the amendment.

Question put and carried.

Mr. R. G. PRADHAN (Nasik District) : Mr. President, the amendment which I beg to move is this :—

In clause 9 (1) (c), for the words "the number of wards to be constituted for Mahomedans, non-Mahomedans and depressed classes", the following words may be substituted *viz.*,

"the constitution of wards including a special ward for depressed classes".

If honourable members will turn to section 9 (1) (c) as it stands in the bill and consider the amendment which I propose, they will see that the object of my amendment is to do away with special representation for any community except the depressed classes. My object in moving this amendment is that so far as this bill is concerned there should not be any statutory recognition of the principle of communal representation except in the case of those submerged classes for whom we all feel the keenest sympathy and whose hardships and disabilities are of a peculiar character,—I mean the depressed classes. Except for those classes there should not be special representation for any community. That is the principle of my amendment.

I own to a feeling, Sir, that in moving this amendment I am standing up for a cause which has very little chance of immediate success. I am aware, Sir, that a very large element in this House—I might even say a very powerful element in the House, as will be seen from the amendments that will come after my amendment—is not only in favour of special representation for Mahomedans and depressed classes, but are also in favour of extending that principle to communities which are characterised as backward communities. Such being the state of feeling and opinion

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on this question, I do feel that my amendment has very little chance of being accepted by this House. But all the same I feel that it is my duty to place before this honourable House my view. After all it will be realised that in the interests of the greatest progress of this country it will be desirable to do away with this principle of communal representation at any rate in the local bodies. In moving this amendment, therefore, I am looking forward not to the immediate present but to the future, and I feel convinced that though this amendment may not be accepted by this honourable House, it will serve this purpose, that it will create public opinion in favour of the view which I am taking and which is shared by a considerable number of people in this country, and that it will give rise to a good deal of discussion on this question and that in the long run a sound judgment on this important and vital question will prevail.

Sir, my views as regards special representation, whether of the Mahomedans or of any other community, are fully expressed in the minute of dissent which I have appended to this report. I do not know whether honourable members have done me the honour of going through my minute of dissent, but if they have not, I would invite attention to paragraph 3 of that minute of dissent. I am one of those who hold that taking the political condition of this country and other circumstances into consideration, the principle of communal representation as applied to the Indian or provincial legislatures should not be abandoned. I am prepared to concede that. Nay, if any one were to come forward with a proposal to disturb the existing arrangement as regards special representation in the Indian legislature or the provincial legislatures, I will strongly oppose it. I therefore hold the view that the existing arrangements as regards special representation in the Imperial and provincial legislatures should be maintained. But at the same time, I hold this view, that the principle of communal representation should not be extended to local bodies. I know, Sir, that the principle has been extended to local boards. But this House was not responsible for the extension of the principle to local boards: it was the last Council that was responsible for it. So far as I am concerned, as soon as I came as a representative in this Council I tabled a resolution to the effect that that principle as embodied in the Local Boards Act should be done away with. Whatever may have been done with regard to the communal representation of the Mahomedans in the local boards, we are not responsible for it. Sir, I maintain that the extension of communal representation to the municipalities and other local bodies will be detrimental to the progress of national unity, to the progress of civic solidarity and to that cordiality of social feeling which are absolutely necessary if India is to be built up into a strong nation. I feel, Sir, and I maintain that the introduction of this principle into local bodies will divide the Indian communities into water-tight compartments. Owing to the introduction of this principle in the Local Boards Act, and owing also to the introduction of this principle in municipalities by the use of the rule-making powers of Government—for Government can make rules and they have used those rules to introduce the principle in

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certain municipalities already—what do we find? The result has been that the Hindus and Mahomedans are divided into water-tight compartments. I speak from personal experience. I concede that everybody's experience is limited and I am not going to think that my experience is so wide as to cover all parts of this presidency. But I do say from what experience I have, that the result of the introduction of this principle in local bodies is that the two communities, the Hindus and Mahomedans, are divided into water-tight compartments. I am not at all surprised at this result. The result is inevitable. It is bound to come from the application of the principle to local bodies. If I, as a Mahomedan, rely on my co-religionists for election to the municipality, what reason have I to mix freely with the Hindus? What do I care for public opinion or for popularity among the Hindus.

That has been the result, the inevitable result, of the application of this pernicious principle. I therefore maintain, Sir, that it will be unwise, it would be extremely detrimental to the growth of India as a nation, as a united strong and progressive nation, that this principle should be recognized and adopted in the administration of municipalities. We were going on very well indeed before the application of this principle of communal representation, and I do maintain with all the emphasis that I can command that in the interests of our country it is desirable that this pernicious principle should not be extended to municipalities. Let us be content to have the principle applied to the provincial and Imperial legislative assemblies. Let us be content with that. But in our civic institutions let us not be influenced by these communal considerations and by this principle of communal representation. Let us act together as members of one single body irrespective of any race or community. Let us see that no communal considerations will in the least degree interfere with the administration of our municipalities. I do say, Sir, that this is a vicious principle. It is a principle which we have been able to accept as only a sort of compromise in the peculiar conditions of this country; but let us not extend it and let us not in any way impair our national solidarity, by introducing it into the administration of our civic affairs. With these words, I beg to move my amendment.

Question proposed.

Mr. A. N. SURVE (Bombay City, North): Sir, I am very glad to see a change in the honourable member from Nasik. Sometime ago he was so very staunch that he would not accept communal electorates even in the case of the depressed communities. Now, at least in the case of these classes he has progressed in the right direction. (Hear, hear.) Sir, what is true in the case of the depressed classes is equally true in the case of the minorities and the backward classes. (Hear, hear.) It was only this afternoon in answer to a question which I had asked about the Ratnagiri district that this House is now in possession of information that out of 94 posts carrying postal allowance Mahomedans get only two (shame, shame), non-Brahmins get 13 and seventy-nine go to Brahmins (shame). Sir, are we living in a perfect and an ideal world? The world as it is based on selfish interests. We must take the world as we find it, not as we wish

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it to be. (Hear, hear.) Certainly if justice were to be dealt even-handedly I do not think that anybody would have defended the communal electorates. But when justice is denied to the masses, illiterate masses, the masses who are the chief contributors to the finances of these municipalities, then the question arises whether the rightful masters should be kept out. I myself would very devoutly wish for that time when the communal electorate system should be altogether done away with, but at present can we do that? That is the question. When the time comes I shall be the very first man to move an amendment that the communal electorates are no more necessary now and let us do away with them. But as the matters stand to-day, I think that these communal electorates must be kept alive for some time, otherwise the masses will never get that education of democratic institutions which it is necessary that they should possess. If you want Swaraj do not keep out the masses, take the masses with you, recognise their rights and you will find that India or the Bombay presidency is not divided in its own house. (Hear, hear.)

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President, my honourable friend the mover of this amendment is like the Bourbons who has learnt nothing and forgotten nothing during the last fifteen years. He is repeating the arguments here which had been used by certain liberals before the Minto-Morley Reforms. His own leader the late lamented Mr. Gokhale himself came round to the Moslem opinion because he was a progressive man and not retrogressive like the honourable member who has moved this amendment. He was a statesman, he wanted Mahomedans to join the Hindus, he wanted them to be satisfied. He said though in theory it was wrong as a matter of expediency and statesmanship it was right that the Moslems should have separate representation. Sir, the honourable mover comes forward and says that Hindus and Mahomedans are divided—God forbid!—because of this legislation. Were they united before this legislation? Indeed it was this separate register which removed the cause of friction and made them united (hear, hear), and that was admitted by the late Sir Pheroza Shah Mehta himself. You, Sir, were the first to come forward in this legislative council to introduce this element and to support it, and I know Sir Pheroza Shah Mehta who was your own leader was rather angry with you for advocating this cause, but he was reconciled to the view which you, Sir, took and he himself admitted to me that he was not aware that the Mahomedans after the grant of that concession would work so heartily with the nationalists. What does it matter by what door we come to this council so long as we are united in doing our respective duties here? The honourable gentleman as I told him the other day was ploughing his lonely furrow of liberalism in this house. He is not even a good Swarajist. At least the Swarajists have progressed in this direction but the honourable member stands where he stood fifteen years back. He says Mahomedans have set a bad example in asking for a separate register. Well, Mahomedans showed their wisdom and now it is acknowledged by all minorities that that was the right thing to do. The non-Brahmins who form the masses, have approved of the Moslem movement.

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They are the men of the future. Let him remember if he has forgotten that, Sir, at one time the question of reforms was only for the educated classes, not for the masses. The privileges which the educated classes enjoyed—for instance the monopoly of posts, the monopoly of places in the council and so on—they do not want to part with. The new communities are jealous of their rights. Hence the trouble between the Brahmins and the non-Brahmins. But the honourable mover of the amendment has not yet fully realised the pith of the question. He says “Do away with communal representation and then there will be unity”. If he guarantees unity under this condition, I am ready to do away with it. Leave off the Moslems. Would he guarantee unity between the Hindus themselves? What is the use of talking thus of going back and putting back the hands of the clock of these last 20 years? I assure you, Sir, that no Mahomedan who has come here by election is less desirous of winning Swaraj at the proper time or less zealous about it than anybody else here. But why refuse us our rights or deny us the method of election which we prefer? It is too late now in the day for honourable members to say “Oh, no; there should be no communal representation”. That time is now gone. The honourable member knows very well that the other day a prominent Swarajist himself announced that nationalism will come through communalism. I do hope therefore that arguments like this will not be heard in this House any more. We want our own share. And if other communities declare that they do not want to interfere with our interests, then why should they mind the method of election adopted by Mahomedans to secure their real representations? I remember very well, Sir, the time when you put the question in the Legislative Council some 12 years ago as to what was the elected element of Mahomedans in the local bodies, and a table was supplied to this House which opened the eyes of Moslems. Before separate electorates, we were being nominated, in all local bodies because we could not get elected. In this city of Poona, as I said the other day, from 1884 till comparatively recently, till about four years ago, not a single Mahomedan was elected in this enlightened city of the Peshwas. So with what face can the honourable member say that we are going to take a reactionary step? How many Mahomedans did they elect at other places? Almost none, Sir, there was nothing to prevent the Hindus to elect competent Mahomedans. They never elected any. From 1885 till the year 1909 or 1908 we had to rest satisfied with nomination. No justice was done to us. Therefore, because we did not get our share, we came forward and reluctantly demanded separate communal representation as the only method for securing our due share. And let me remind my honourable friend the mover of the amendment that in this very Council the honourable Mr. Gokhale admitted that nomination was a bad method of getting representation. He said if a time would come when instead of getting nominated seats the Mahomedans would like to have those seats by election, he would have no objection whatever. And I remember you yourself at a conference which took place at Allahabad, where the Hindu leader brought forward the same arguments as are brought

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forward to-day here, silenced them by sound arguments to the contrary. I know very well Mr. Gokhale himself said "We are not jealous of the rights given to Mahomedans". If they want their own men by election instead of by nomination, why should there be any objection? Does the honourable mover prefer nomination? Is not representation by election through separate electorates better than nomination by Government? The millennium when there will be all unity when separate electorates and communal representation would not be necessary has not yet come. When it comes, certainly we shall be all happy and there will be no communalism: The Brahmins will not then have 87 per cent. of the posts instead of 3 per cent. But it depends on the honourable member himself to hasten the advent of that time. Let him endeavour to increase the speed and we shall support him. With these words, I beg respectfully but strongly to oppose the motion.

Mr. NOOR MAHOMED (Hyderabad District): Sir, if the honourable member from Nasik had come forward and had openly said "I have got the power, I want to retain it", I could have understood it and I would have honoured him, for that statement, but when under the cover of Swaraj and patriotism, he attempts to rob us, Mussalmans, of our rights and wants to take away the only protection we have of sending a few representatives of our choice on municipal boards, I must protest against his attack. The honourable mover's arguments are an insult to the intelligence of this House. Sir, there is in front of me the honourable member the Revenue Secretary. He was collector in Hyderabad and he can from his own experience speak of the poor representation of Mussalmans in Hyderabad municipality before we got separate representation. Even in a place like Hyderabad, which was the capital of Mussalman kings for many centuries, Mussalmans could not get proper share of representation until separate electorate was given to them. If that could happen in Hyderabad and in all the other towns of Sind, in which province Mussalmans are not in a small number, what must have been the condition of Mussalmans in other places where my friends, the advanced classes of Hindus will not and do not give proper representation to their own brothers, their own kith and kin—the backward and depressed classes? How can we, Mussalmans, put faith in the advanced Hindus when they will call their own people, the untouchables for instance, 'brothers', merely to extract votes from them. When the caste and advanced Hindus will take votes from 'untouchable brothers' with nothing better than a pair of tongs, I refuse to believe in the affection of the Hindus for the Mussalmans until they change themselves in such a manner as to inspire the confidence of those martial races of Hindus who have fought battles for them in the past and preserved for them their freedom. The caste Hindu has remained all along at home, it is the Maratha who has fought his battles. And, Sir, what is happening to-day all around us? We should take a lesson from it. We should take a lesson from Lahore. Because a tolerably good number of Mussalmans have come in that municipality, because Hindus failed to come in, in the same numbers as they used to do in the

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past, they do not want to have anything to do with their municipality, they have non-co-operated with their own countryman ! Why ? because some more Mussalmans have come in there ! Is that a fair attitude ? Wherever the Hindus do not come in, in a majority, and do not have their own way, they generally follow the policy of non-co-operation. My friend, the honourable member Mr. Pradhan, says if Mussalmans continue to have separate representation, social relations between Hindus and Mussalmans will become strained. Social relations for the vote ! If I do not vote for and send in my representatives of my own choice in elections to protect my particular rights, I am his friend. But if I do not do that, I am his enemy—at least not his friend ! Friendships, social relations which depend merely on the giving of a vote are not friendships nor social relations. I am glad the honourable member Mr. Pradhan has not taken his stand to-day upon 'Political friendship'. Last time, we had the pleasure of hearing in this honourable House that there would be no Swaraj because there would be differences in the legislatures between Moslems and Hindus on account of the system of separate electorates, that there would be no harmony. At that time I said that if Hindus inspire confidence among the Moslems, Moslems will co-operate wholeheartedly with Hindus just as they did and are doing in Bengal. In that province, we have seen, how wholeheartedly Mussalmans stood by the late Deshbandhu Das, though they were returned by separate electorate. They trusted him, they had confidence in him, they knew that their interests were safe in his hands and they followed him. I was however grieved to hear a Hindu 'Nationalist' of this Presidency, occupying a very responsible office in a Hindu Maha Sabha, provincial branch, openly saying that the late Deshbandhu Das was only 'playing' with Moslems, that he was not true nor sincere in his solicitude for the Mahomedan interests. I, a Muslim, still refuse to believe in that charge. I consider the accusation, though it comes from a Hindu to be a great calumny on the memory of that great man. He trusted Mussalmans and so did Mussalmans trust him. Hindus may well consider the point that we in the Bombay Presidency are a small minority and we shall never be a majority. No one need therefore fear of any Moslem domination. Therefore I really do not see the point in the anxiety of my honourable friend from Nasik to deprive us of the chance of returning representatives of our own choice. The present time is not suitable for us to give up separate electorates. In fact in the interests of Swaraj, in the interests of democracy and patriotism, if the honourable member for Nasik really wants Swaraj, he should willingly give proper share of representation to even those of the Hindus to whom it is at present denied and should not grudge us the chance of returning those in whom we place confidence. We want Swaraj as much as advanced Hindus want ; and my friend therefore need not be worried over it. We want social relations also to ripen, but all that on the basis of equality of treatment. Separate electorates cannot hinder the advent of Swaraj, if only the politically minded Hindus do not wish it to be hindered.

Mr. R. D. SHINDE (Nasik District): Sir, I believe the last speaker has given only the right reply to the amendment moved by my honourable friend from Nasik (Mr. R. G. Pradhan). The honourable House will by this time have noticed that my honourable friend Mr. Pradhan is apt on some occasions to be an idealist and to forget the hard facts which face us at present. It is all very well for him to say that before the principle of communal representation was introduced we were all getting on well. I do not understand what he means by "our getting on well" except this that the advanced communities had the monopoly and the masses including the Mahomedans have had no share in the public services or in the Legislative Councils or in the local bodies. But as has been pointed out by the honourable member Moulvi Saheb, since the awakening of the Mahomedans and the backward Hindu classes, they are trying to get their proper share in services as well as in the representative bodies. If this is said to be going against the grain of nationalism (I must say, it is not) I have no hesitation in telling the honourable member from Nasik that I am as much a nationalist as any other nationalist member in this House, and for the matter of that I say that the present nationalism is the worst kind of communalism dressed up for show. He may say that the backward classes movement was getting recognition before the present awakening. I do not agree. The present awakening among the backward classes is contributing more to the welfare of the country than used to be the case before the days of communal representation. There is such a divergence between the manners, the ways of living, the aspirations, the interests of the backward classes and those of the advanced classes that I think some allowance must be made for some time to come for giving the backward classes their due share in the public services as well as in the public bodies. It is all very well for the honourable member from Nasik to say that there will be a time when all these communal differences will end, but as far as matters stand now I do not think this is the time when my honourable friend from Nasik should make any attempt to do away with communal representation. It may be that 15 or 20 years hence the necessity for communal electorate will vanish and therefore I think that in the best interest of the country he should withdraw his amendment.

Mr. R. G. PRADHAN (Nasik District): Sir, I regret very much indeed that some of my honourable colleagues have imported heat and acrimony into the discussion of this question. Was it not possible for honourable members to approach and consider this question in that dispassionate spirit which I expected from them? I was not at all surprised at the extremely vehement attitude which my honourable friend Moulvi Rafiuddin maintained while speaking on this subject, because if there is one characteristic of my honourable friend Moulvi Saheb, it is vehemence; he is nothing, if not vehement. He has once again reiterated a remark which he has made in this House, that I am ploughing the lonely furrow of liberalism. Let me tell him in perfect candour that I am not at all afraid of ploughing my lonely furrow of liberalism. I am not one of those who are afraid of being in a minority, even in a minority of one, and I feel confident that the time will come when this minority of one

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will become the majority. Therefore I am not at all afraid of being in a minority. The honourable Moulvi Saheb tells me that I am ploughing my lonely furrow of liberalism. Yes, I am ploughing my lonely furrow of liberalism, and I will continue to do so as long as my electorate reposes confidence in me, as long as I possess their confidence I shall not be in the least afraid of ploughing my lonely furrow of liberalism.

The honourable member referred to some of the distinguished leaders of liberalism. He has referred to the late Sir Pherozechah Mehta; he has referred to the late Mr. Gokhale; he has referred to the late Mr. Ranade. I thought from the references which he made to those distinguished names and the contrast he attempted to make in order to damn me, that he wanted to show what sort of a man I was to come forward and condemn the principle of communal representation. I ask him this question categorically; will he point out any single case or single occasion or a single speech in which those great stalwarts of liberalism had supported or advocated the extension of the communal principle to local bodies. I challenge him to point out that. I ask him to point out a single speech, or a single utterance, or a single statement in the press made by either the late Sir Pherozechah Mehta or the late Mr. Gokhale in support of the view that they advocated or supported the extension of this principle of communal representation to local bodies. It is quite true that they were in favour of communal representation in the Provincial and Imperial Legislative Councils. It is quite true—and none were more anxious than the late Sir Pherozechah Mehta and the late Mr. Gokhale to bring about harmony and unity between these two great communities—it is quite true that they were in favour of the application of the principle of communal representation in the case of elections to the Provincial Legislative Councils and the Imperial Legislative Council, though, wise men as they were, sensible men as they were, capable as they were of looking at this question from a broad national point of view, they took the view that it was an evil; and they looked forward to the time—not to a distant time—when the consensus of public opinion, Hindu and Mahomedan public opinion, would be in favour of eliminating this principle of communal representation even from the elections to the Legislative Councils. But, Sir, I am prepared to concede that they did hold the view that so far as elections to the Provincial and the Imperial Legislative Councils are concerned there should be this communal representation for the Mahomedans. Well, but what has been my view also? Have I not, at the very beginning, made it clear that so far as that question is concerned, no attempt should be made to do away with it? Did I not, on the contrary, even go to the length of saying that if anybody came forward with a proposal that the existing arrangement as regards elections to the Provincial and Imperial Legislative Councils on the basis of communal representation should be done away with, I would be the first to oppose that proposal? What I say is this, and I do maintain, and I will continue to maintain and hold the view, though a single and solitary voice it may be, that the application of the principle of communal representation to local bodies is a vicious principle,

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is an injurious principle, that that principle should not be extended to local bodies. I ask my honourable friend Moulvi Saheb where have I departed from the principle of liberalism? In what way, have I abandoned my lonely furrow of liberalism in saying that communal representation should not be introduced into local bodies? He tries to draw a contrast between those great leaders and myself. They were great men; I am not worthy even to touch the dust off their feet. But I do maintain with all the emphasis that I can command that, in this particular matter at any rate, I have not in the least departed from the principles which they have advocated, principles for which they worked. On the contrary; I maintain, Sir, I am following their principles in urging that in the interests of this country in order that this country should progress, should be united and strong, it is necessary that this principle of communal representation should not be extended to local bodies. Sir, I have no desire to return vituperation for vituperation. I have no desire at all to make any personal attacks on anybody. I leave it to my honourable friend Moulvi Rafiuddin Ahmad, and to my honourable friends on my left to indulge in any kind of personal attack or vituperation they like, simply because I have got the courage to give expression to my views. I am aware, and I have admitted it at the very outset that the question is a controversial one, and if my honourable friends will turn to my minute of dissent, they will see in what conciliatory language, in what reasonable language I have placed my views before the Legislative Council. If my honourable friends will turn to my minute of dissent, they will find that in that minute I have said that I have not the least doubt that the views which my Mahomedan friends share on this question are as honest as my own. Instead of indulging in personal attacks on me, if they had read my minute of dissent, they would have found that I have stated that I feel no doubt that their view is as honest and as considered, as I trust they regard mine. I am afraid, Sir, my honourable friends have not shown me the courtesy of going through that minute of dissent. If they had read it, and appreciated the spirit in which I have placed my views before the House, they would have thought a thousand times before they made personal attacks on me. My honourable friend Moulvi Rafiuddin Ahmad said that I have yet to learn wisdom. I want to make a prophecy, and the prophecy is that time will show which is wisdom and which is—I will not say folly—unwisdom. Time will show that, and time will justify the plea that I am making to-day. Time will show that those who are calling me names and making personal attacks on me to-day, are lacking in wisdom on the subject.

Well, Sir, I will now turn for a minute to the speech made by the leader of the non-Brahmin party. He said that I have changed my view at least to the extent of conceding special representation for the depressed classes, and he said that time was when I was even against giving special representation to the depressed classes. May I ask him, when I said so? Will he point out any speech which I have made either in this Council or outside where I have expressed myself hostile to the grant of special representation to the depressed classes? Sir, on the

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contrary, my views on this question have all along been consistent. They are old, they are not new. I held these views not recently, not even since the time of the introduction of the Montagu-Chelmsford Reforms, but since the introduction of the Morley-Minto Reforms, and I would ask my honourable friend the leader of the non-Brahmin party to point out a single utterance of mine where I have said that special representation should not be given to the depressed classes. Sir, the case of the depressed classes is peculiar. They stand in quite a different category of their own, and to place the Mahomedans and—I beg the pardon of the non-Brahmin members—some of the backward Hindu classes on the same level as the depressed classes is, if I may repeat the words of my honourable friend Mr. Noor Mahomed, insulting the intelligence of the House. Really, do these two communities stand on the same level? Are the Mahomedans and the Hindu backward classes as forward or as backward as the depressed classes? Putting the backward classes on the same level as the depressed classes will be a very clever attempt to mislead or confuse the issues; but a sensible man who understands this problem will in no way be misled by placing these classes together on the same level.

I shall now turn to my young friend and colleague from Nasik, whose speeches I have always liked and appreciated and who, I hope, will one day occupy a seat on the Government benches. In spite of all his hostile criticisms he knows how sympathetic I am to the backward communities and to their aspirations. Some honourable members seem to think that I belong to the orthodox Brahmin community. I am neither an orthodox Brahmin nor a Prabhu.

Mr. NOOR MAHOMED: An advanced Hindu.

Mr. R. G. PRADHAN: Well, so far as I am concerned, I observe no caste distinctions. I am not prepared to describe myself as a Brahmin, a non-Brahmin or a Prabhu. So far as I am concerned, in all my relations, public or private, I have never recognised caste or communal differences.

Mr. L. J. MOUNTFORD: Is that in order, Sir, on this amendment?

The Honourable the PRESIDENT: The honourable member is relying to vigorous speeches made against his amendment. Strictly speaking the speech is a bit too long and irrelevant. But I am inclined to extend some indulgence to the honourable member.

Mr. R. G. PRADHAN: Thank you, Sir.

I shall now conclude my remarks. Divest the question of all the irrelevant matter and all the passion which some speakers have imported into the discussion; I am glad to find, and I acknowledge it with the greater pleasure, that there is a general recognition of the fact that communal representation is an evil. I believe we are all agreed on that point (Some honourable members: No, no.) If there is any doubt about it let me remind honourable members, particularly the Mahomedan members, of the speech of a Mahomedan member of the

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Madras Executive Council—I am sorry I have not got an extract of the speech, because I never expected that my turn to move the amendment would come so early—that Mahomedan countryman of ours expressed the view that, if India was to progress she must give the go-by to the communal electorates. That is the view expressed, not by a Brahmin, not by an orthodox Hindu, not by a selfish Brahmin, but by a Mahomedan. I am perfectly sure that there are many such Mahomedans who hold this view. We are there agreed that communal representation is an evil. My young honourable colleague from Nasik has called me an idealist and says that in 10 or 15 years, communal representation will be dispensed with. Yes, I am an idealist; but my idealism is illumined by a sense of realism. I hold that we should idealize the real, and realize the ideal. My young friend would be better for a little bit of idealism.

The Honourable the PRESIDENT: The honourable member has not kept up the promise which he made a few minutes ago to conclude his remarks soon.

Mr. R. G. PRADHAN: He says that 10 or 15 years hence the communal representation will disappear. If honourable members are prepared to agree to that view, let them at this very moment set a time limit to the introduction of this principle of communal representation, so that it will expire after that period. I trust that when my next amendment comes upon this particular question, I will have the support of all my honourable friends. But communal representation will never disappear by stereotyping it.

Sir, I have nothing more to add. I feel quite sure that I would have had the support of the members of the Swaraj party, if they had not from their point of view, decided to refrain from taking part in the Council proceedings. And then my honourable friend Moulvi Rafiuddin would have realized that on this question at all events I am not ploughing a lonely furrow, but that I have the fullest support of every member of the Swaraj party. In conclusion I wish to emphasize that time alone will show the wisdom or folly of the principle underlying my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I assure my honourable friend that I have carefully read his minute of dissent, and I admire the spirit in which he has approached this question. I have heard with great attention his vehement denunciation of the principle of communal representation. He characterised it as a pernicious evil; but in the same breath he says that so far as the councils are concerned the principle should be retained. In the first instance he introduces it for the depressed classes. For the first time in the history of this country, he wants to apply this principle to the depressed classes which have never enjoyed it before. My honourable friend is blowing hot and cold. If it is given to the depressed classes, why should it not be given to the Mahomedans? He might say that members of the depressed classes and the backward communities are not elected and therefore

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it is necessary. I can assure him that before communal representation was introduced, Mahomedans were not elected in a city like Hyderabad, which was the capital of Sind and where for centuries Mahomedans formed one-third of the population. Not a single Mahomedan was elected there, and the honourable member Mr. Thomas, the Revenue Secretary and the then Collector, was obliged to nominate them. Now, let us consider the history of this united demand from the Mahomedans for communal representation whether in the local bodies or in the Councils. When they found that their brethren, the advanced classes, who were also the educated classes, never returned them to the Councils and to the local bodies they were obliged to make a demand for communal representation. Honourable members will excuse me for saying that the fault lay with the advanced classes. Had they returned even a few Mahomedans, the Mahomedans would never have had the courage to come forward and ask for communal representation, for then they would have been told "Here is an example. So many Mahomedans are elected. How can you ask for communal representation now"?

Then my honourable friend complained that it is only due to communal representation that there have been factions and divisions in the municipalities. I would argue the other way. Communal representation has made for good-will and union among the people. It was the absence of such representation that created bitterness in the minds of the Mahomedans. When there was not a single Mahomedan in the local bodies when any resolution was passed, the Mussalmans decried it and said that it was passed by a municipality of only one community who were doing what they liked. Now, Sir, according to the system of communal representation, the Mahomedans will be returned according to their population. They will, however, be in the minority, and it will be the other communities that will be in the majority. But the Mahomedans will have the satisfaction of being represented on the local bodies by their chosen representatives. If anything goes wrong now, the other communities can tell the Mahomedans: "You are represented. Whatever you asked us we gave you: we cannot give you more than is due to you. If your members do not support you we cannot help it".

Then, my honourable friend said that it was against the national interests. My honourable friend will agree with me that the local bodies are the best training grounds. The best publicists have been those who have been good members of the local bodies. Now, Mahomedans are an important community in India. In fact the two main communities in the country are Hindus and Mahomedans. Now, if we desire that the whole country should advance, then it is necessary that every community of that country should advance together. If an important community like Mahomedans do not get elected to the local bodies—they do not get elected through mixed electorates and without communal electorates they will never get elected—they will get absolutely no training. Without any training at all, our people cannot be fitted for higher national service. What will be the interest of the Mahomedans in the fate of the country? Will it matter to them whether India gets

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Swaraj or not? The salvation of India lies in the uplift of Mahomedans and backward communities. If they are not helped forward they will be merely drags on the progress of the country. We must not shut our eyes to facts: we must face facts as they are. Is it not a fact that the Mussalman community requires some representation on the municipalities and local boards when those bodies deal with such important questions as education, sanitation, public works, and the like? Moreover, as I have already told you, it imparts a sense of satisfaction and security to them in that they know that they have their own representatives to watch their interests. I hope therefore the honourable House will oppose this amendment.

Question put and lost.

Mr. R. D. SHINDE (Nasik District): Sir, I beg to move the following amendment:

In clause 9 (1) (c), delete the words "non-Mahomedans and depressed classes" in line 6, and substitute the following:

"backward Hindus, depressed classes and other non-Mahomedans."

It will be seen from the bill as it has emerged from the select committee that some improvement has been made by the select committee by recognising the claims of the depressed classes for some seats in the municipalities. Thus the electorates are divided into two: Mahomedan and non-Mahomedan, and some seats are reserved for the depressed classes. I may submit that if the claims of the Mahomedans are recognised for special representation, the claims of the backward Hindu communities should also weigh to the same extent with this honourable House. I submit that after the interesting discussion we had on the last amendment, the House does not require any words from me to convince it that the backward Hindu communities have a very good claim for special representation on these bodies.

There is one more circumstance which should weigh with this honourable House as regards granting special representation to backward Hindu communities in municipalities. In the local boards, it is true that the backward Hindu communities are in a majority as members, but in the municipalities, even though their voting strength is as strong as in the rural areas, still the influence of the advanced classes over the backward communities, both by way of religion and by way of capitalistic domination, is such that hardly any members from those communities have been returned. I may quote the instance of Bombay. It is notorious that in a city which is populated to the extent of 6 to 7 lakhs of non-Brahmin backward Hindus, only two members get elected as against so many members of the advanced communities who go in by election. The honourable House, therefore, should make some provision for the backward communities so far as municipalities are concerned.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I am quite in sympathy with the amendment, but I am sure when I place the facts before the Council the honourable members belonging to the honourable mover's community will ask him to withdraw this

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amendment. This bill is going to be applied to the major municipalities such as Poona, Ahmedabad and the other big cities which are shown in Schedule No. 1. The honourable mover himself admitted that they have a majority in these cities, and that their voting strength is great. Now, Sir, suppose I accept this amendment and give the Marathas seats in proportion to their population, all the seats will be taken away by them, because they form the bulk of the population, and under the bill their voting strength will be very great. If we give them less, I am afraid, Sir, my honourable friend will complain that they have not got their due share. I must say, Sir, this bill, which gives an owner or an occupier of a house the annual rental value of which is rupees twenty-four, will give every Maratha voter a vote. It will also give a vote to everyone who pays any tax to the municipality. I think the fears of my honourable friend are groundless, and he is doing great disservice to his community. Even in the last election which took place under the old electoral rules, a very large number of Marathas in the city of Poona were returned, and after this wide franchise they will sweep the board. (Moulvi Rafiuddin Ahmad : What is the wider franchise ?) Two rupees. Every owner or tenant of a house, the rental value of which is two rupees, and all other payers of taxes to the municipalities have a vote. And then there are other amendments such as the one for reducing the franchise to the occupation of a house of the rental value of one rupee per mensem, and those amendments are left to the decision of the House. I hope therefore my honourable friend will withdraw this amendment.

Mr. A. N. SURVE (Bombay City North) : Sir, the amendment I think is the outcome of some bitterness and disappointment. I think the honourable Maratha member from Nasik Mr. Shinde has made it quite clear in his minute of dissent and his argument is this. He says : " I must say that the Mahomedan members have treated us badly in this respect. When the question of doing away with separate representation in the local bodies to the Mahomedans was discussed we all supported the Mahomedans, but to our surprise we find the Mahomedans voting against us in a matter which in no way affect their representation". I think perhaps the amendment is the outcome of this feeling. So far as we are concerned, I think the proper attitude we should take in this matter is not of retaliation. Of course, we must always protest if we are badly treated and I think that that purpose is served by his moving the present amendment. We are fighting for justice and though not to-day in course of time our rights will come to be recognized. Therefore why go on making retaliatory attacks. I think that is not quite fair. Therefore I would request the honourable member from Nasik that he should seriously consider whether he should press this amendment. Personally I should appeal to him that his object is served and in the interest of preserving unity in this House the pressing of this amendment will not be quite desirable.

The Honourable Mr. B. V. JADHAV : Sir, I had no intention of taking part in this debate but I find that a question has been raised which I

[Mr. B. V. Jadhav]

should not allow to be considered in the way it has been placed before this House. The backward communities, Sir, are very large in number and it is very hard for them to get their proper share under existing circumstances. But I beg to submit to this House that the remedy suggested by my honourable friend from Nasik will not exactly meet the situation and may in the long run cause a good deal of harm to the backward communities themselves. Our salvation lies in organisation and in democratising the franchise. If the franchise is lowered and every man that is entitled to a vote is brought on the register and the leaders of the backward communities take proper steps to bring every elector to the poll, then, I think we shall gain our due share and it may be for the other communities to ask for communal representation. So let us gird up our loins and take full advantage of the facilities that are offered to us under this bill and ask for lowering the franchise further and then do our duty by the electorate and by the community for whose interests we have been returned here. I think as requested by my honourable friend from Bombay the honourable mover of this amendment will withdraw it.

Mr. R. D. SHINDE (Nasik District): Sir, as I have been tilling a lonely furrow I beg to withdraw my amendment.

Question put and leave refused.

The amendment was put to the vote and lost.

The Honourable the PRESIDENT: The House will now adjourn to two o'clock to-morrow, Friday the 23rd October 1925.

23 Oct. 1925]

Friday, the 23rd October 1925.

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Friday, the 23rd October 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present:

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
ABDULPURKAR, Mr. N. A.
ADDYMAN, Mr. J.
ADWANI, Mr. D. B.
AHMAD, MOULVI RAFIUDDIN
ANGADI, Mr. S. N.
BAPTISTA, Mr. J.
BEDREKAR, Khan Bahadur I. M.
BHOPATKAR, Mr. L. B.
BHUTTO, Khan Bahadur S. N.
BOLE, Mr. S. K.
BUNTER, Mr. J. P.
CHAUDHARI, Mr. L. S.
CLEMENTS, Mr. E.
COOPER, Khan Bahadur D. B.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DALVI, Mr. B. K.
DEHLAVI, the Honourable Mr. A. M. K.
DELVES, Mr. R. H. A.
DESAI, Rao Saheb D. P.
DEV, Mr. S. S.
DIXIT, Dr. M. K.
FERNANDEZ, Dr. COSMAS
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
GRANTHAM, Mr. V. A.
GUNJAL, Mr. N. R.
HAMID M. ABDUL ALI, Mr.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HOSSACK, Mr. W. B.
HOTSON, Mr. J. E. B.
JADHAV, the Honourable Mr. B. V.
JAYAKAR, Mr. M. R.
JEHANGIR, the Honourable Mr. COWASJI
JOG, Mr. V. N.
JOSHI, Mr. P. G.

KALBHOR, Mr. G. M.
 KAMBLI, Mr. S. T.
 KANGA, Mr. J. B.
 KAZI INAITULLAKHAN
 KETHRO, Mr. M. S.
 KOKANI, Mr. G. J.
 LALJI NARANJI, Mr.
 LALLJEE, Mr. HOOSEINBHOY A.
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MCKEE, Mr. W. G.
 MEHTA, the Honourable Sir CHUNILAL
 MEHTA, Dr. M. M.
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUMDAR, Sardar G. N.
 MUKADAM, Mr. W. S.
 NANAL, Mr. B. R.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAHALAJANI, Mr. B. G.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATEL, Mr. G. I.
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. G. B.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOUSENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SARDESAI, Mr. S. A.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. D.
 SHIVDASANI, Mr. H. B.
 SURVE, Mr. A. N.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 VELKAR, Dr. M. B.
 WADIA, Mr. C. N.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order. Questions.

TRANSFER OF BACKWARD CLASS TEACHERS.

Mr. S. K. BOLE: Will Government be pleased to state—

(a) whether it is a fact that backward class teachers are transferred to schools distant from their native places;

(b) if so, do Government propose to take any action in the matter?

The Honourable Mr. B. V. JADHAV: (a) and (b) Enquiries are being made.

*Mr. N. R. GUNJAL: I do not put my questions.

Mr. M. R. JAYAKAR: I do not put my question No. 1†.

*The following honourable members did not put the questions standing in their names:—

Mr. N. R. Gunjal, Mr. M. R. Jayakar, Mr. P. G. Joshi, Mr. R. G. Soman, Mr. J. C. Swaminarayan.

†The following question was printed as question No. 1 in the third list of Questions and Answers:—

PUBLIC WORKS DEPARTMENT WORKSHOP AT DAPURI.

1. Mr. M. R. JAYAKAR (Bombay University): Will Government be pleased to state—

(a) What is the cost of the total work done and turned out from the Public Works Department workshop at Dapuri for the last six years, annually?

(b) What is the function of this workshop?

(c) Whether Government in the Public Works Department cannot get their repairs done in private workshops?

(d) What are the qualifications and experience of Mr. C. Holliman, the present executive engineer of the workshop?

(e) What degree or diploma in mechanical engineering does he hold?

(f) if he holds any, is it merely an honorary one, or the result of a competitive test?

(g) in what capacity did he work in England before he came out to India?

(h) What was his pay when engaged as works manager or foreman of the workshop?

What is it now?

(i) is it a fact that Mr. Holliman was found by the Chief Engineer Mr. Kent incompetent and unfit to be the executive engineer of the workshop when the late Mr. Gosford went on leave?

(j) if so, why has he been appointed now as acting Mechanical Engineer to the Government of Bombay in the Superintending Engineer's grade?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: (a) The total turn over of the workshop at Dapuri is as follows:—

	Rs.		Rs.
1918-19	1,32,759	1922-23	1,79,253
1919-20	1,50,625	1923-24	2,13,050
1920-21	1,85,422	1924-25	2,97,344
1921-22	1,52,203		

(b) The function of this workshop is to overhaul and keep in working order Government machinery of all descriptions. Regarding the class of work attention is invited to paragraph 15 of part III of the "Note on the activities of the Specialist Branches" which was distributed among the Members of the Legislative Council in February last.

(c) Yes, but they would not get the service of the surplus Tools and Plant system in vogue at Dapuri. The advantage derived thereby is also dealt with in paragraph 14 of Part III of the 'Note' above referred to.

(d) Mr. Holliman was serving in the shops of Messrs. Worthington Simpson Company. He was one of a small number of apprentices who were carefully selected for training by the firm with a view to being sent to India to take charge of the erection of big pumping machinery and ultimately to fill vacancies on the staff of the different offices.

(e) Associate Member of the Institute of Mechanical Engineers, London.

(f) He was elected an Associate Member of the Institute according to the rules of that institution.

(g) Please see reply to (d) above.

(h) He started on Rs. 425 in the scale of Rs. 425-450-25-550. His present pay as Works Manager is Rs. 1,100 in the grade of Rs. 1,000-50-1,200.

(i) No.

(j) Does not arise.

The Honourable Sir MAURICE HAYWARD: Sir, this question includes insinuations against the conduct of a public officer and ought to be answered in the public interest under Standing Order VI, rule 7.

The Honourable the PRESIDENT: I think that applies. The Honourable the Minister may read the reply.

(The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN then read the reply *).

Mr. M. R. JAYAKAR: I do not put my question No. 2.

Mr. P. G. JOSHI: I do not put my questions.

MAHOMEDANS IN JUDICIAL SERVICE.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state the number of District Judges, Joint Judges, Assistant Judges and Sub-Judges and Nazirs and Clerks of the Courts in each Division of this Presidency and how many of each class are Mahomedans?

The Honourable Sir MAURICE HAYWARD: As regards District Judges, Joint Judges Assistant Judges and Sub-Judges a reference is requested to the answer printed at page 9 of the sixth list of questions and answers in the Bombay Legislative Council, second session 1925.

As regards the Nazirs and Clerks of the Courts, there are three Mahomedans out of one hundred and seventy-three Clerks of the Courts and Nazirs in the Presidency proper and ten out of forty in Sind.

Khan Saheb A. M. MANSURI: Do Government think whether the number of Mahomedan nazirs and clerks, namely, 3 out of 170 is sufficient?

The Honourable Sir MAURICE HAYWARD: It is not in accordance with the proportion recently laid down by Government.

Khan Saheb A. M. MANSURI: Are Government aware that there are clerks who have put in more than 20 years in the district court of Ahmedabad quite fit to take up the post of clerk of the court and nazir but have not been taken on in those posts?

The Honourable Sir MAURICE HAYWARD: I am not aware at the present moment.

MOULVI RAFIUDDIN AHMAD: Would the Honourable Member send instructions again to the District Judges saying that they should see that the orders passed in the Government Resolution are carried out?

The Honourable Sir MAURICE HAYWARD: I have no reason to suppose that the orders are not being carried out. They have been specially brought to the attention of all officers.

* *File second footnote on last page.*

Khan Saheb A. M. MANSURI: Will the Honourable the Home Member find out from the district court of Ahmedabad whether there are not Mahomedan clerks there quite capable of holding the posts of clerk of the court and nazir?

The Honourable Sir MAURICE HAYWARD: I should be glad to do so on a definite question to that effect being put in.

SUPPLY OF MAPS TO INAMDARS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state whether they have ever issued any orders to departments concerned to the effect that maps of inam villages should not be given free of charge to the inamdars concerned for their own use, whenever such maps are revised and printed on any account?

The Honourable Sir CHUNILAL MEHTA: The answer is in the negative. Inamdars like other people pay for the maps if they desire them.

TRANSFER OF MR. S. M. SHETE, TEACHER, LOCAL BOARD SCHOOL, VINCHUR.

*Mr. R. G. PRADHAN (Nasik District): Will the Honourable Minister of Education be pleased to state whether it is a fact (i) (a) that Mr. Shankar Malhari Shete has been working as teacher in the local board school at Vinchur, taluka Niphad, district Nasik, continuously for over ten years;

(b) that the people of Vinchur have made a representation to the Deputy Educational Inspector, Nasik, urging his transfer?

(2) If so, what action has been taken on such representation?

The Honourable Mr. B. V. JADHAV: (1) (a) and (b) Yes.

(2) The teacher in question was not transferred as an enquiry showed that the allegations made against him were baseless. He is reported to have become unpopular because he carried out the orders of Government in regard to the admission of depressed class pupils and succeeded in maintaining a fair attendance when the school was boycotted by orthodox Hindus.

PROSECUTION UNDER THE BOMBAY PROSTITUTION ACT.

Mr. HOOSENALLY M. RAHIMTULLA (Bombay City): Will Government be pleased to state—

(a) how many prosecutions under sections 3, 5, 7 and 8 of Act XI of 1923 have been initiated and,

(b) in how many of these convictions were secured?

The Honourable Sir MAURICE HAYWARD: (a) 43 in Bombay City, 9 and 1 in the towns of Karachi and Poona respectively.

(b) 30 in Bombay City, 9 and 1 in the towns of Karachi and Poona, respectively.

* This question was asked at the meeting held in July-August 1925, when an *ad interim* reply was given.

WATER FAMINE IN SUNAG VILLAGE.

*Mr. S. A. SARDESAI (Bijapur District): Will Government be pleased to state—

(a) whether they are aware that every year the inhabitants of Sunag and other adjoining villages of the Bilgi petha of the Bijapur district experience great hardships on account of the want of drinking water in summer?

(b) if so, do Government propose to take any steps to remove these hardships? If so, what steps do they intend to take?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: (a) It is true that Sunag and neighbouring villages of Bilgi petha are liable to scarcity of drinking water in years of insufficient rainfall.

(b) The question of tapping water by means of water finder and boring is under consideration and the Sunag area will be included in the scheme to be formulated.

GOVERNMENT PRIMARY SCHOOL, VINCHUR.

Mr. R. D. SHINDE (Nasik District): Will Government be pleased to state—

(a) what was the number of boys on the roll of the Government primary school at Vinchur, taluka Niphad, district Naisk, on 1st April 1925:

(b) whether it is a fact that not even one Brahmin boy was on the roll then;

(c) whether all the school panchas appointed by Government were Brahmins;

(d) if so, whether Government propose to take any action in the matter?

The Honourable Mr. B. V. JADHAV: Information has been called for.

Mr. R. G. SOMAN: I do not wish to put my questions.

TIPSTERS' ADVERTISEMENTS.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) whether it is a fact that in other countries advertisements in the press by tipsters in connection with racing are prohibited under the provisions of law with a view to discourage betting;

(b) whether they are aware that advertisements are given in the press, and handbills and leaflets are distributed by tipsters in Bombay and Poona which have a tendency to encourage betting?

The Honourable Sir MAURICE HAYWARD: (a) Government have no definite information on the point, except that they are not prohibited in England.

(b) Yes.

Mr. A. N. SURVE: May I enquire if Government possess a copy of the Report on Betting Duty submitted to the House of Parliament?

* This question was asked at the meeting held in July-August 1925, when an *ad interim* reply was given.

The Honourable Sir MAURICE HAYWARD : I cannot say without enquiry. I understand that no report has been submitted.

Mr. A. N. SURVE : My question is whether Government possess a copy of it.

The Honourable Sir MAURICE HAYWARD : I understand that there is no report.

Mr. A. N. SURVE : I have obtained one copy as a loan from the Finance Department (Laughter).

The Honourable Sir MAURICE HAYWARD : I am told it is a copy of evidence taken, not a report.

Mr. A. N. SURVE : May I tell the honourable member that it contains both the evidence and the report together ?

The Honourable Mr. H. S. LAWRENCE : May I reply, Sir ?

The Honourable the PRESIDENT : Yes.

The Honourable Mr. H. S. LAWRENCE : This is a book which was lent to Mr. Surve from the Finance Department. Mr. Surve has not quite fully appreciated what is contained in it. It contains evidence taken by a committee at Home and a draft report which was never submitted to the Government.

Mr. A. N. SURVE : Are Government aware that the publication of race results outside the race enclosure keeps alive illegal gambling in the city ?

The Honourable Sir MAURICE HAYWARD : I should like to have notice of any further questions on this matter.

Mr. A. N. SURVE : May I enquire if it is the intention of Government to prohibit publications of such advertisements ?

The Honourable Sir MAURICE HAYWARD : I think that is a suggestion for action.

TOTALISATOR BETTING.

Mr. A. N. SURVE (Bombay City, North) : Will Government be pleased to give the following information :—

- (1) the unit of stake with the totalisator in the 1st, 2nd and 3rd enclosures at racecourses in Bombay and Poona and also at Karachi if race meetings are held there under the recent license ;
- (2) the highest and lowest dividends given in the respective enclosures during each of the last five years for Win and Place stakes ;
- (3) the percentages of dividends during 1924 given by the totalisator :

at

(a) par and also

(b) above, and,

(c) below par with the unit of stake at the respective enclosures ?

The Honourable Sir MAURICE HAYWARD : (1) Rs. 10, 5 and 3 respectively at Bombay and Rs. 10 and Rs. 5 for the 1st and 2nd enclosures respectively at Poona. In the 1st enclosure multiples of Rs. 10 can be sold in one ticket up to a maximum of Rs. 100.

No license has been issued for Karachi under the Bombay Race Courses Licensing Act.

- (2) } Government has no information on the subject.
 (3) }

Mr. A. N. SURVE : Will Government kindly obtain and supply the information asked for ?

The Honourable Sir MAURICE HAYWARD : I would suggest to the honourable member that he might apply direct to the Turf Club.

STATISTICS REGARDING CERTAIN MUNICIPALITIES.

Mr. A. N. SURVE (Bombay City, North) : Will Government be pleased to give information asked in the following table about the municipalities of Thana, Bandra, Ahmednagar, Jalgaon, Bhusaval, Amalner, Dhulia, Nasik, Poona City, Poona Suburban, Lonavla, Satara City, Sholapur, Pandharpur, Ratnagiri, Belgaum, Dharwar and Bijapur :—

	Hindus.		Mahomedans.	Depressed classes.	Jains.	Lingayats.	Others.
	Advanced.	Packward.					
(1) Total number of population ..							
(2) Total number of voters ..							
(3) Total number of elected councillors.							
(4) Total number of nominated councillors :							
(a) Official ..							
(b) Non-official ..							

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Information has been called for.

Mr. J. C. SWAMINARAYAN : I do not wish to put my questions. (Consideration of Bill No. XVI of 1925—Major Municipalities Bill—resumed.)

Mr. R. G. PRADHAN (Nasik District) : Sir, I beg to move that In clause 9 (1) (c), after the word "Non-Mahomedans", the words "other than depressed classes", may be added.

Clause 9 (1) (c), as honourable members can see for themselves, reads thus :

"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" and so on.

What I want is that this clause should read thus :

"the number of wards to be constituted for Mahomedans, Non-Mahomedans other than depressed classes and depressed classes."

As the clause stands, three divisions are made, namely, one of Mahomedans, the other of non-Mahomedans and the third of depressed classes. The words, as they stand, would mean that the depressed classes are not Mahomedans—of course, they are not—nor are they non-Mahomedans. In other words, they are other than Mahomedans and other than non-Mahomedans. They are neither Mahomedans nor non-Mahomedans. I submit that that is wrong. Certainly, the depressed

[Mr. R. G. Pradhan]

classes are non-Mahomedans and, therefore, what I suggest is that this clause should read "Mahomedans, non-Mahomedans other than depressed classes and depressed classes". That is a simple amendment and I do not think there can be any difference of opinion on it.

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I rise to correct my honourable friend with regard to the statement he has made that there are no depressed classes who are Mahomedans. That, Sir, is a very serious misrepresentation, because in Khandesh there are the Tadvis who are Mahomedans and a depressed class, and there are also some Bhils who are Mahomedans. Therefore, to state categorically that there are no Mahomedans among the depressed classes would be not a correct statement of the fact. I therefore hope that my honourable friend will not insist upon his motion.

Mr. L. S. CHAUDHARI (East Khandesh District): Sir, a reference has been made to Tadvis and other people like the Bhils in East Khandesh. The Bhils in East Khandesh are not Mahomedans; they follow certain customs of Hindus, and they are generally known as Hindus. The Tadvis are known definitely as Mahomedans, but no Bhils are Mahomedans. I only wanted to give correct information to my honourable friend.

Mr. R. G. PRADHAN (Nasik District): Sir, my honourable friend Moulvi Rafiuddin has been specifically answered by my honourable friend from East Khandesh (Mr. Chaudhari). But in connection with the point which my honourable friend Moulvi Rafiuddin Ahmad has raised, there is another point to be taken into consideration. Assuming that there are certain people who are depressed classes and at the same time Mahomedans, certainly they would get representation as Mahomedans. This expression "depressed classes" is obviously used for those who are not Mahomedans and yet are depressed classes. So, I do not think there is any substance in the point raised by my friend Moulvi Rafiuddin Ahmad.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I understand that there are depressed classes among the Hindus, Mahomedans and Christians, and we are giving them representation without taking into consideration their religion. The object is to uplift these depressed classes without any consideration of religion. If that is the object—and that was indeed the object of the select committee—to give representation to the depressed classes whatever religion they may belong to, then, Sir, the present words in the bill should be retained. I therefore oppose the amendment.

Question put and lost.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move the amendment standing in my name, which reads as follows:—

"In clause 9 (1) (c), line 10, add the following words:

'comprising of the backward and intermediate Hindu and other communities' after the words 'non-Mahomedans.'"

[Mr. A. N. Surve]

Sir, the object underlying this amendment is to give reservation of seats to the backward and other communities who generally obtain very scanty or no representation. The experience of the past many years in this respect is very disappointing. It is always found that the backward communities are always shut out, and in this connection I think the statement made by the Honourable the Minister for Local Self-government has a peculiar appropriateness. When the Local Boards Bill was introduced in this House in the year 1922, he stated as follows :

“ By nomination Government experts must come in to guide the local boards which are in their infancy. Then we want men by nomination as they may not like to stand for election under the widened franchise. There are then a large number of minorities, such as the Parsis, Indian Christians, backward classes, untouchables, Jains, Marathas, and so forth who will have to be represented. This difficulty will increase as we go on increasing the elective element in these local bodies.”

I have quoted this passage for two reasons. The first is that the Honourable Minister himself admits that the backward communities are the minorities, that is, though they are very large in number and though they form the masses, still so far as representation is concerned they are treated as minorities. That is one point. Another point is that till now these communities were provided for by Government under their power of nomination. Now, we find that in the year 1922, when the nominated element was not reduced, Government found it rather difficult to give representation by nomination to all the minorities. Under the present bill Government is going to divest itself of its powers of nomination still further. Under the existing Act, Government have the right of nominating half the total number of members on a municipality ; out of this half, one-fourth are officials and the other one-fourth are non-officials. So, the non-official members which Government can appoint now are only one-fourth of the total number. Under the present bill, this power is going to be curtailed so as to make it one-tenth. From one-fourth to one-tenth is a very big jump. If, when Government have the power of appointing one-fourth of the number as non-official members, they find it difficult to arrange for all interests, will that difficulty be increased or diminished when that power is reduced to one-tenth ? My suggestion is as follows : Government have the rule-making power. The rules will not be embodied in the Act itself ; they can be changed and altered as circumstances require. If experience will show that the backward communities are left out, is it not the duty of Government to protect those who form one of the minorities ? I am sorry to see that the step taken by Government in curtailing their power of nomination is very detrimental to the interests of the minorities. Government is the protector of all—not only of the majority. Though Government see that the minorities are not protected, and that nomination is the only means of correcting the vagaries of election yet they propose to curtail their power of nomination still further. Therefore, I suggest that Government should adopt some device by which the minorities will not be entirely at the mercy of the advanced classes.

I am not in favour of retaining the power of nomination in the hands of Government. I have made that perfectly clear in my minute of

[Mr. A. N. Surve]

dissent. I have congratulated the Honourable Minister for the progressive ideas he holds, but at the same time I wish that Government should adopt some means to safeguard the interests of the minorities. It is absolutely necessary to do so. I am against nomination because by that means people in whom electors have no faith and about whom they entertain some amount of suspicion are given representation. Though the power of nomination in the hands of Government is not desirable, they can solve this difficulty by asking the electorates to elect their own representatives after fixing the number of representatives of particular interests. There should be some device to protect the interests of the minorities and they, *i.e.*, the minorities should feel that their rights are safeguarded. That can be done by adopting my suggestion of reservation. If you lay down that a minimum number of a particular community will come in, that will be quite sufficient.

Then I might draw the attention of the Honourable Minister to the existing provision in the Bombay District Municipal Act. I am referring to section 11 (1) (c) and it reads as follows :

“ Government may make rules consistent with this Act for prescribing the number to be elected by the ratepayers or by the sections of inhabitants.”

I am referring to the latter part, namely “ or by the sections of the inhabitants.” Under the existing provisions of law Government can direct as to how many members the backward communities or any particular community can return. The non-insertion of this clause in the present bill has given rise to great suspicion as to the intentions of Government. I had a discussion on this point with an honourable member of this House and he told me—that is his interpretation and not mine—that the government is purposely divesting itself of this power so that the favoured communities may come in and the other communities may be sacrificed in future, and the only two communities that are favoured are the Mahomedans and the depressed classes. I am quite sure that that gentleman is wrong. But I wish to draw the attention of the Honourable Minister to the charge he lays himself open to. When Government had that power they never used it. At that time the angle of vision was different. The masses were to be kept out from the local bodies and therefore Government never thought it fit to exercise the power of laying down the number of elected representatives of particular inhabitants which they possessed. But now there is a change in the angle of vision and we are going to associate a larger number of people in the administration of local self-government. If you want the masses to come in you must make provision so that they can find an entrance in these bodies from which they are at present excluded.

Our difficulties are numerous. You know that “ non-Mahomedans ” for the purposes of this bill means everybody except the Mahomedans and the depressed classes. Now take for instance the Hindu non-Brahmins. It is a big class by itself ; but it is divided and sub-divided into several castes and between these castes there is jealousy and misunderstanding. Naturally what happens is that if one member from one caste comes forward as a candidate, then another member belonging to another caste also comes out as a rival and competes with the former

[Mr. A. N. Surve]

in the election. As a result of this suicidal competition a member of the advanced community comes in because there is no reservation of seats, and he carries the day. In the case of Mahomedans the case is quite different. There may be several sects among Mahomedans and there may be the keenest rivalry and competition, but the man who will be elected will not be a non-Mahomedan but a Mahomedan. That is not the case with us. If there is a competition between non-Brahmins, the result will be that both these will be defeated in the election and a member of the advanced community will get the benefit of the competition between them and he will be returned. That is our difficulty. I beg to refer to the definition of the Maratha and the allied castes which is given in the Bombay Electoral Rules. Even at present the community denoted by this small phrase consists of 30 castes and this list may go on increasing. Therefore I say that our salvation lies in the reservation of seats. If that is given to us, then only we can hope to obtain representation; otherwise not. It may be said that it is to our disadvantage to have reservation of seats, but I do not quite follow that argument. The thing we are asking is to fix the minimum number. Let there be this minimum. If more than the fixed minimum get in, the rule becomes inoperative and it does harm to no one, but if the minorities do not obtain sufficient representation, then reservation will come to their assistance and their interests will be safeguarded. For that reason I am recommending the reservation of seats.

When I am talking of reservation of seats, I wish to draw the attention of the House to the fact that I am not speaking of communal electorates. The electorate is to be one and non-denominational. Any non-Mahomedan can vote for any other non-Mahomedan be he Hindu, Parsi or Jew. But only when a candidate is to be returned, then only his class or community will be looked to for purposes of returning him as a representative of a particular interest.

Then, Sir, yesterday the Honourable Minister had referred, so far as I understood him, to the instance of Poona municipality, which contains a large number of non-Brahmins. But I wish to point out that Poona by itself does not constitute the whole of the Central and Southern Divisions. Even taking him at his word, may I ask him to consider the following contingency: suppose that all non-Brahmins united and return non-Brahmin members only what will be the position of the Honourable Minister for Local Self-Government as regards the Brahmins? Will he not in that case lay himself open to the charge that he has given protection to the non-Brahmins and has not taken any care of the Brahmins, Jains, Christians? These minorities likewise will ask the Honourable Minister why he has not given any protection to them? Therefore this recommendation which I am placing before the House is not the outcome of any selfish motive, but I am looking to the interests of the minorities whether they be non-Brahmins, Jains, Parsis, Christians, any others; I do not plead for any particular community. I say simply "protect the minorities". I appeal both to the Honourable Minister and to the members of this honourable House to accept my amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, before I deal with the amendment, I would repudiate the aspersions that were made against the Mahomedans and myself by my friend the honourable mover of the amendment, who said that that particular clause was taken away for the purpose of showing favour to the depressed classes and Mahomedans. I may assure the honourable mover of the amendment and this House that I had absolutely no intention of any such kind. The point never occurred to me that that clause was omitted for any purpose. If anybody is to blame for the omission, the honourable mover of the amendment and the members of the various parties in this House who were on the select committee are equally to blame. If it has escaped my notice, it has also escaped the notice of the honourable mover and of the other honourable members of this House representing the various parties on the select committee.

Then, Sir, the honourable member referred to my speech when the Local Boards Bill was before this House. I still adhere to that speech of mine. But the honourable member has not told us what has been the effect of the Local Boards Act in this presidency. It is the Marathas that have swept the polls : it is the Marathas who have become presidents everywhere. Instead of the criticism of the honourable mover, I think, I deserve his thanks and the thanks of his community. Everyone of them knows it. If the polls are swept by the Marathas at the local board elections and if they are now the masters of the boards, it is because I took care to widen the franchise and thus make provision for their association with the administration of their boards. Now, my honourable friend complains that I made a promise but did not keep it. Had the Marathas and any of the minorities not been elected at the polls, we would surely have nominated them. Even in spite of the large numbers in which they have been returned, we have been nominating Marathas. There are also special instructions to the Commissioners to nominate depressed classes. We have been following this policy from the Bombay corporation down to the rural boards. So, the whole argument of my honourable friend was based on a false premise, and the conclusions that have been drawn are therefore wrong.

Now, Sir, I may refer to the complaints about the jealousies amongst the members of the backward communities. If there are such jealousies, I am sorry, Sir. But it is the duty of the honourable mover of the amendment and of every honourable member of this House including myself to try to do away with these petty jealousies. In fact, by asking for separate representation for every community we are exhibiting a very strange spectacle. In fact, looking to the municipalities, all these twenty-nine of them, that are included in the bill, with the widened franchise that will be given to the people, I am sure very large numbers of the Marathas will be enfranchised, and they will be masters in most of the municipalities.

The honourable member complained that Government have been divesting themselves of the power of nomination. But the honourable member should know that in most of these municipalities that are brought

[Khan Bahadur Shaikh Ghulam Hussain]

under the category of major municipalities, we already have a four-fifths elected element and Government have the right to nominate only one-fifth. The same right is now retained. If members of the backward communities are not elected in sufficient numbers, as I have repeatedly said, we have reserved this power of nomination to adjust the differences of representation by election among the different communities. With the widened franchise proposed in the bill, I am sure that the Marathas will come in large numbers. If I accept the amendment of my honourable friend I will be doing great harm to a martial race like the Marathas. We will be depriving them of their due share by reservation. They cannot get many places by reservation. If they are given seats in proportion to their population, we will let the advanced classes down. The Marathas and Mussalmans will divide all the seats between themselves and leave no room for the advanced classes. If we reserve seats for the Marathas, we can reserve only a few seats. That means that by pressing for reservation the honourable member will be doing great harm to his own community.

The honourable mover of the amendment further said "Let us lay down a minimum number of seats. If they are returned in larger numbers, well and good. But we must have a minimum at least". I will characterise that demand as a wish to "eat the cake and have it too". The honourable member wants to have it both ways. He says "Let us reserve the seats: if they come in larger numbers, let them". That is unfair to the other communities. Under the widened franchise, I think the honourable member will have no cause for complaint as regards the representation of his community.

Question put and lost.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City): Sir, I beg to move :

To sub-clause (c) of clause 9 (1) add the following :

"Provided that the rules shall be previously published and shall be laid on the table of the Bombay Legislative Council for one month previous to the next session of the Council and shall be liable to be modified by a resolution of the said Council tabled at such next session."

Sir, since last year Government have followed the principle that whenever they provide in an Act the power for them to make rules the Council should be given a chance to have a discussion on those rules and express their opinion as regards those rules. I have taken the exact words of this amendment from the Bombay Children Act. I hope Government will accept this amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I accept it as I find that that is the desire of the Council.

Question put and carried.

Mr. R. G. PRADHAN (Nasik District): I beg to move :

In clause 9 (1) (c) after the words "regulating generally such elections" the following proviso may be added, viz.:-

"Provided that rules which provide for the constitution of separate Mahomedan wards and for the election of Councillors for such wards, shall cease to be in operation after the fourth general election of Councillors from the date of the passing of this Act, and no such rules shall be made thereafter."

[Mr. R. G. Pradhan]

Sir, after the full discussion we have had on my amendment yesterday I do not think that I should make any lengthy speech in support of this amendment. The general opinion which we expressed yesterday in the course of the debate was that communal representation is an evil. Though for the time being it may be a necessary evil, the expression of this general opinion has made me hopeful that this particular amendment would commend itself to the acceptance of both Government and non-official members. If as is admitted communal representation is an evil it is necessary that steps should be taken to do away with that evil as early as possible. My honourable colleague from Nasik said that it would be possible to do away with communal representation in the course of a few years. I think, he said, 10 or 12 years. That is exactly the view which I am trying to embody in this particular amendment. I said yesterday that unless and until we set some time limit, communal representation will have a dangerous tendency of perpetuating itself, and after some years people will be so much accustomed to communal representation, they would be so much enamoured of the blessings and benefits which communal representation is supposed to confer that they will oppose any attempt that may be made to do away with it. Communal representation like every vice has a tendency to perpetuate itself and make itself permanent, and I would therefore urge that after a certain period it shall cease. Until and unless we introduce communal representation with this determination in our heart of hearts, it will I assure the honourable House be a permanent feature of which we will have to repent in the long run. I would therefore appeal to the good sense of the honourable House that if communal representation is an evil the sooner it is done away with, the better. I hope my amendment will be accepted.

Question proposed.

Mr. NOOR MAHOMED (Hyderabad District) : I beg to oppose it.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, it would have been much better if instead of the honourable member who moved the amendment some other member of the Mahomedan community or of the minority for whose benefit a special electorate is being moved had come up to propose such an amendment. It looks very suspicious on the part of the honourable member. He was in the first place altogether against separate electorates or class representation. He says it is a most pernicious element. The House, however, did not think so. Now he says that some 10 or 12 years should be allowed for this purpose, for the trial of this experiment. How does he know that after that period there will be perfect unity and millennium in India? If there will be such unity after that period then I shall be the first person to come forward and move such an amendment. Let me remind him that, a few years ago, 4 or 5 years ago, we were talking of perfect unity between Hindus and Mahomedans. What is the state of affairs now? There has never been a time when there was so much dis-unity between these two sections of the community as there is to-day. Sir, it is wrong to prophesy that much will depend on how the other communities treat the Mahomedans.

[Moulvi Rafiuddin Ahmad]

If the treatment would be satisfactory, Mahomedans will themselves come forward to say that it was no more necessary. I think therefore that this amendment is a little premature, and deserves to be rejected. The honourable member said yesterday that he was not against this representation of the Mahomedans in the Imperial Council and in the local Council, but he was against it in the local bodies. He says "why do you propose this element in the local bodies?" My answer to that is that we would have only been too pleased not to extend the element to the local bodies, if we had received the support of the Hindus for the separate representation of Moslems in the Legislative Councils. But we know that the representation of the Mahomedans in the Councils was bitterly opposed, opposed by men like Mr. Gokhale himself, and by every Hindu Leader. This was granted to Moslems in the teeth of opposition, and those persons have proved false prophets who said that it would mean the ruination of India, and the ruination of the country. At last the heavens did not fall by that concession. But for that representation there would have been friction between the two communities in the Councils. I think the time has not arrived for the honourable member to move his amendment and the amendment should therefore be rejected.

Mr. R. G. PRADHAN (Nasik District): Sir, I do not like to make any long remarks in reply to the speech of my honourable friend the honourable member Moulvi Rafiuddin Ahmad. I am glad to notice a certain amount of improvement in the tone and spirit of his speech, and I congratulate him upon the improvement which he has shown. Well, he seems to suspect my motives and he says that it is suspicious that I should come forward with an amendment of this kind. He is welcome to his suspicions. It is the jaundiced eye that sees every thing yellow, and I remain content with this particular statement in reply to that remark of his. Then he has referred to the manner in which I am fighting this cause. He has no idea that there is such a thing as fighting a battle. If he cannot fight a battle wholesale he would not fight the battle at all; he would run away from it. I leave the amendment to the good sense of the Government and of this Honourable House.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I have explained that there is a demand from the minorities of separate representation, but to-day I hear that there is also a demand from the backward classes who are a section of the Hindu community and form part and parcel of that community. It is urged that they also want it because they are not returned by election, and would otherwise not be returned at all. But, Sir, the position of the Mussalmans is quite different. When Marathas who are part and parcel of the same Hindu community cannot trust their own advanced classes, the position of the Mahomedans is much worse, and they can never hope to be returned unless they have their own electorates.

[Khan Bahadur Shaik Ghulam Hussain]

Now as regards the time, I think if the differences between the various communities are composed, I am sure all will make a united demand for the abolition of separate electorates. But it is very difficult for us now to fix the time and our forecast may not come true. If we find that the time has arrived within 12 years or even earlier, we might make a united demand for doing away with communal representation. I therefore submit that till we compose our differences things must go on as they are. With these words, I oppose the amendment.

Question put and lost.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to move:

In clause 9, sub-clause (2) delete the words "and such power shall be exercised in consultation with the municipality concerned", and substitute for them the words "and such powers shall not be exercised without first receiving the opinion of the municipality concerned."

Now, Sir, the powers conferred on the Government by this clause are too elastic. The words "in consultation with the municipality concerned" are so vague that they may mean that the presence of the Commissioner or any other officer appointed by Government may come to be considered absolutely necessary at a consultative meeting. At least such an interpretation can be put on these words. Therefore, Sir, to avoid misunderstanding, I suggest that this sub-clause should be made very clear. I, therefore, submit that my amendment should be considered favourably."

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I think the wording of the clause is clear and it is obvious that Government cannot do anything without consulting the municipality. However if the House is in favour of the amendment I have no objection to it.

Question put. House divided. Ayes 34: Noes 1. Amendment carried.

Division No. 5.

Ayes.

ABDUL LATIF HAJI HAJRAT KMAN, Mr.
ADDYMAN, Mr. J.
BAPTISTA, Mr. J.
BEDBEKAR, Khan Bahadur I. M.
BHUTTO, Khan Bahadur S. N.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
FERNANDEZ, Dr. COSMAS.
FRAMJI, Mr. K. S.
GROSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE.
HOTSON, Mr. J. E. B.

JADHAV, the Honourable Mr. B. V.
JEHANGIR, the Honourable Mr. COWASJI.
KAZI INAITULLAKHAN.
KHUERO, Mr. M. S.
KOKANI, Mr. G. J.
LAWRENCE, the Honourable Mr. H. S.
MANSURI, Khan Saheb A. M.
MASTER, Mr. A.
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. G.
NEKALJAY, Mr. R. S.
NOOR MAHOMED, Mr.
PAINTER, Mr. H. L.
RAHIMTOOLA, Mr. HOOSSENALLY M.
THOMAS, Mr. G. A.
WILES, Mr. G.
WOODS, Mr. E. E.

Tellers for the Ayes : Mr. NOOR MAHOMED AND Mr. M. S. KHURO.

Noes.

BUNTER, Mr. J. P.

Tellers for the Noes : Mr. J. AGGYMAN AND Mr. A. C. OWEN.

Clause 9, as amended ordered to stand part of the bill.

Clause 10 (*Persons qualified to vote or be candidates at a municipal election. Electoral roll of tax-payers*) :

(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.

(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.

Mr. R. G. PRADHAN (Nasik District) : Sir, the amendment which I wish to move to clause 10 reads as follows :—

For section 10, the following may be substituted :

" 1. (a) Save as provided in section 14, every person who is not under 21 years of age, and who for a period of not less than one year 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 a municipal borough, shall be qualified to be entered in the list of voters for such municipal borough and to vote at a municipal election in such borough.

[Mr. R. G. Pradhan]

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,
shall not be entitled to have his name entered in such list of voters.

(b) The electoral roll 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 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.

(2) Every person so qualified to vote 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 a municipal borough.

Explanation.—For the purposes of this section a person shall be deemed to be resident in a Municipal borough if he ordinarily resides or has his principal place of residence in such borough."

As honourable members will see, section 10 in the main deals with the franchise. One of its sub-clauses says that every person who is qualified to vote under that clause is also qualified to be a candidate at a municipal election in such municipal borough. In the main, however, this clause deals with the franchise. It lays down the principles governing the franchise and mentions what persons are qualified to vote in accordance with those principles. Briefly speaking, all persons who are qualified to vote at an election to the Legislative Council are entitled to vote. In addition to these people, certain other persons who pay what is called a qualifying tax, Rs. 2 and so forth, are entitled to vote. Now, what I propose by my amendment is that the franchise should be extended to every person who is a major, who is not below the age of 21 and who resides in a municipal borough, his residence extending over one year and being fairly continuous. In other words, I am seeking by this amendment to introduce the principle of one person, one vote. I daresay this amendment of mine may strike some honourable members as extreme, that it is a very extreme amendment and that the time has not become ripe for extending the franchise to such an extent. Now, I beg to submit to the honourable House these considerations, namely, first that this bill refers only to certain specified cities and towns which are mentioned in the schedule appended to this bill. The bill applies only to those cities and to other cities which Government may later on, if they are so advised, deem proper to be included in the schedule. In other words, the bill applies to the district towns and to other towns that may hereafter be deemed fit to be included in the schedule. Let us, therefore, in approaching this question of the franchise leave out of consideration the municipalities other than those which will be affected by the bill, and the question is simply reduced to this: Have the people in these big cities—district towns and other big cities such as Pandharpur and so on—not become ripe for this advance about franchise? I submit, Sir, that they have become ripe. Education in these towns has made considerable progress. The civic spirit and the sense of responsibility of the people in these towns have also made considerable progress, and we have been finding in these towns a considerable amount of influential and enlightened public opinion due to the growth of education, due to the growth of public spirit, due to the

[r. R. G. Pradhan]

development of public life. Therefore, I maintain that people in all these cities have become ripe for the exercise of adult franchise.

This amendment, I submit, Sir, ought to be particularly welcome to those of my colleagues in this honourable House who represent the backward communities, because one result, if this amendment is carried, will be that the number of voters belonging to those backward communities will be increased and therefore they will be in a position to have a larger representation in the municipalities. So it is to their interest that this amendment should be carried. Though I am against communal representation, I am as anxious as the backward communities themselves that they should have a fair representation, an equal representation, and I believe, Sir, that if this amendment is carried, that object will be sufficiently fulfilled.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the amendment proposes adult suffrage. I do not think, Sir, the municipalities concerned in this bill are ripe for adult suffrage. We are now on the threshold of compulsory primary education. That itself is evidence that all the people residing in these municipalities are not educated. As they are not all educated, they will not be able to exercise their right properly. But if you will look at the provisions of the bill, you will find that virtually it gives adult suffrage. Who are entitled to vote, Sir? All those who are on the Council electoral roll. Then, owners or occupiers of a house the rental value of which is only Rs. 2, or the capital value of which is only Rs. 400. Thus, a very large number of the inhabitants of any one of these cities to which this bill will apply become voters under this bill. I do not think there will be many houses in these big cities the rental value of which is not Rs. 2 or the capital value of which is not Rs. 400. In fact, almost every house will have at least one vote. Not only that, but if you go further and see sub-clause (2), you will find that all payers of municipal taxes, whether they pay a rupee or 8 annas or 4 annas, are entitled to vote. Again, that will greatly add to the number of voters. I think, as I have observed already, it will be a big jump at once to give the municipalities adult suffrage. I hope therefore this House will reject this amendment.

Question put and lost.

Mr. A. MASTER : Sir, I beg to move :

In clause 10 (2) (a) (i), line 8, between the words " as " and " tenant " insert the words " owner or. "

This is merely a formal amendment. It is only intended to give the right of voting to the owner or tenant who occupies the house.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I accept the amendment.

Question put and carried.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to move the amendment of which I have given notice, viz.:

In clause 10, sub-clause (2) (a) (i), delete "24" and substitute "12", and delete "400" and substitute "200".

Sir, when the object of the bill really is to give wider franchise to the people, and to make every man who has got any property or who has got any habitation a voter, I think Rs. 24 annual rental value as a qualification for a vote is too much. That is the qualification for voting in the case of elections to the Legislative Council, and I submit that for municipal boroughs it should be lowered. I therefore propose that the qualification for vote should be Rs. 12 as rental value for buildings occupied by tenants and Rs. 200 as capital value of the houses occupied by owners. I do hope that as the Honourable Minister desires to make these municipal institutions democratic, he will see his way to agree to my amendment.

The Honourable the PRESIDENT: There is also an amendment by the honourable member Mr. D. R. Patil which reduces Rs. 24 to Rs. 12 and Rs. 400 to Rs. 300. I would ask him to move that as an amendment to this amendment. The only difference between the two amendments is that while the honourable member Mr. Noor Mahomed proposes to reduce the figure of Rs. 400 to Rs. 200, the honourable member Mr. Patil proposes to reduce Rs. 400 to Rs. 300.

Mr. D. R. PATIL (East Khandesh District): Sir, I do not wish to move my amendment, but I accept the amendment of the honourable member Mr. Noor Mahomed.

Sir, I have given notice of an amendment practically to the same effect. The only difference is that I want to substitute Rs. 300 for Rs. 400, whereas the honourable member Mr. Noor Mahomed proposes to substitute Rs. 200 for Rs. 400. I think that is a very good suggestion, and I am very glad to welcome it. We know that we want to widen the franchise and especially in city municipalities this right of franchise ought to be widened to the extent to which the honourable member Mr. Noor Mahomed has proposed. By this amendment, a large majority of the tax-payers, practically almost all the tax-payers will get the chance of sending proper representatives according to their wishes. I think this a great improvement indeed, so far as the franchise in city municipalities is concerned, and I heartily support the amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I find a feeling in this House that the qualification of the occupation of a house of Rs. 12 rental value or Rs. 200 capital value would better meet the requirements of the backward and allied classes, and it has been urged that if the franchise is widened to that extent, they would be able to get fair representation in the municipalities. As the object of the bill is to democratise the municipalities, I accept the amendment.

Question put and carried.

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move:

That in clause 10, sub-clause (2) (a) (i) add the words "as determined by the municipality" after the figure "400".

[Mr. S. T. Kambli]

The section as amended would read as follows :

"(1) 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 as determined by the municipality."

The reason why I propose to move my amendment is this. The question is as to who should fix the rental or capital value of a building whether the owner or any outside agency. If it is any outside agency it must be the municipality. There may be cases where the rental value or capital value might vary with the different opinions of the persons determining the same. An owner of a cottage may say that his building is worth Rs. 400 or is capable of bringing in a rental of Rs. 24 or so while it may not be worth so much or it may not be capable of yielding so much rental. In such disputable cases certain persons should be recognised by the statute as being invested with the power of finally determining the rental or capital value; otherwise the section as it stands would leave the question open to litigation. Therefore I propose that the determining authority should be the municipality either with regard to capital value or rental value of a building and that the decision of the municipality should be recognized as final.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I think this amendment is unnecessary. The electoral roll is prepared by the municipality, and it is the municipality that is to determine the rental or capital value. I do not think these words are necessary.

Question put and lost.

Mr. S. T. KAMBLI (Dharwar District) : Sir, I beg to move :

"That in clause 10 (2) (a) (ii) delete the words "and who within the three months.....municipality."

Sir, as the section stands, the above clause is ambiguous, and it will create many difficulties in the actual working of this section. In various municipalities various taxes are imposed. Some of these are paid by monthly, quarterly or half-yearly instalments. Under such circumstances this clause will create great confusion, as it stands in its actual working.

Let us take a concrete case. Let us suppose that an election roll is to be prepared on the 1st of November of a particular year, and that all the taxes of the municipality are to be paid in two instalments one on the first of April and the other on the 1st of October—in two half-yearly instalments. Let us further suppose that a person has paid on the 30th September his first instalment which has fallen due on the first of April and has not paid the next instalment which falls due on the 1st of October. I think that such a person would be entitled to vote under the provisions of the existing clause as he has paid the arrears of taxes due on the 30th September, *i.e.*, on a date within three months before the date of the preparation of the electoral roll. It does not seem to be the intention of the framers of this bill that such a person should be entitled to vote. The words in the section are "within the three months next preceding the

[Mr. S. T. Kambli]

aforesaid date has paid all arrears of taxes if any due from him to the municipality." This clause taken literally or interpreted literally means that the above described person will be deemed to fulfil the obligation of not being in arrears on the date when he paid the 1st instalment. My objection to these words is this: If the date on which the electoral roll is to be prepared falls one month after the date on which the second instalment of taxes is due, then any person who will have paid all the arrears falling due two months before the date next preceding the date on which the electoral roll is to be prepared escapes the liability of being excluded from the electoral roll. A man may pay all arrears falling due on the day or date when he pays them provided he makes such a payment within three months preceding the date of preparation of electoral roll and thus get his name entered into the electoral roll, although he may be in arrears with regard to his subsequent instalments falling due subsequent to the payment above mentioned, and before the date of preparation of the electoral roll.

Therefore I suggest that these words should be taken away. The only qualification for people to vote should be the payment of the qualifying tax. That is the only thing that should be demanded of a voter. The intention of the framers of this bill is that the franchise should be widened and the man who has paid the qualifying tax should be made eligible for voting. I do not see the reason why these words have been added in this clause. If he has been in arrears there is ample power given to the municipality to recover those arrears. It will be very easy for a designing person to be on the alert to collect the taxes from certain persons or communities and to leave out other persons or communities who are opponents in certain municipal areas. There are certain inhabitants in municipal areas who are ignorant of these intricate laws. Now, if this provision is retained in its entirety, many persons who would otherwise be entitled to be voters would be removed from the electoral list or would not be entered in it, for the simple reason that every man wishes to postpone the payment of his tax as long as he possibly can, and if an existing municipal body does not purposely exercise its right to recover arrears from a particular section of its inhabitants, who are opposed to it and if those inhabitants are ignorant of their rights, then they will certainly be debarred from being voters. For these reasons I beg to submit that these words should be omitted and people who are in arrears of a particular tax should not be debarred from being voters if they are otherwise qualified to vote.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I rise to oppose this amendment. Under this bill, the right to vote has been given to all tax-payers. If a person pays any tax he has a right to vote, and no limit is prescribed. Any tax is enough. But to safeguard the interests of the municipality, provision has been made that before he gets his name registered in the electoral roll, he must have paid not only some taxes, but also all arrears of taxes. This is done because it may happen that a man, in order to get himself registered

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may pay only one tax, for instance a water rate of Rs. 2, but may leave other taxes to the extent of a hundred rupees in arrears. Because he wants to get himself registered he pays Rs. 2. Now, we have put down this condition, that he should pay arrears of all taxes, in the interests of the finances of the municipalities. What the people do at present is to pay only the qualifying tax and not to pay the arrears. Honourable members must have seen from the administration reports of the municipalities that in most of the municipalities large amounts of money are not recovered, because the people try to avoid payment. Now, if we accept the amendment moved, we will be putting a premium on defaulters. We are here legislating in the interests of the municipalities and not for the benefit of defaulters. They want to have the vote but do not wish to pay their taxes. Sir, the clause as it stands is in the interests of the municipality. Therefore, I oppose the amendment.

Question put and lost.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move :

In clause 10 (2), proviso (iii), substitute the figures " 18 " for the figures " 21 ".

Sir, the age qualification in foreign countries is 21, but there the age of majority fixed by law is also 21. In India the matter is different. For purposes of law, according to the Indian Majority Act, a person becomes a major when he completes his eighteenth year ; but when it comes to a matter of civic rights, the Municipal Act intervenes and lays down that though in the eye of law a person of 18 is a major and as such can enter into a contract, can sell, mortgage, gift away property worth lakhs and crores of rupees and even be a trustee of property worth lakhs belonging to others, yet for purposes of an election he is under an incapacity and he cannot give a vote. I do not see any reason why this anomaly should exist. In foreign countries, when a person becomes a major in law he becomes a major for all purposes, for purposes of law as well as for civic rights. Why in India alone should this anomaly exist ? If he can dispose of his own property, whereby his own interests are affected, why can he not use the same discretion in exercising his right of franchise and give a vote which does not affect his own personal interests directly. I think there is very great force in the argument that if the law allows him to gift away his property the law should also give him the civic rights of giving a vote. I raised this point in the select committee, and the only objection that was raised was that at eighteen a person has not got mature understanding. I for one cannot understand that argument. If he has a mature understanding in the eye of law to gift away his property, to the extent of even becoming a beggar, why can he not be equally competent to exercise his right of giving a vote, as a result of which his estates or interests will not at all be affected ?

Sir, in the old days the matter was different. Government did not want more people to take part in the administration of local self-government. But those days are gone. Now Government want more people to take interest in local self-government. If that be true, I should really

[Mr. A. N. Surve]

think that the age limit should be fixed at eighteen because it removes an anomaly.

Another advantage is that it confers the civic right on a person in India where the expectancy of life is very short. In Western countries the expectancy of life is nearly 39 years, but in India it is only 23. So in India there is greater reason why we should lower the age for qualification in order to make a person competent to give a vote earlier in life. Sir, moreover in big cities there are boys who earn their wages and who pay taxes. If they pay taxes, I do not really see any reason why they should be debarred from exercising their civic rights.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, this proposal was carefully considered in the select committee, and the select committee decided in favour of the limit of 21 years. There are various enactments of the local bodies as well as of the local legislatures and the Imperial legislature in which the age limit is 21. If we accept this amendment, Sir, then we will have to deal with two kinds of minors. A person under the Court of Wards is supposed to have reached majority when he attains the age of 21. Further, Sir, the honourable mover of the amendment made a point that a person of 18 years of age could deal with his property under the civil law. But when he gives a vote in a municipal election that fact ultimately affects not his property but the property of other people. Besides, Sir, it has been recognised in all countries that 21 is the age at which a person is entitled to the franchise. For these reasons I oppose the amendment.

Question put and lost.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, I beg to move :

In clause 10, sub-clause 2 (a), explanation, delete the words "and the tax on vehicles and animals plying for hire or kept for the purpose of being let for hire."

The explanation referred to runs as follows :

"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."

I understand, Sir, from this explanation that even if a man who has a vehicle or animal plying for hire and pays, for instance, Rs. 150 as wheel tax would not have a vote. The House has agreed to giving of votes to persons who pay tax on houses worth Rs. 200 or pay rupee one rent per month, and I cannot see the reason why owners of carriages, vehicles and animals who pay a qualifying tax to the municipality of Rs. 65 or Rs. 75 or Rs. 150 or more should not be entitled to a vote. I do not think these words mean anything other than that owners of vehicles and animals will have no vote. Understanding the 'explanation' in that sense I move my amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, in the definition of "qualifying tax" it was decided in the select

[Khan Bahadur Shaikh Ghulam Hussain]

committee that the owners of vehicles plying for hire should not have a vote, because they are only plying their vehicles for hire and the amount that they pay comes from those whom they convey in their vehicles. It is ultimately a tax falling on the people who utilise their animals, vehicles or carriages. Therefore the right of vote should not be given to these men. With these words I oppose the amendment.

Question put and lost.

Clause 10 as amended ordered to stand part of the bill.

Clause 11 (*General disqualifications for becoming a councillor. Vacation of seat. Decision of Government in case of dispute.*)

(1) No person may become a councillor—

(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, which shall contract with or be employed 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 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.

Mr. R. G. PRADHAN (Nasik District): Sir, I beg to move the following amendment —

In section 11 (a) (i), for the words "six months" the words "one year" may be substituted.

Clause 11 deals with the general disqualification for becoming a councillor. It reads thus —

"No person may become a councillor who has been sentenced by a criminal court to imprisonment for a term exceeding six months, etc."

I want to substitute for the words "six months" the words "one year". The object of my amendment is to bring the provision in this bill in a line with the recommendation made by the majority of the Reforms Inquiry Committee. They say, as honourable members will find at page 107 of the Reforms Inquiry Committee's Report, that the existing disqualification from being a member of either Chamber of the Indian Legislature or a provincial council which follows from a conviction by a criminal court should be modified by increasing the period of sentence which constitutes a disqualification from six months to one year. The recommendation, in other words, of the Reforms Inquiry Committee is that the period of sentence which constitutes a disqualification for election to any legislature other than the Indian legislature or provincial legislature should be increased from 6 months to one year. That is a recommendation of the Reforms Inquiry Committee.

Now if my amendment is not accepted and the clause is allowed to stand as it is, then in the light of this recommendation the effect will be this. One who has been sentenced to an imprisonment exceeding six months but less than one year, will be eligible to vote and will have the right of election to the provincial council or to the Imperial Legislative Council, but he will not be entitled to vote or to stand as a candidate for a municipal election. That is the recommendation of the Reforms Inquiry Committee, and I gather from the resolution which has been recently submitted by Government in support of this report that they have accepted this recommendation. This is a recommendation made by a responsible body, and I believe it has been accepted by the Government. Whatever that may be, in the light of this recommendation if my amendment is not accepted, the result would be that a person who has been sentenced to imprisonment for a period exceeding six months but less than a year will be entitled to election to the provincial legislative council but he will not be entitled to be elected to the municipal body, nor will he be entitled to vote at an election to a municipal body. I put it to the honourable House whether this is not an anomaly and whether this anomaly should not be corrected.

Question proposed.

Mr. A. MASTER: Sir, I have just been looking up the various sections which lay down punishment for one year, and I find that they include the following:

Section 417, Indian Penal Code, provides a punishment for cheating. If the proposed amendment is carried, a person, who is under sentence for having cheated, will be eligible to be a member of a municipality.

[Mr. A. Master]

There are several other sections which deal with mischief by destroying trade and other such works with intention to deceive. There is also section 500, a crime under which is punishable by one year; that is, insult to the modesty of a woman. The honourable member seemed to think that this present section, as it stands, applies to punishments exceeding six months. As the section stands, it reads as under:—

“ who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months. ”

This section therefore has no reference to the actual punishment inflicted. It refers only to punishment which may be inflicted. I think, therefore, that although there are perhaps not very many cases in which one year is set down as punishment for an offence, that it would be inadvisable to accept the amendment.

Mr. R. G. PRADHAN (Nasik District) : Sir, I am extremely surprised at the attitude of the honourable member who spoke last in opposition to the amendment. That means that this Bombay Government is going to oppose a recommendation which has been made by such a responsible body as the Muddiman Committee. If they want to do so, let them do so.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN
Sir, I am sorry that my honourable friend opposite me does not appreciate that we have gone much further than the recommendation of the Muddiman Committee. We have made all convicts, as soon as they serve out their sentence, eligible. What is there in the Muddiman Committee's recommendation? Those who are sentenced for offences punishable with imprisonment for a term of twelve months are not disqualified, but all others are permanently disqualified. Under the present bill, every convict, whether he is a murderer or a thief or a robber, becomes eligible as soon as he has served out his sentence. My honourable friend's amendment divides offences under the Indian Penal Code into offences punishable with imprisonment for more than 12 months and other offences, and seeks to remove the disqualification in the latter case. How will a man, who is sentenced to twelve months' imprisonment, and is in jail, be able to exercise his franchise while in jail? How will he seek election? I think we have gone further than any other presidency, in that we have removed the permanent disqualification and made the offender eligible as soon as he serves out his sentence. I trust therefore this House will reject the amendment.

Question put and lost.

Clause 11 ordered to stand part of the bill.

Clause 12 (*Operation of lists, etc.*) ordered to stand part of the bill.

Clause 12 A. (*Enrolment in Municipal Election Roll necessary for elected councillor.*)

A person shall not be qualified to be elected a councillor unless he is enrolled in the 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 Association.

Mr. S. T. KAMBLI (Dharwar District) : Sir, the amendment which I wish to move runs as follows :—

In clause 12A add the words " by a resolution of such company, body or association " after the word " behalf ".

I propose this amendment to make the clause definite and clear and I hope the Government will accept my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I accept the amendment to clause 12A moved by my honourable friend Mr. Kampli.

Question put and agreed to.

Clause 12 A, as amended, ordered to stand part of the bill.

Clause 13 (*Determination of validity of elections.*)

(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 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.

What is a corrupt practice. (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 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;

Candidates when deemed to have committed corrupt practice. and a corrupt practice shall be deemed to have been committed by a 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.—For the purposes of this section the term " 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.

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move that—

In clause 13 (3) (a) add the words "which has materially affected the result of the election" after the words "corrupt practice" and delete the words "for the purpose of election".

The original clause runs thus:

(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.

The words "corrupt practice" are defined in sub-clause (4). It reads thus—

What is a corrupt practice. (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 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;

Candidates when deemed to have committed corrupt practice. and a corrupt practice shall be deemed to have been committed by a 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 term "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.

I beg to submit, Sir, that there may be cases in which practically an innocent person may come technically within the definition or the meaning of "corrupt practice". There may be a very large number of votes in favour of a successful candidate and this successful candidate may be far above the defeated candidate in the counting of votes, but the agent of the candidate may have secured only a single vote from only one person

[Mr. S. T. Kamblī]

in favour of the candidate by a certain act which may technically fall within the definition of corrupt practice; while the act may be of an agent, the principal or the candidate will be held technically responsible and the election will be set aside. Sir, to make it more clear, the successful candidate may have secured a preponderatingly large number of votes in an election by legal means and yet if it is proved that the candidate is technically responsible as for a corrupt practice in respect of a single vote, then under the clause he will be non-seated. So my submission is that the principal or candidate may be held responsible only if the corrupt practice has materially affected the result of the election; if not, the whole election should not be set aside. My amendment to this clause is that the election should be set aside only on one condition, namely that the corrupt practice, of which a candidate may be held technically or otherwise guilty, should have materially affected the result of the election. If it has not materially affected it, I beg to submit that the election should not be set aside.

With regard to the phrase "for the purpose of election", I beg to submit that the words are unnecessary and think should be deleted. But I do not insist upon the deletion of that phrase, but I do insist that the election of the candidate should not be set aside unless any corrupt practice of which he may be held to be guilty has materially affected the result of the election.

The Honourable the PRESIDENT: The question is—

"In clause 13 (3) (a) add the words 'which has materially affected the result of the election' after the words 'corrupt practice' and delete the words 'for the purpose of election'."

Mr. S. T. KAMBLI: As I have stated, I do not want to press for the deletion of the words 'for the purpose of election'.....

The Honourable the PRESIDENT: Then, the proper procedure was that the honourable member should have asked that the House should give him permission to amend his amendment. I will allow him now to ask for the necessary permission.

Mr. S. T. KAMBLI: I ask, Sir, for the permission of the House to amend my amendment by omitting the words "and delete the words 'for the purpose of election'".

Question put and leave granted.

The Honourable the PRESIDENT: The amendment will now read as follows—

In clause 13 (3) (a) add the words "which has materially affected the result of the election" after the words "corrupt practice".

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the honourable mover of the amendment proposes by this amendment to introduce a vicious and dangerous principle. He wishes the House to accept the principle that every act should be judged by its results. This is against the very elementary principles of jurisprudence. If his amendment is accepted, many corrupt practices will be immune. If a man though practising corruption is not successful in his election, then he will

[Khan Bahadur Shaikh Ghulam Hussain]

be said not to have committed corrupt practice, according to this amendment. Therefore, this amendment is putting a premium on corrupt practices, and I hope the House will reject it.

Question put and lost.

Mr. A. N. SURVE (Bombay City, North): Sir, the amendment standing in my name is to clause 13 and reads as follows:—

In clause 13 (4), after sub-paragraph (ii) of sub-clause (4), add the following sub-clauses viz.:

(iii) who pays or promises to pay any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote.

(iv) who hires, employs, borrows or uses for the purposes of the election any boat, vehicle, or animal, usually kept for letting on hire or for the conveyance of passengers by hire. Provided that any elector may hire any boat vehicle or animal which is his own property to convey himself to or from the place where the vote is recorded."

Sir, the idea underlying this proposal is that the electors should not be taken to the polling stations by the candidates in their conveyances or they should not even pay for hire any money to the electors. The honourable members of this House know that in the Bombay Electoral Rules, page 36, these rules are even given under part II of corrupt practices. The clauses which I have put here are borrowed bodily from those rules. If for Council elections these practices are not tolerated or are not allowed, I really do not see any reason why the same rules should not be made applicable to the big cities. In the case of Council elections a voter has perhaps to go fifteen or sixteen miles to record this vote from his village to the polling station, but in the case of a city municipality the voter resides within the boundaries of the city itself and may perhaps have to walk hardly a mile or so.

Therefore it is highly desirable why we should incorporate these rules into the present bill. They will ensure the purity of elections. Why make a voter go in the carriage provided by the candidate? He thereby incurs some sort of obligation, and feels it his duty that, as he has been taken to the polling station at the expense of the candidate, he must vote for him. I think that is not a right thing. Sir, coming from Bombay as I do, I have seen the Bombay Municipal Corporation elections. You are aware, Sir, what an amount of expense is incurred by the candidates. Not only are the voters carried in the candidates' motor cars, but some of the candidates even treat the voters, give very dainty and tempting *khana*s to the electors, and people go there only to eat the *khana* which is given to them in return for their vote in favour of the candidate who provides it. Sir, is that conducive to the purity of elections? I think some sort of line must be drawn. Besides, there is another point, namely, the richer the candidate the greater is the amount of unfair advantage he gets over the poorer candidate. In that way, by spending money, whether he is fit or unfit he gets himself elected to the local body. These are the days of democracy. Let there be equal opportunities for all. Let a candidate, whether poor or rich, have equal opportunities with the other candidates. Let there not be any extraneous advantage in favour of any one. It is with that object that I have suggested this amendment, and I trust this House will accept it.

Question proposed.

Mr. R. D. SHINDE (Nasik District) : Sir, I support the amendment. If under the Legislative Council Election Rules, the considerations which are enumerated in the amendment which is placed before the House are held to be corrupt practices or inducements sufficient to be tabooed, I do not know why a different line should be drawn in the case of elections to the municipalities, and why these inducements should be permitted to be held out to the voters. My submission is that an attempt should be made by Government to bring all the elections, whether to the local bodies or to the Legislative Council on one and the same footing, so that the electors should know that one thing which is not permitted in the case of elections to the Legislative Council is also not permitted in the case of elections to the municipality. If the elections are made uniform and the same practice is followed in the case of elections to the municipalities as in the case of elections to the Legislative Council, that will be in the best interests of the candidates and the electors.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I am rather doubtful as to the propriety of this amendment. I think it is in the interests of the poor classes, for whom my honourable friend comes forward with this amendment, that this amendment should not have been moved ; because, happily there is the ballot. All poor candidates cannot afford to have motor cars ; and yet they wish to take the poor voters to the poll. As things stand poor voters have no desire to go there. Let them go in rich man's motor car and vote for the poor candidate. Let them teach a lesson to the rich candidate in this way, so that he should never again offer the poor voters this inducement. I do not know what the Honourable Minister will decide, but for myself, I think it would be a good punishment to the rich candidate if once or twice these poor men served them rightly in this way. If the rich candidate did not mind it they will have an excellent opportunity of going in rich people's carriages and voting for their own candidates who cannot afford to take them in motor cars.

Mr. A. N. SURVE (Bombay City, North) : Sir, very strange propositions are put before this House : They are that as politicians it is not our duty to look to questions of fine morality, and because voting is to be by ballot, therefore, it is suggested, let the poor voter go in the rich candidate's carriage and punish him by voting for the poor candidate. At the very outset, I have stated that when a voter goes in the carriage of any candidate, at least, our unsophisticated Hindu mind feels that we are under some obligation to that man. We have also a more refined sense of honesty. Therefore, if we ever go in a man's car, I do not think that any Hindu will ever punish that rich candidate by giving a vote to his rival. The propositions to which utterance was given carry very bad notions as to what our civic ideas are, and I think the less we hear of them in this House the better.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I see that there is a feeling in the House that the provisions relating to elections to the local bodies in regard to corrupt practices should be on a

[Khan Bahadur Shaikh Ghulam Hussain]

par with those relating to elections to the Legislative Council. I therefore accept the amendment.

Question put and carried.

Mr. R. G. PRADHAN (Nasik District) : Sir, I beg to move

“ In clause 13, sub-clause (4) (ii), for the words ‘ knowledge and consent ’, the words ‘ knowledge or consent ’ shall be substituted.

Honourable members will have read clause 13 (4) (ii), and I draw their attention to the first few lines on page 15 of the bill. It is stated there :

“ and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent.... ”

In other words, in order that a candidate may be deemed to have committed a corrupt practice, it is necessary, according to this clause, that there must be both knowledge and consent on his part. Now, my amendment is this, that either of these two things, knowledge or consent, should be quite enough to constitute a corrupt practice. In other words, if a corrupt practice is committed with the knowledge of the candidate, even though it may not have been committed with his consent, still it should be regarded as a corrupt practice, and the consequences of corrupt practices should follow.

Question proposed.

The Honourable KHAN BAHADUR SHAIKH GHULAM HUSSAIN : Sir, there is one difficulty in the way of accepting this amendment which I should like to place before the House. The amendment proposed by the honourable member is that instead of the words “ consent and knowledge ” the words “ consent or knowledge ” should be substituted. If we accept the words “ knowledge or consent ”, mere knowledge without consent will make a man liable. If a man does not give his consent but has the knowledge, he cannot be expected to go out of the way to stop such practices. That is my difficulty. I think we cannot make it an offence unless the man gives his consent also to it. Mere knowledge is not enough. He may be aware of certain action, but may not have control over the person concerned. Thus, there may be knowledge, but no consent, and consent is of the essence of the offence.

Question put and lost.

Clause 13 as amended ordered to stand part of the Bill.

Clause 14 (*Voter disqualified for corrupt practice*) ordered to stand part of the bill.

The Honourable the PRESIDENT : Question is that clause 15 be ordered to stand part of the bill. (After a pause) “ Ayes ” have it and the clause is ordered to stand part of the bill.

I am glad that I heard at a rather late stage the sound “ Aye ”. If no one had voted the clause would have dropped.

Clause 15 (*Publications of names of councillors in the Bombay Government Gazette*) ordered to stand part of the bill.

Clause 16 (Election of president and vice-president. Continuance of president or vice-president holding office at the commencement of this Act.)

(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.

(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 Act.

Mr. S. T. KAMBLI (Dharwar District) : I beg to move

“ That in clause 16 (2) the words ‘ of the whole body of municipal councillors ’ be added after the word ‘ election ’ in line 9.”

I propose to add these words in order to make it clear that until a fresh election of the whole body of councillors takes place the existing presidents and vice-presidents should continue to hold office. By adding these words the intention of the framers of the bill will be made more clear or quite clear and free from any ambiguity. So I hope that the amendment moved by me will be accepted by Government.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the section, as it stands, is quite clear. It means a fresh election of all the members. There is no ambiguity, and there is therefore no necessity to add these words.

Question put and lost.

Clause 16 ordered to stand part of the bill.

Clause 17 (*Term of office of president and vice-president*).

(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 :

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 their charge of their duties : Provided that in the case of the new successors take over the 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.

Mr. R. D. SHINDE (Nasik District) : Sir, I beg to move

“ Omit clause 17 (1) and substitute the following :

‘ A president or vice-president shall hold office during the period for which the councillors are elected at a general election. ’ ”

Under the existing law the period of office of a president or vice-president is the same as the period for which the other members are elected. Generally it is three years. Under clause 17 (1) of the bill the power is given to the municipality to decide at the beginning of their term of office the period of office of the president or vice-president between one year to

[Mr. R. D. Shinde]

three years. My submission is that this change that has been introduced will have an undesirable effect. I know there is a provision or convention in the Bombay municipal corporation under which the president has to vacate his office at the end of every year and according to that convention a president belonging to a particular religion in turn is voted to the chair. That convention is obtaining in the Bombay municipal corporation where the whole burden of the administration falls on the Municipal Commissioner. The condition is not the same in the mofussil. In the mofussil the whole burden of the administration falls on the president. He will take 12 months to get into the details of the administration. If he is made to vacate at the end of 12 months the administration of the municipality will suffer. My submission is that the principle that has hitherto been obtaining should continue.

Question proposed.

Mr. D. R. PATIL (East Khandesh District) : Mr. President, I heartily support the amendment moved by my honourable friend Mr. Shinde. I do not understand why new limit is now proposed by the bill. Formerly the rule was that the president was to work for three years. If we look to the District Local Boards Act, we will find the same provision ; if we look to the local legislature, we find the same provision ; in the Imperial legislature we find the same provision. I do not know what was before the Honourable the Minister for Local Self-Government that he has been pleased to depart from the old provision. I think the reasons adduced by my honourable friend Mr. Shinde are very sound, and I hope the Honourable Minister will be pleased to accept the amendment without the least hesitation.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I oppose the amendment moved by my honourable friend. I have given notice of an amendment to the effect that the president shall be elected only for one year and shall be eligible for re-election. The difficulty pointed out by the honourable mover that the president in the first year will be getting acquainted with the work of the municipality and if he is not elected for the next year, his experience will be lost, can be easily met by the argument that if the president continues to have the confidence of the municipality then he will be re-elected, but that if he has not the confidence of the municipality it is better that he goes out, and another man who has the confidence of the majority of the members comes in. Therefore, the election should be restricted to one year only.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, I have to oppose the amendment. For the benefit of and to respect the sentiments of those who would not like a fresh election immediately after the Act comes into force, I gave up my amendment to clause 16, *viz.*, to the effect that as soon as this Act comes into force fresh election of the President should take place ; that is to say I have accepted that persons who are at present presidents of municipalities should continue in office in spite of this Act coming into force. So that, all those gentlemen who are presidents or vice-presidents at present will continue in office, and this Act is not going

[Mr. Noor Mahomed]

to affect one way or the other the existing presidents and vice-presidents. The only question therefore is whether in future we should have presidents for one year or for three years. You will see, Sir, that certain municipalities have had to be suspended in the past on account of maladministration, mostly because of the presidential party making it impossible for the smooth working of the municipal administration. Such was the case at least in the Hyderabad municipality. There it was alleged to be impossible for the municipality to carry on their work efficiently because the president and his party kept all power in their hands. Does this honourable House want such monopoly of power in the hands of the president? We should therefore follow the example of Bombay, where the system of presidents acting for only a year has proved very effective and has been very successful. I think we should take Bombay as a model for the major municipalities that are going to be created under this bill. If the presidents are elected for one year and are eligible for re-election, I am sure those presidents who are trusted by the municipal councillors will be re-elected. I hold that by accepting this amendment the House would be committing a great blunder and making it possible for power to be retained by old men who do not like to part with it. Therefore, I strongly oppose this amendment. I hope the honourable member Mr. Patil will think over the matter and withdraw it.

Mr. R. G. PRADHAN (Nasik District): Sir, I oppose the amendment. The question was gone into thoroughly in the select committee. The clause, as it stands, appears to me to reconcile these two positions, whether the president should be elected for one year or for three years, because it leaves it to the municipality itself whether the president should be elected only for a period of one year or for a period of three years. If any municipality wants to elect its president for one year, this bill does not come in its way; if any other municipality wants to elect its president for three years, this bill does not come in its way too. We leave the matter entirely in the hands of the municipality. Therefore, I say that the clause as it stands in the bill is a reasonable one.

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President, I am sure, Sir, that there would be much to say for the honourable mover's amendment if the present bill had not allowed ex-presidents to be eligible for re-election. But they are eligible for re-election. If they are eligible for re-election and if the municipalities do not want to re-elect them, why should the presidents be forced on the municipalities? It is wrong, it is undemocratic. It is not wise to adopt this amendment.

There is something more. It will be giving a chance to many more persons of enjoying honour and of learning work. I do not think therefore that anybody is a loser by confining the election to one year. I do not doubt that it is against the interests of the existing presidents. They do not like it. Nobody likes to be turned out. But then in the interests of the younger men, specially men of the younger communities and backward communities, the election should be confined to one year. This will also stop intrigues in many ways. For all these reasons, I think

[Moulvi Rafiuddin Ahmed]

it is right that the present wording should be retained and the amendment should be rejected.

Khan Bahadur D. B. COOPER (Satara District) : Sir, I rise to support the motion that has been brought forward by my honourable friend from Nasik. Those members who have opposed this motion have expressed their experience which they gained in the city life, in cities like Bombay and Karachi. But I wish they would go to smaller municipalities like Dharwar, Nasik, Pandharpur and Satara to ascertain the true state of things. There they will learn what sort of work the president of the municipality has got to do.

My honourable friend Moulvi Rafiuddin Ahmad said that the bill gives the president an opportunity of getting re-elected. Well, that is the worst of it. If the president has to get himself elected every year, he has to be under the thumb of the members of his party; whether he likes it or not, he will have to yield to that party much against his conscience at all times if he wants to get re-elected every year. It is then said that it will give opportunities to more men to work as president than has been the case up till now. Well, Sir, we have passed so many clauses of this bill up till now and I must say they were all for the good of the people. But hereafter we are coming to the principal portion of the bill, where it will be seen that more harm than good to the smaller municipalities is being done. As a matter of fact the real training ground for the members to become fit for presidentships in smaller municipalities like the district municipalities which are going to come into being under this bill, is the managing committee which is being replaced by the standing committee under the new Act.

And there too the new president becomes the *ex-officio* chairman of that committee. As a matter of fact under the new Act that opportunity of getting the training of the men to be presidents is being lost. That means to say this new procedure is doing more harm for the training of president's posts than has hitherto been the case. The example of Bombay will not be quoted here where the Municipal Commissioner is from the cadre of the I.C.S. We have to deal here with a chief officer who will be appointed hereafter to the smaller municipalities on a salary of Rs. 100 or Rs. 150. Up till now the power to remove a president was vested in Government. Hereafter that power is given to the body itself. If the president is an autocrat, and if he is not fit to hold the post, the municipality has the power to remove him by bringing in a resolution and if that resolution is passed the body can turn him out without any reference to Government. No president can afford to be an autocrat. If he wants to carry out his work successfully he must have the support of his party and if he wants to have the support of his party he must try to please his party as far as possible and for these reasons no president can ever afford to be an autocrat. The powers given to president to nominate his own men for the standing committee is really a step for the destruction of the good work which the smaller municipalities have been doing all along.

[Khan Bahadur D. B. Cooper]

With these remarks I strongly support the motion that has been brought forward by honourable friend from Nasik.

Mr. R. D. SHINDE (Nasik District) : From the speeches of my honourable friends Mr. Noor Mahomed and Moulvi Rafiuddin Ahmad, I really thought that the president was an autocrat like the bureaucrats we have been hearing about in this Council. But, Sir, the president is a gentleman who is elected by the suffrage of all the members and it is extremely unlikely that he will lose the confidence of the members who elect him within twelve months. As pointed out by my honourable friend Khan Bahadur Cooper in clause 19 the municipality has the power to remove a president who has lost the confidence reposed in him by a resolution passed to that effect provided that three-fourths of the whole number of the councillors vote in favour of such resolution. I do not think under such circumstances the president can afford to be an autocrat as described by some honourable members here. Besides the possibility of an election happening within one year or two years would be a check to prevent cliques and wire-pulling, which is unfortunately the feature of local self-government at present. With these remarks I support the amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I have carefully considered the views of young aspirants for the posts of presidents as well as of existing presidents, and after very careful consideration I had put in that provision. In this House I see that opinion is divided. Some are for 3 years ; some for 1 year. The provision meets both points of view. As the bill stands, it gives the municipality the right to elect their own president, if they want, for one year, or if they like for 3 years. In fact it gives them self-determination. Each municipality will according to its own requirements elect its president, for 1 year or for 3 years as it likes. Now the amendment proposed interferes with the self-determination of the municipalities whom I have given the right to elect their president according to their requirements. If we accept the amendment, we would be tying the hands of the municipality. For these reasons I think, Sir, we must leave the provision as it stands.

Amendment put ; House divided. Ayes 8 : Noes 39. Amendment lost.

Division No. 6.

Ayes.

ANGADI, Mr. S. T.
BOLE, Mr. S. K.
COOPER, Khan Bahadur D. B.
DALVI, Mr. B. K.

KAMBLI, Mr. S. T.
NAVLE, Mr. N. E.
PATIL, Mr. D. R.
SHINDE, Mr. R. D.

Tellers for the Ayes : Mr. R. D. SHINDE, Mr. D. R. PATIL.

Noes.

ADDYMAN, Mr. J.
AHMAD, MOULVI RAFIUDDIN
BAPTISTA, Mr. J.
BEDREKAR, Khan Bahadur I. M.

BHUTTO, Khan Bahadur S. N.
BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.

[D. B. Cooper]

Noes—continued.

DADACHANJI, Dr. K. E.	LAWRENCE, the Honourable Mr. H. S.
DEHLAVI, the Honourable, Mr. A. M. K.	MANSURI, Khan Saheb A. M.
FERNANDEZ, Dr. COSMAS.	MASTER, Mr. A.
FRAMJI, Mr. K. S.	McKEE, Mr. W. G.
GHOSAL, Mr. J.	MEHTA, The Honourable Sir CHUNILAL.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH.	MONTGOMERIE, Mr. A.
HAMID M. ABDUL ALI, Mr.	NEKALJAY, Mr. R. S.
HATCH, Mr. G. W.	NOOR MAHOMED, Mr.
HAYWARD, the Honourable Sir MAURICE.	PAINTER, Mr. H. L.
HOSSACK, Mr. W. B.	PATEL, Mr. A. E.
HOTSON, Mr. J. E. B.	PATHAN, Mr. A. F. I. K.
JADHAV, the Honourable Mr. B. V.	PRADHAN, Mr. R. G.
JEHANGIR, the Honourable Mr. COWASJI.	RAHIMTOOLA, Mr. HOSENALLY M.
KAZI INAITULLAKHAN.	THOMAS, Mr. G. A.
KRUHRO, Mr. M. S.	WILES, Mr. G.
	WOODS, Mr. E. E.

Tellers for the Noes : Mr. NOOR MAHOMED AND MOULVI RAFIUDDIN AHMAD.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move the following amendment :—

In sub-clause (1) of clause 17 omit the words "such term, not less than" "and not exceeding three years as the municipality shall, previous to the election of the president or vice-president determine".

Sir, the object of my amendment is to restrict the offices of president and vice-president to one year, and if the president and vice-president have the confidence of the majority, they can be re-elected. But if during the term of their office they lose the confidence of the majority they will not be re-elected and another man will be elected in their place. There is absolutely no reason why these offices should be a monopoly of any individual or community. The man who has the confidence and support of the majority should remain in office.

Last year we had an instance where a president of a municipality in the municipality had lost the confidence and support of the majority of the members with the result that the recommendation from the majority came from that place to members of this Council for removing their president and there was actually a resolution in this council asking Government to do so. Such unseemly things will not happen if my amendment is accepted.

Question proposed.

Mr. N. E. NAVLE (Ahmednagar District) : Sir, I rise to oppose this amendment. When in clause 19 provision has been made that municipal bodies may have a president or a vice-president for one year and not exceeding three years, and when option is given to the municipality, it is not good to impose one year's time limit on them. This latitude given to the municipal body is better than the amendment and the clause should be retained as it is. I therefore oppose the amendment.

Sir VASANTRAO A. DABHOLKAR : Mr. President, I have not been able to follow the reasoning of the honourable member who preceded me in opposing this amendment. Even in the Bombay municipality the president is elected for one year, and from some of the districts there have been complaints, as the honourable mover has said, that the office

[Sir Vasantao A. Dabholkar]

of the president is monopolised for three years and that other members do not get a chance. If any member of the municipality wants to be re-elected as president he can easily do so if his electors have confidence in him ; but why give power by statute to any member of any municipality to remain in office as president for three years.

Mr. B. K. DALVI (Belgaum District) : Sir, I rise to oppose this amendment and in doing so the House is aware, that I am only supporting a principle which has been just now enunciated by the Honourable Minister for Local Self-government. In passing the last amendment he told us that he was for the principle of not tying the hands of the municipality either to one year or three years, in the matter of election of the president. Similarly I do not like the idea that the hands of the municipalities should be tied down to the proposition that they should in the first instance elect a president or a vice-president only for one year. If he has got a majority and supposing for instance he is elected for two or three years, and at the end of one year we find that he has lost the confidence of the majority then the remedy is in the hands of the municipality either to oust him by a majority of three-fourth of the councillors, or by passing a vote of censure on the strength of the majority which would make him vacate his post. I, therefore, oppose the amendment on the ground that we should not tie down the hands of the municipality but that we should leave the matter to the discretion of the municipality which would act in the best way possible.

Mr. D. R. PATIL (East Khandesh District) : Sir, I am sorry to oppose the amendment moved by my honourable friend from Bombay. The position of the Honourable Minister for Local Self-government is now very awkward. There is an amendment proposed to him by a Mahomedan member, and we have to see whether he likes to accept it. If he accepts it then he will be said to blow hot and cold in the same breath, because when my honourable friend the honourable member Mr. Shinde moved an amendment that the post of a president should be extended to three years, he (the Honourable Minister) argued that the municipality may under the bill appoint a president for one year or if it so pleases for two years or even for three years and so everything is left to the municipality. That was his argument and I hope he will stick to that and throw out the amendment.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I do not understand the objections of my honourable friends from the districts. When a man has the confidence of a majority of members, in the first instance he will ask them to elect him for the full term of the office of the president of a municipality. Then subsequently, when the members find that his work is not satisfactory to them, they are supposed to be able to remove him by votes of three-fourths of the members which of course is practically impossible unless the man is a total failure. Therefore, that clause will practically remain a dead letter. If the president or vice-president has to seek re-election at the end of every year, he will give satisfaction to the public and to the members and, if he gains

[Mr. Hoosenally M. Rahimtoola]

their confidence, he will be re-elected. I hope the House will accept my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, however inclined I may be towards fixing a president's term of office for a year, I find that the House is very keenly divided on this question, as some honourable members are in favour of one year, while others are in favour of three years. The solution which I will presently indicate will probably satisfy both sides. The argument of the honourable mover was that supposing in the first instance a municipality passed a resolution to elect their president for three years, then there was no way of getting rid of him in the event of his not proving satisfactory. But a municipality can rescind every resolution of their own after three months. If a president does not behave well, another resolution can be passed fixing his term for only one year.....

Mr. HOOSENALLY M. RAHIMTOOLA : How can they do that ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : They can do it by a resolution. As I have already said, I think it would be better if we left it to the discretion of the municipalities to elect their presidents and vice-presidents according to their own needs and requirements. However, I leave it to the option of the House.

Question put and lost.

Mr. S. T. KAMBLI (Dharwar District) : Sir, the amendment which I wish to move to clause 17 (2) reads thus :

In clause 17 (2) add the words " but he shall not be entitled to vote unless he is a member of the new municipality " after the words " such meeting " occurring in line 17 of the sub-clause.

Under clause 17 of the bill, the retiring president of a municipality is invested with the power to call the first meeting of the new board. He is further invested with the power to preside over that meeting until a new chairman for the meeting is elected. It is a recognised principle that no one is entitled to vote in a meeting unless he is a member thereof. The retiring president may or may not be the member of the new board. If he is not an elected or a nominated member of the new board then certainly he should not have any power or right to vote at that meeting. A position may arise when there will be an equality of votes of the new meeting and the retiring president without being a member thereof may be inclined or called upon to vote. The clause as it stands is not clear on this point. So to remove any doubt that may arise and to clear up the probable difficult position the amendment is moved. I hope that for this good reason Government will accept my amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I do not think it is necessary to add these words. The clause as it stands is very clear. It says that 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. That means that only the members

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of the new municipality will have the right to vote. I do not think, therefore, that the amendment is necessary.

Question put and lost.

Clause 17 ordered to stand part of the bill.

Clause 18 (*Resignation of president and vice-president*) ordered to stand part of the bill.

Clause 19 (*Liability of president and vice-president to removal*):—

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.

Mr. S. T. KAMBLI (Dharwar District): Sir, I wish to move the following amendment to clause 19:—

In clause 19 add the words "of which seven clear days' notice shall have been given" after the words "by a resolution".

The necessity for seven clear days' notice will be apparent when we know that the agenda for a meeting of a municipality does not require all the subjects to be discussed thereat to be mentioned in it. It would be, therefore, unfair to the president or vice-president to remove him without giving him a notice of seven clear days at least. In the present bill there is nothing to prevent a municipality from passing any resolution in any meeting without the subject of the resolution being mentioned in the agenda which is attached to the notice calling the meeting. So I venture to suggest that the words shown in my amendment should be added to the clause so as to make the president or vice-president acquainted with the nature of the resolution to be discussed at the meeting which may be called to pass it. The president may call a meeting with an agenda containing certain subjects. If the president happens to be absent on the day of the meeting, the chairman of the meeting may allow a censure resolution against the absent president and have it passed. So in order to avoid such a contingency, I propose the amendment and hope that it will be accepted.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN Sir, this amendment is not absolutely necessary. It is the president who fixes the date of the meeting. For every general meeting seven days' clear notice is necessary. That means if there is any motion to be discussed against the president in a general meeting, then the president has notice of seven days as he is the man who calls the meeting. And if such a motion is to be discussed at a special meeting, then a requisition is necessary, and the president has the right to call such a special meeting within a fortnight, with three days' previous notice to other members. That means he gets more than seven days' notice of a motion against him. Further, at any meeting no member can bring forward any motion without the permission of the president. So the position of the president is quite protected. Now, for a general meeting the president will have seven days' notice and for a special meeting he will have three days' notice. But the vice-president has not much to do, except when he

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acts as a president. In fact, a motion for removal will generally be against the president and not against the vice-president.

Question put and lost.

Mr. R. G. PRADHAN (Nasik District): Sir, I beg to move that—

After clause 19, the following words shall be added :—

“and provided, further, that before such resolution is passed the president or vice-president is given a reasonable opportunity of showing cause why such resolution should not be passed.”

Now, if honourable members will turn to clause 25 of the bill, they will find that such a proviso exists when a councillor is to be removed. There is a proviso to clause 25 which says :

“Provided that no resolution recommending the removal of any councillor 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.”

All that this amendment intends is that the same opportunity shall be given to the president or vice-president of showing cause as is given to an ordinary member.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I accept it, Sir.

Question put and carried.

Clause 19, as amended, ordered to stand part of the bill.

Clause 20 (*Consequences of absence of president or vice-president without leave*) ordered to stand part of the bill.

Clause 21 (*Vacancies in office of president and vice-president to be filled up*)—

(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.

Mr. R. G. PRADHAN (Nasik District): I beg to move that

“Omit sub-clause (2) of clause 21.”

This sub-clause did not exist in the original bill. It has been put in in the bill as amended by the select committee. In the original bill the power of convening a meeting, under the circumstances mentioned in this sub-clause, was given to the chief officer. I invite the attention of the honourable members to clause 32. In clause 32 there was a sub-clause (g) under which this power was given to the chief officer. Clause 32 deals with the powers and duties of the chief officer, and clause 32 (g), which has been deleted, gave the power to the chief officer to call a meeting under those circumstances. Now, what I propose is that the original clause of the bill should be restored, that is, the new clause which has been added to clause 21 should be deleted, and if this amendment of

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mine is accepted by the House, then I am going to propose that clause (g) should be restored in clause 32.

Question proposed.

The Honourab'e Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, in the original bill no doubt this power was given to the chief officer. But, in the select committee, the various members, including some of my honourable friends on the opposite side, were anxious that the Collector should call the meeting. Their reasons were that the chief officer, being a servant of the municipality, might be influenced by the candidates for the office of president, and might not be able to act independently out of fear that any of the candidates according to whose wishes he did not fix a date might become the president and then take him to task. Therefore, if the convener of the meeting is an independent man, he will have no interest in any party, and it is therefore desirable that the power should be given to him. That was one of the few occasions when honourable members on the opposite side wanted me to give power to the Collector, though I had proposed the chief officer. I persuaded them very much to retain the power in the hands of the chief officer, but they said "No, we have faith in the Collector and the power shou'd be given to him". Therefore, in the select committee the word "Collector" was inserted instead of the words "chief officer".

Question put and lost.

Clause 21 ordered to stand part of the bill.

Clause 22 (*Term of office of councillors holding office prior to commencement of Act and of councillors then elected*) ordered to stand part of the bill.

Clause 23 (*Term of office of councillors after general election*)—

(1) Councillors nominated or elected at a general election under this Act shall, save as otherwise provided in this Act, hold office for a term of three years, 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 commence 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.

Mr. R. G. PRADHAN (Nasik District) : Sir, I beg to move

That after clause 23, sub-clause (1), add the following :—

"Provided that before such order is made the Government shall invite and consider objections, if any, from the voters entitled to vote at the municipal election in the municipal borough concerned."

Now, clause 23 (1) provides that the period of office of a municipality may be extended to a term not exceeding in the aggregate four years. By my amendment, I do not in the least intend to interfere with that power of the Government, but all that I submit is that before an order extending the term is made, Government should invite objections, if any, from the rate-payers, consider those objections, and then pass their final order on the matter. My reason for moving this amendment is this. There is a temptation in the way of municipalities to pass

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resolutions proposing that their term of office should be extended, and such resolutions are apt to be passed without sufficient reason. In fact, I am aware of at least one such resolution recently passed by a particular municipality. Such a resolution is passed by the municipality and is sent to Government. It may be, sometimes it is, that this resolution which is passed by the municipality and upon which the action of the Government is sought by that municipality may not really express the opinion of the ratepayers in that municipality. The members of that municipality may have passed that resolution for their own reasons. Just to provide a safeguard against any such resolution being passed and against any action being taken by Government on such a resolution which may be passed by the municipality and forwarded to the Government, all I submit is, whenever any such resolution is passed or a recommendation made by the municipality to Government, Government should carefully consider that recommendation, and in order to ascertain whether the recommendation of the municipality really represents the wishes and desires of the ratepayers, they should invite objections to the proposal or recommendation that may have been made, and then, after considering the objections if any objections are made, the final order of Government should be passed.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
Sir, I accept the amendment.

Question put and carried.

Clause 23, as amended, ordered to stand part of the bill.

Clause 24 (*Resignation of councillors*) ordered to stand part of the bill.

Clause 25 (*Liability of councillors to removal from office*) ordered to stand part of the bill.

Clause 26 (*Disabilities from continuing a Councillor*).

- (1) If any councillor during the term for which he has been elected or nominated—
- (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 partner, 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 principal or other person, 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 whether a vacancy has occurred under sub-section (1), the orders of the Government shall be final for the purpose of deciding such question after a reasonable opportunity has been given to the Councillor.

Mr. S. T. KAMBI (Dharwar District) : Sir, I beg to move the following amendment.

In clause 26 (1) at the end add the words " and such person shall not be re-eligible for re-election or re-nomination for the remaining period of the term of office for which he was elected or nominated. "

[Mr. S. T. Kambli]

If we look to the provisions which are given in clause 26, we shall see that there are several grounds which would disqualify a sitting member from continuing to be a municipal councillor. It is further provided in clause 27 that if there shall be a vacancy, it shall be filled up by nomination or election, as the case may be. My amendment relates to the same person, and is intended to prevent him being re-elected or re-nominated for the remaining term for which he has been disqualified under the provisions of clause 26. If an elected councillor is disqualified from continuing to be a councillor, I think the same reasons should disable him from standing as a candidate for re-election for the vacancy. Also, if a nominated member becomes disqualified on any of the grounds mentioned in clause 26 (1), then it is a simple logical corollary that he should also be prevented from seeking re-nomination. Otherwise, there will be an incentive to persons to remain indifferent or neglectful of their duties or to remain absent for a number of meetings or for a number of months and then on the declaration of vacancy under the provisions of clause 26 if he offers himself for re-election, there will be nothing to prevent him from doing so under the provisions of clause 26. My amendment disables him from seeking re-election or re-nomination. With these words, I beg to move my amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the punishment proposed by the amendment is too harsh. If a councillor has any interest directly or indirectly in any contract with a municipality he becomes disqualified. His removal is a sufficient punishment. Suppose a pleader councillor is engaged in any case connected with a municipality, he becomes disqualified and is removed. That is sufficient punishment for him. If a councillor falls in arrears in the payment of taxes due to the municipality, he becomes disqualified. He is removed from the municipality. That is sufficient punishment for him. If he wants, let him again go to the electorate, and if the electorate still has confidence in him, let him be returned. Mere expulsion is sufficient punishment, and it is too drastic a punishment to exclude him for all time.

Mr. S. T. KAMBLI : I beg leave of the House to withdraw the amendment.

The amendment was by leave withdrawn.

Clause 26 ordered to stand part of the bill.

Clause 27 (*Casual vacancies how to be filled up*) ordered to stand part of the bill.

Clause 28 (*Municipal government vests in the municipality ; Executive power vests in the chief officer*) ordered to stand part of the bill.

Clause 29 (*Functions of President*).

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 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 therefor to the Standing Committee at its next meeting.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, I beg to move :

" In clause 29, sub-clause (d), after the words ' provided that ' add a new sub-clause (a) with the words :

' The president shall not act under this section without consulting the standing committee or any other committee appointed by the municipality for any particular work, unless it be a case of emergency ' "

Sir, the municipality is empowered to appoint several committees, such as the standing committee, schools committee, works committee and so on. The president is given the power to issue orders of his own accord without even consulting the municipality. If he is not to consult any of the committees before giving a particular order I do not understand the usefulness of the appointment of any committees. My object is that unless it is a case of emergency he should consult the committees. I believe my amendment is a modest and reasonable one and I hope Government will accept it.

Mr. A. MASTER : Sir, the honourable member says that his amendment is very modest. In fact it is otiose. The section as it stands says : " The president of a municipality may in cases of emergency direct " . The honourable member's amendment is : " The president shall not act unless it be a case of emergency. " The amendment is therefore unnecessary.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, I think my amendment is very necessary. If Government think it otherwise I leave it to the House to decide.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the honourable member has not read the section carefully. These powers are conferred on the president only in cases of emergency where the service or safety of the public is involved. Unless we give him such powers, the result will be serious. Further the section says that 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 " . Furthermore, he should report forthwith the action he has taken to the standing committee at its next meeting. I therefore oppose the amendment.

Question put and lost.

Clause 29 ordered to stand part of the bill.

Clause 30 (*Functions of vice-presidents*) ordered to stand part of the bill.

Clause 31 (*Appointment of Chief Officer. Conditions of tenure*).

There shall be a Chief Officer in every municipal borough, 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 two-thirds of the whole number of councillors; and no such officer shall be punishable with fine.

Mr. D. R. PATIL (East Khandesh): Sir, I beg to move the amendment standing in my name:

"In Clause 31, add the words "or any qualified person of approved service in P. W. D. or Revenue Department."

so far as the qualifications of the chief officer are concerned, they are very good indeed. So far as clause 31 goes, difficulties will arise in this way. I shall take the concrete case of the municipality of Bhusawal. There, we have laid a rule that the pay of a chief officer should be Rs. 100 and allowance of Rs. 50 a month. Now, Sir, in that case it will be very difficult indeed to get a graduate or a qualified engineer on that pay. Of course if we get a qualified engineer or a graduate of a recognised university on that pay we shall be very glad to accept his services. But if no such person is available on the pay that will be prescribed by a particular municipality, then the position will be very awkward. Therefore, I say let us add these words, namely, "any qualified person of approved service in P. W. D. or Revenue Department". If we do so we can accept the services of such men. With these words I move my amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The qualification of a chief officer laid down in clause 31 is that he should be "a graduate of a recognised University or a qualified engineer." Under this bill, we have given large powers to the chief officer, and therefore the select committee found it necessary to prescribe some standard of qualification for that officer. There are a large number of graduates; arts graduates, law graduates, graduates in medicine or engineering, and qualified engineers can also be appointed. I cannot make out the object of the amendment of my honourable friend: "Any qualified person of approved service in P. W. D. or Revenue Department". I do not know whether he means by "any qualified person of approved service in P. W. D." a maistry who may be qualified to carry out the work of maistry in P. W. D. to the satisfaction of his superiors. Do I understand that the honourable member wants maistries also to be included? (Mr. D. R. Patil: No). He wants then "any qualified person of approved service in the Revenue Department". A clerk in the Revenue Department may have rendered approved service. The very object of laying down these qualifications will be frustrated if we accept this amendment. Instead of accepting the amendment it would be better to lay down no qualification at all. The very object of laying

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down general qualifications will be frustrated if we accept this amendment. I hope therefore the House will reject it.

Question put and lost.

Clause 31 ordered to stand part of the bill.

Clause 32 (*Powers and duties of Chief Officer and Appointment of health officer and engineer*).

(1) The Chief Officer shall—

(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 ;

(b) subject to the provision 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 (c) 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 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 Ra. 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) 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 all cases of fraud, embezzlement, thefts, 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 Ra. 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 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 or any one or more of such officers, whether temporarily or permanently.

(b) No such officer shall be removable from office, reduced or suspended unless by the assent of at least two-thirds of the whole number of councillors, and no such officer shall be punishable with fine.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to move:

In clause 32, sub-clause (a) after the word "President" add the words "the Standing Committee."

Now, in this bill very wide powers are supposed to be given to the municipalities. This bill has been described as "a bill to give wider powers in the management of municipal affairs in certain cities". But in fact this bill gives wider powers only to the presidents of the municipalities and their chief officers. If this bill is passed, as it is, it will be said hereafter more publicly than is being done here to-day, that this bill confers power only on the president and the chief officer. Whatever the chief officer and the president want to do, they will be able to do under this bill. That is the danger. Therefore, I submit that it is very necessary to circumscribe the powers of the president and of the chief officer. If the president is given uncontrolled power in municipal affairs, and if he is not to be responsible even to the standing committee, then I cannot imagine what he will not be able to do and what he will not do. Therefore, I want to suggest that some check be placed on his powers. I say that the president should act in consultation with and on the advice of the standing committee. At this stage of the bill some provision of that kind should be made, and the president should not be left to be responsible only to himself. The chief officer is to be responsible mostly only to one man, and that is the president. Even now the collectors and the Government are unable to interfere in municipal administration. Therefore, the municipality should be given enough power to watch, through its standing committee, over the president's acts and to guide them. That is my only object in bringing forward this amendment. The president should not be given uncontrolled power. The misuse of power by presidents of municipalities is very well-known in the history of local self-government in this province. The Honourable the Minister for Local Self-Government has been himself the president of an important district local board and vice-president of a municipality, and I think he will realise that it is not at all very safe to give unlimited powers to the president. The standing committee, which is an important body, should be given some effective power to assist the president. We should clearly mention in the Act that "the chief officer shall, subject to the control of the president and the standing committee . . ." Unless we do that, only the chief officer and the president will mostly be the municipality among themselves. With these words, I put my amendment for the consideration of the House.

Question proposed.

Mr. M. S. KHUHRO (Larkana District): Sir, I rise to oppose the amendment. The president is elected by the board. If he is not to be trusted by the board, then it is better not to select any president at all. My honourable friend suggests that the president should not be given any power and that he should be controlled by the standing committee.

[Mr. M. S. Khuhro]

It is rather difficult for the chief officer to be responsible to so many members of the standing committee. As it is, the chief officer is subject to the control of the president. The president derives power from the board and is elected by the board, and therefore he should be trusted by them. The board should have confidence in their president whom they elect. They should elect a president in whom they can have confidence. The bill says that the president shall watch over the financial and executive administration of the municipality, and the president is therefore responsible for the efficient administration of the municipality. I therefore think that the powers of the president should not be taken away from him and given to the standing committee. I think this amendment will be derogatory to the position of the president, and to the improvement in the administration of the municipalities. I therefore oppose the amendment.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I am very sorry that my honourable friend from Larkana, who is also the vice-president of the Larkana municipality, does not see fit to support me in this matter. Sir, we all do talk of democracy. But when it comes to be tested very little of it is to be found. No doubt the chief officer of a municipality is subject to the 'general control' of the president. What is that general control? In reality it is only a meaningless phrase. Then, Sir, the president is to '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'. If the president is alone to have all that power, what is then the standing committee there for? It will have practically no work. I think it is not proper to entrust such wide powers to the president. I would request the Honourable Minister to consider this amendment favourably.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The honourable mover of this amendment made a complaint as regards the powers of the chief officer and the president. No doubt, the chief officer has certain minor powers under this bill, but his other powers are subject to revision by the standing committee or the corporation. Again, Sir, he said the standing committee had no power. When compared with the former Act, the standing committee have now more powers. Moreover in this bill, the president is made more subject to the control of the municipality. Formerly, the municipalities had no power to remove the president. This bill gives them this power. The mover of the amendment said that the president should exercise general power of control over the chief officer with the advice of the standing committee. I have never heard of a president watching over the acts of the chief officer in consultation with the standing committee. There cannot be divided responsibility. In the bill, the responsibility is that of the president. He is responsible to the municipality and the people for the whole administration of the city. Therefore he is the proper party under whose control the chief officer must work. It is the municipality

[Khan Bahadur Shaikh Ghulam Hussain]

that can appoint the chief officer and it is the municipality that can remove him. He is not like the Municipal Commissioner in the city of Bombay. The complaint, I am afraid, that very great powers are given to the president and the chief officer are groundless.

Question put and lost.

The Honourable the PRESIDENT : Before I adjourn the meeting I should like to ascertain the wishes of the House in regard to the invitation of His Excellency for to-morrow's function at Government House. I should like to know what the wishes of the honourable members are in regard to meeting to-morrow ; whether they wish to meet at the usual time and carry on till 7 o'clock, whether they want to adjourn the House till Monday or whether they want to meet earlier to-morrow and adjourn at an earlier hour. Although the power of adjourning the House is vested in the President, I should like to ascertain the general sense of the House before deciding what should be done as regards meeting to-morrow.

The Honourable Sir MAURICE HAYWARD : I should like to suggest, Sir, that we should meet at 12 noon to-morrow and carry on the work till about 4 p.m. with an interval for lunch. I have ascertained from some honourable members that they would sooner meet to-morrow in order to get on with the work than do no work and as a result sit for extra days at the end of the Sessions.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce) : I entirely support the suggestion of the Honourable the Leader of the House. I think that our business should be got through as expeditiously as possible, and I cannot admit that the fact that we have got through our business rather quicker than usual so far, this session is any good reason why we should take a holiday on Saturday.

This will only lead to our being kept here for an extra day at the end of the session and I therefore fall in with the suggestion which provides for some work being done on Saturday.

MOULVI RAFI UDDIN AHMAD (Central Division) : The work of the House has been done very expeditiously and we have finished the work in half the time that was allotted for the purpose and I do not see why we should not have a holiday to-morrow.

Khan Sahab A. M. MANSURI (Ahmedabad and Surat Cities) : I do not agree with the honourable member Moulvi Rafiuddin Ahmad : Let us work to-morrow from 12 to 4 p.m.

The Honourable the PRESIDENT : Honourable members will have Sunday all the same.

Khan Bahadur I. M. BEDREKAR (Southern Division) : I would like to support the Honourable Leader of the House.

Mr. B. K. DALVI (Belgaum District) : We have not come here to enjoy holidays. We should work for some hours to-morrow and enjoy full holiday on Sunday.

The Honourable the PRESIDENT: Personally I am inclined to adjourn the meeting to 12 o'clock to-morrow with tea interval at 2 and to go on till 4 p.m. Then honourable members could, if they so desire, attend the Government House function which is between 3 and 6-30 p.m. This is what appeals to me, but I should like to know in view of what has been said whether there would be any substantial opposition to that course being adopted.

Mr. J. BAPTISTA (Bombay City, North): There is a select committee meeting at 11 o'clock. I would suggest our meeting at 1 p.m. and going on till 4 o'clock.

The Honourable the PRESIDENT: I think the Honourable Leader of the House would let me know whether the members of the select committee will meet to-morrow or whether their meeting will be put off till Monday.

The Honourable Sir MAURICE HAYWARD: I understand, Sir, that there is a select committee meeting from 11 to 2. It will be in the same building and honourable members would be able to attend the select committee and also will be able to attend if necessary the meeting of this House.

The Honourable the PRESIDENT: I am afraid I will not be a party to an arrangement like that. The interests of this House must be supreme. If honourable members who are members of the select committee agree to the fixation of to-morrow's meeting, and desire to attend to the work of this Council, I think Government should arrange the meeting of the select committee in such a manner as not to interfere with the work of this House. Of course in the ordinary course the meeting of the select committee in question was rightly called, and I do not want to criticize the action of Government in any way. But now that we propose to change the hour of our meeting to-morrow I think Government might consider the desirability of so altering their programme in regard to the meeting of the select committee as to meet the convenience of honourable members.

The Honourable Mr. H. S. LAWRENCE: Sir, it is rather important that we should get on with this select committee on the Stock Exchange Bill specially in regard to the convenience of gentlemen from Bombay. Some of them are staying to-morrow morning in order to attend this committee and are going to Bombay by the afternoon train. I think the committee might be able to finish its work by sitting from 11 to 1 o'clock.

The Honourable the PRESIDENT: The House proposes to meet at 12.

The Honourable Mr. H. S. LAWRENCE: Cannot we have permission to attend the select committee?

The Honourable the PRESIDENT: Honourable members are not bound to attend either here in the House or in the select committee. It is entirely at their discretion, but if I happen to know that there is such an important engagement elsewhere it will influence me in fixing

[The President]

the hour of meeting of this House. The select committee can meet after 4 or on Sunday, and Sunday meetings of the select committee are not unusual.

The Honourable Mr. H. S. LAWRENCE : Gentlemen from Bombay are anxious to spend Sunday in Bombay.

The Honourable the PRESIDENT : We cannot have it every way in their favour. They can excuse themselves from attendance.

The Honourable Sir MAURICE HAYWARD : Sir, I suggest that the select committee should meet from 11 to 1 and that the House should sit from 1 to 4.

The Honourable the PRESIDENT : How does that suggestion appeal to the honourable members ? To meet from 1 to 4 to-morrow. (Honourable members indicated assent).

The House will meet at one o'clock to-morrow and adjourn at 4 without any tea interval.

The House will now adjourn to one o'clock to-morrow, Saturday the 24th October 1925.

Saturday, the 24th October 1925.

The Council re-assembled at the Council Hall, Poona, at 1 p.m. on Saturday, the 24th October 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present.

ABDUL LATIF HAJI HAJARAT KHAN, MR.
ABDULPURKAR, Mr. N. A.
ADDYMAN, Mr. J.
ADWANI, Mr. D. B.
AHMAD, MOULVI RAFIUDDIN
ANGADI, Mr. S. N.
BAPTISTA, Mr. J.
BEDREKAR, Khan Bahadur I. M.
BHOPATKAR, Mr. L. B.
BHUTTO, Khan Bahadur S. N.
BIJARANI, Khan Saheb SHER MAHOMED KHAN
BOLE, Mr. S. K.
BUNTER, Mr. J. P.
CHAUDHARI, Mr. L. S.
CLEMENTS, Mr. E.
COOPER, Khan Bahadur D. B.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DALVI, Mr. B. K.
DEHLAVI, the Honourable Mr. A. M. K.
DELVES, Mr. R. H. A.
DESAI, Rao Saheb D. P.
DEV, Mr. S. S.
DIXIT, Dr. M. K.
FERNANDEZ, Dr. COSMAS
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
GRANTHAM, Mr. V. A.
GUNJAL, Mr. N. R.
HAMID M. ABDUL ALI, Mr.

HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HOSSACK, Mr. W. B.
HOTSON, Mr. J. E. B.
JADHAV, the Honourable Mr. B. V.
JAYAKAR, Mr. M. R.
JEHANGIR, the Honourable Mr. COWASJI
JOG, Mr. V. N.
JOSHI, Mr. P. G.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
KAZI INAITULLAKHAN
KHUHRO, Mr. M. S.
KOKANI, Mr. G. J.
LALJI NARANJI, Mr.
LAWRENCE, the Honourable Mr. H. S.
MANSURI, Khan Saheb A. M.
MASTER, Mr. A.
MAVALANKAR, Mr. G. K.
MCKEE, Mr. W. G.
MEHTA, the Honourable Sir CHUNILAL
MEHTA, Dr. M. M.
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
MUJUMDAR, Sardar G. N.
MUKADAM, Mr. W. S.
NANAL, Mr. B. R.
NAVLE, Mr. N. E.
NEKALJAY, Mr. R. S.
NOOR MAHOMED, Mr.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PATEL, Mr. A. E.
PATEL, Mr. D. N.
PATEL, Mr. G. I.
PATHAN, Mr. A. F. I. K.
PATIL, Mr. D. R.
POWAR, Mr. M. B.

PRADHAN, Mr. G. B.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOOSENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. D.
 SHIVDASANI, Mr. H. B.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order. Questions.

MAHOMEDAN, EUROPEAN AND ANGLO-INDIAN EDUCATION.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) the exact sum of money spent by them for special educational institutions maintained by them for the benefit of the Mahomedan community in the presidency proper;

(b) for the benefit of Europeans and Anglo-Indians.

The Honourable Mr. B. V. JADHAV: (a) Rs. 1,16,934 during 1924-25 only.

(b) The honourable member is referred to the Honourable the Home Member for the necessary information.

MOULVI RAFIUDDIN AHMAD: With regard to (a)..... (inaudible.)

The Honourable Mr. B. V. JADHAV: If the honourable member gives me notice, I will find that out.

* Mr. L. B. BHOPATKAR (Poona City): I do not put my questions.

EDUCATION IN KARJAT TALUKA.

Mr. S. K. BOLE: Will Government be pleased to state—

(a) whether it is a fact that there is no full seven standard vernacular school in the Karjat taluka;

(b) whether they intend to increase the number of trained teachers in this taluka?

The Honourable Mr. B. V. JADHAV: (a) and (b) Information has been called for.

Mr. P. G. JOSHI (East Khandesh District): I do not put my question.

* The following hon'ble members did not put the questions standing in their names:—
 Mr. L. B. BHOPATKAR, Mr. P. G. JOSHI, Mr. W. S. MUKADAM on behalf of
 Mr. M. D. KARKI, Mr. J. C. SWAMINARAYAN.

Mr. W. S. MUKADAM on behalf of Mr. M. D. KARKI (Kanara District): I do not put Mr. Karki's question.

HINDU AND MAHOMEDAN STUDENTS IN GOVERNMENT HOSTELS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(a) the respective number of Hindu and Moslem students residing in Government hostels attached to both high schools and colleges in the presidency proper;

(b) how many Mahomedans and Hindu students have been refused admission in these hostels.

The Honourable Mr. B. V. JADHAV: (a) and (b) Information has been called for.

MAHOMEDAN FEMALE-EDUCATION.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state what steps they have taken to further the cause of Mahomedan female education?

The Honourable Mr. B. V. JADHAV: Information is being collected.

SCHOLARSHIPS FOR MAHOMEDAN GIRLS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state whether they are aware of the fact that a sufficient number of scholarships is not assigned for Mahomedan girls, especially in the primary English classes?

The Honourable Mr. B. V. JADHAV: Enquiries are being made.

TEA-STALL FOR MAHOMEDANS AT ELLIS BRIDGE STATION, AHMEDABAD

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state whether they are aware of the fact that there is no stall for tea or other refreshments for Mahomedan passengers at Ellis Bridge Station, Ahmedabad?

The Honourable Sir MAURICE HAYWARD: Yes, but there has been no demand for such a stall up till now.

MOULVI RAFIUDDIN AHMAD: Now that the demand has been made by the honourable member, will the stall be now supplied?

The Honourable Sir MAURICE HAYWARD: I will enquire from the honourable member in charge of the department.

TIME-TABLES AT ELLIS BRIDGE STATION, AHMEDABAD.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state whether they are aware that wrong time-table is put up at the Ellis Bridge Station, Ahmedabad, which causes inconvenience to passengers?

The Honourable Sir CHUNILAL MEHTA: It is understood that the timings of trains on Dholka Branch were altered in the months of March

and May and correction slips issued and posted. The sheet time tables put up at the Station were however damaged by passengers, and particularly the portion showing the timings of Branch Line trains was in a torn condition on the date the Honourable Member visited the station.

THE SATHE-PARANJPYE SCHEME.

Mr. R. G. PRADHAN (Nasik District): Will the Honourable the Minister of Education be pleased to lay on the table a statement showing—

- (1) the total number of Municipalities and District Local Boards consulted on the question of raising the scale of salaries of primary school teachers in accordance with the Sathe-Paranjpye Scheme;
- (2) the total number of those that declared themselves in favour of that scheme;
- (3) the total number of those that declared themselves against it; and
- (4) the total number of those that suggested a modified scheme.

The Honourable Mr. B. V. JADHAV: Information is being collected.

UNCLAIMED DIVIDENDS, WESTERN INDIA TURF CLUB.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state the amount of money representing dividends which was forfeited (unpaid by the Turf Club on account of failure of demand by winners) during the year 1924?

The Honourable Sir MAURICE HAYWARD: Government has no information.

Mr. A. N. SURVE: May I understand that Government have no desire to obtain information?

The Honourable Sir MAURICE HAYWARD: I recommend the honourable member to refer to the Turf Club as the Turf Club is not the property of the Government.

Sir VASANTRAO A. DABHOLKAR: May I know how in the absence of any information Government recommended this Council to reduce the duty on gate money?

The Honourable Sir MAURICE HAYWARD: I think that that question ought to be made to the Honourable the Finance Member.

MOULVI RAFIUDDIN AHMAD: May I ask the Honourable Leader of the House if there is no difference between an individual member asking the Turf Club for information and information being asked for from them in the name of the Council?

The Honourable Sir MAURICE HAYWARD: It is not usual for Government to ask private institutions for information of the kind desired by the honourable member. If honourable members want any information from private institutions, they ought to go to the heads of those institutions and not to Government.

FRACTIONS OF RUPEE DEDUCTED FROM DIVIDENDS, WESTERN
INDIA TURF CLUB.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) the fraction of a rupee of which the Turf Club does not make payments in giving out dividends ;

(b) the total amount thus unpaid during the year 1924 ?

The Honourable Sir MAURICE HAYWARD: Government has no information.

Mr. S. K. BOLE: Will Government be pleased to obtain the information ?

The Honourable Sir MAURICE HAYWARD: The honourable member should make a reference to the Turf Club.

Mr. J. C. SWAMINARAYAN (Ahmedabad District): I do not put my question.

(CONSIDERATION OF BILL NO. XVI OF 1925—MAJOR
MUNICIPALITIES BILL—RESUMED.)

Mr. A. MASTER: Sir, I beg to move that—

“ In section 32 (1) (b), for ‘ clause (e) ’ substitute ‘ clause (c) ’.”

This is merely a formal amendment owing to a mistake in drafting. Question put and carried.

Mr. A. MASTER: Sir, I beg to move that—

“ In section 32 (1) (c), for ‘ clause (b) ’ substitute ‘ clause (c) ’.”

This again is merely a formal amendment due to a mistake.

Question put and carried.

Mr. D. R. PATIL (East Khandesh District): Mr. President, I beg to move my amendment which reads as follows :

In sub-clause (1) (c) of clause 32, substitute “ Rs. 25 ” for “ Rs. 50 ”.

Mr. President, we have given some powers to the chief officer, but so far as the appointment of any servants in the municipal departments is concerned, I think if we empower him to appoint any person up to Rs. 25, that will be all right. I am not willing to give him the power of appointing persons to the extent of Rs. 50.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, this is a power given to the chief officer to appoint servants of the municipality up to a salary of Rs. 50. I do not think, Sir, this is excessive. If we are erring at all, we are erring on the side of moderation, I must say. He is responsible for carrying out the duties mentioned in this bill, and he has authority under the bill to supervise and control the acts of the various subordinates. When this bill some three years ago was referred to the municipalities for opinion, a very large number of municipalities were in favour of giving him the power of appointment up to Rs. 50. But I may remind this House that there are some municipalities who have actually given to their chief officer the power to appoint servants

[Khan Pahadur Shaikh Ghu'ar Hussain]

even up to Rs. 100. Sir, these appointments often lead to quarrels on account of the various factions in the municipalities. Those who have experience of municipal life know that there are frequent quarrels over these appointments of Rs. 10, Rs. 15 and Rs. 20, and so on. A good deal of canvassing is done. Some councillors favour one party and other councillors favour others, and if more power is given to the executive, I am sure all these quarrels will cease. I think it will be in the best interests of the municipalities to give this power to the chief officer. With these remarks, I oppose the amendment.

Question put and lost.

The Honourable the PRESIDENT: The honourable member Mr. Noor Mahomed has got a similar amendment, but to substitute Rs. 30 for Rs. 50.

Mr. NOOR MAHOMED: Sir, after hearing the Honourable Minister on this point, I do not wish to move it.

Mr. D. R. PATIL (East Khandesh District): Mr. President, I beg to move that--

In sub-clause (2) (a) of clause 32, substitute "Rs. 15" for "Rs. 30".

Sir, my first amendment is defeated because there was a question of appointment. Now, done is done. But here is an amendment which is important and which I hope the Honourable Minister will accept, because my amendment does not allow the chief officer to dismiss a man whose pay is more than Rs. 15. Sir, when a servant is appointed and if he is to be dismissed, I think there is the municipality to see whether he deserves to be dismissed. The question of appointment is different from that of dismissal. I allow the power to the chief officer to suspend or dismiss a man who does not draw a pay of more than Rs. 15, and I think this amendment will be accepted by the Honourable Minister.

Question proposed.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to support the amendment. I think the chief officer should be given the power to dismiss servants drawing pay up to Rs. 15, because experience has shown that the power of appointing and dismissing municipal servants has not been exercised rightly by the municipality in the past. If the Honourable Minister thinks that the figure "15" is too low, I think he can very well afford to consent to the substitution of figure "20". But if he does not agree to that proposal even, I shall have to support the amendment.

Mr. M. S. KHUHRO (Larkana District): Sir, I rise to oppose the amendment. In the original bill the figure provided was Rs. 50, that the chief officer should be empowered to dismiss servants drawing up to Rs. 50, and then the select committee after discussion and consideration changed it to Rs. 30. I think this is a reasonable figure and should not be reduced.

Mr. A. F. I. K. PATHAN (Southern Division): Sir, I rise to support the amendment moved by the honourable member Mr. Patil. In some

[Mr. A. F. I. K. Pathan]

of these municipalities there are only four or five posts carrying Rs. 30, and in others one or two such posts. In such cases, it will not be reasonable to invest the chief officer with the power to dismiss a servant on Rs. 30 or below down to Rs. 15 as by doing so we will be depriving the municipality of the effective check on him. So, I think the amendment is quite reasonable.

Mr. D. R. PATIL (East Khandesh District) : Sir, I am really surprised that there should be any opposition to my amendment. However, the honourable member Mr. Noor Mahomed has supported me and the other honourable member (Mr. Khuhro) opposed me. Fortunately, there is a third honourable member who is also a Mahomedan who was kind enough to support me. So there are two Mahomedan members on my side, and I hope the third, the Honourable Minister will also be with me.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, it is not a question of two Mahomedans on one side and two on the other. It is a question of how the administration of the municipality should be carried on, and what are the provisions which are in the interests of good administration. I look at the question from that point of view. From that point of view, I think the executive ought to have very large powers. The honourable mover seems to be very inconsistent. He gives the chief officer the power to appoint servants up to Rs. 50, but as regards punishment and dismissal, he does not wish the chief officer to have the power to dismiss a municipal servant even on Rs. 30. Now, Sir, Rs. 30 is not a very high salary. If you reduce the limit, the chief officer will have power to deal with only the pattewalas and the bhangis. The lowest clerk in a municipality, as I understand, draws about Rs. 30 to Rs. 35. Besides, Sir, the chief officer's power is not final. I am sorry my honourable friends have not read the bill carefully. There is a proviso added to the following effect :

" 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 ; "

The chief officer is a very responsible officer ; he has to carry out the provisions of this Act, and he is the executive head of the administration, and my honourable friend grudges him the power to dismiss a servant who draws a salary of Rs. 30 per month. It should be remembered that his order is not final ; it is subject to an appeal to the standing committee or to the municipality.

There is a further argument. Who is the best judge of the acts of the various servants of the municipality ? It is the main executive officer, that is the chief officer, who knows what duties each servant performs, and who has the power of supervision and control over their acts, as they all work under him. Therefore, he is the best judge of the merits and demerits of any servant, and I am sure this House will not grudge this small power to the trusted servant of the municipality, the chief officer.

Question put. House divided. Ayes, 11; Noes, 29. Amendment lost.

Division No. 7.

Ayes.

ARMAD, MOULVI RAFIUDDIN
BOLE, Mr. S. K.
CHAUDHARI, Mr. L. S.
DALVI, Mr. B. K.
KAMBLI, Mr. S. T.
NAVLE, Mr. N. E.

NOOR MAHOMED, Mr.
PATEL, Mr. A. E.
PATHAN Mr. A. F. I. K.
SHANKARRAO JAYARAMRAO ZUNZARRAO,
Mr.
SHINDE, Mr. R. D.

Tellers for the Ayes: Mr. D. R. PATIL and Mr. A. F. J. K. PATHAN.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
ADDYMAN, Mr. J.
BUNTER, Mr. J. P.
DABHOLKAR, Sir VASANTRAO A.
DEHLAVI, the Honourable Mr. A. M. K.
FERNANDEZ, Dr. COSMAS
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan
Bahadur SHAIKH
HAMID M. ABDUL ALI, Mr.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HOSSACK, Mr. W. B.
HOTSON, Mr. J. E. B.

JADHAV, the Honourable Mr. B. V.
JEHANGIR, the Honourable Mr. COWASJI
KHUERO, Mr. M. S.
KOKANI, Mr. G. J.
LAWRENCE, the Honourable Mr. H. S.
MANSURI, Khan Saheb A. M.
MASTER, Mr. A.
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
MEHTA, the Honourable Sir CHUNILAL
MUJUMDAR Sardar G. N.
PAINTER, Mr. H. L.
THOMAS, Mr. G. A.
WILES, Mr. G.
WOODS, Mr. E. E.

Tellers for the Noes: Mr. M. S. KHUERO and Dr. COSMAS FERNANDES.

Clause 32 ordered to stand part of the Bill.

Clause 33 (*Provisions in regard to meetings of a municipality*).

The following provisions shall be observed 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.

(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 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 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.

(4) Every meeting of a municipality shall, except for special reasons to be 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.

(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:

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 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 the vernacular language, and if any Councillor so desire, in English also, 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, 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.

Notice of certain business to be given to the Government Executive Engineer or Educational Inspector.

(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 :

Certain Government officers may attend and may be required to attend meetings.

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 receipts 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.

Mr. D. R. PATIL (East Khandesh) : Sir, I beg to move the following amendment which stands in my name :

" In clause 33, sub-clause (2), substitute " one-half " for " one-fourth " in line 10.

Sir, when a special meeting is to be called a requisition is necessary under the bill by one-fourth of the members of the municipality, and this is sufficient to compel a president of a municipality to call a special meeting. Suppose in a municipality there are 40 members—we know that there are generally 40 members in each municipality—and suppose if ten members want to trouble the president without any good ground by sending in a requisition to call a special meeting, the position of the president will be a kward and he will be compelled to call a special meeting. If it is made necessary that there ought to be one-half of the members to send in a requisition to call a special meeting then there is some sense to suppose that there is a real necessity to call a special meeting. In order to avoid this trouble to the president which may be caused by ten members unnecessarily I propose this amendment, and I hope the Honourable Minister will be pleased to accept it.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, it is not a new provision that at the requisition of one-fourth of the members a special meeting should be called. This has been embodied in the old District Municipal Act which has been in existence for a

[Khan Bahadur Shaikh Ghulam Hussain]

considerably long time. This has worked well, and there is absolutely no complaint about this provision. Suppose an important matter is to be transacted and one-fourth of the total strength of the members—whatever be its number—desire to have a special meeting called. I think that that is quite a sufficient number to be entitled to ask the president to call a special meeting. If my honourable friend looks up the Bombay City Municipal Act, I think he will find that four members of the standing committee can ask the president to call a special meeting. Here the provision is that one-fourth of the members should send in a requisition. If we raise the proportion to one-half as proposed by my honourable friend I think it would be impossible to call a special meeting.

Mr. D. R. PATIL: I beg leave of the House to withdraw my amendment.

Question put and leave granted.

Amendment by leave withdrawn.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move the amendment standing in my name which reads as follows:

"In clause 33 (3), line 19, add the words "and also published in a local vernacular newspaper having a large circulation—if such exists" after the word 'borough'."

The idea underlying this amendment is that the public should be made to take interest in municipal affairs. Government make provision only for technical publication. But I think with the advance of ideas people must be brought more into contact with the affairs of their municipal institutions. Reading the clause as it stands in the bill it states that the notice shall be posted up at the municipal office or the local *katcheri* or other public building in the municipal borough. Note the word 'or'. The word used is not even 'and'. So, you will see what a scanty publication the notice will have. It is necessary that the public should be made, nay practically compelled, to know what is going on in their municipality. That object cannot be accomplished by publication of the nature contemplated by the clause under discussion.

In this connection I may refer to the review on the working of the municipalities which Government have published. That publication is not in the hands of honourable members yet. But that very obliging officer, the Director of Information, has sent a summary of it to the honourable members. In it is the following statement: "The existence of parties and factions in municipal councils is another unfortunate feature and the spirit engendered by this has vitiated and hampered municipal administration". It appears that Government mean to say that owing to the existence of parties the municipal works have not been well carried out and unnecessary deadlocks are created regardless of the welfare of the public. But have Government considered why such things take place? It is because they do not make the public to take interest in the municipal affairs. If that is done no party would dare to create a deadlock, because if they do at the next election they will not be returned. Therefore, I say if Government really wish that the people should know and take interest in what is going on around them

[Mr. A. N. Surve]

they must arrest the attention of the people by giving as much real and not merely technical publicity as possible. If notice of agenda is inserted in newspapers whether people are willing or not they will know about these matters by reading them in newspapers and find out what the different parties are doing. If the quarrel of the parties hampers the progress of the municipality, the voters will take a note of that fact and when the election comes they will not vote in favour of that party which has been obstructive. Therefore it is in the interest of the municipal affairs that the widest possible publicity should be given. In the suggestion I am making I am also supported by the Bombay City Municipal Act. In section 36 of that Act it is laid down in sub-section (j):

"Every notice of a meeting shall specify the time and place at which such meeting is to be held and the business to be transacted thereat and shall be given by the municipal secretary by advertisement in the local newspapers."

Not only one newspaper, but the words used are "local newspapers". The sub-section continues:

"And except in the case of adjourned meetings or of meetings called upon a requisition of urgency, in the *Bombay Government Gazette*."

You will see from this sub-section that Government contemplate two kinds of publication: one is legal or technical publication and the other is publication to arrest public attention. Therefore, I say these notices should be published as advertisements in the local newspapers. The bill applies only to very big towns, and I am quite sure that there are several newspapers — not only one, but several in each of the cities named in the list. Therefore, I suggest that the notification should be published in that paper which has the largest circulation. I hope this amendment will be accepted by this House.

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President, I rise to support this amendment. My object in supporting it is to give some information to the Honourable Minister in charge. It has been mentioned by the honourable mover of the amendment that notices of the business of meetings of the municipal corporation of Bombay are published in the *Bombay Government Gazette*. I do not know whether that corporation pays for such publication, and I do not even know why they are allowed to be published in the *Bombay Government Gazette*. But if one municipality is entitled to such publication free of charge, why should not other municipalities be allowed the same privilege? It may be that 50 or 60 years ago, the Government, to oblige the corporation, allowed them that privilege. If publication is charged, I think the same should be allowed to new municipalities. Some of these municipalities are very big, for example the municipalities of Ahmedabad, Poona and Karachi. If this is not possible then the only question that arises is: if the municipalities like to publish it in the local newspapers and are willing to pay for it, they should be allowed to do so. I do not see why Government should object to their doing so. I hope the Honourable Minister will accept the amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I accept the amendment.

Question put and carried.

Mr. A. MASTER: Sir, I beg to move:

"In clause 33 (5), omit the words "of sub-section (1)."

The fact is clause 29 has no sub-section (1), and the reference is intended to clause (a) of section 29.

Question put and carried.

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move the amendment which stands in my name:

"Add another proviso to sub-clause (6) of clause 33, viz.,

"Provided further that the presiding authority may cause to be removed any Councillor who does not obey his ruling."

Sir, it is an elementary rule that the presiding authority of a meeting should be invested with power to preserve order at the meeting and regulate the proceedings of the meeting; otherwise if any member refuses to obey his ruling, then it will be very difficult for the presiding authority to conduct the meeting. Cases have occurred in certain municipalities of two or three members refusing to obey the president and standing up at the same time and beginning to speak so as to obstruct the proceedings. When the president called them to order they refused to obey him. Unless, therefore, the presiding authority has got the power to remove from the meeting a councillor who disobeys his ruling or order, no meeting can be conducted at all, and two or three councillors can with effect obstruct the proceedings and hold the meeting and proceedings in abeyance. I do not think any other strong argument is required to support the amendment. I hope the House will accept the amendment.

Question proposed.

Mr. D. R. PATIL (East Khandesh District): Mr. President, I heartily support the amendment moved by my honourable friend Mr. Kamblī. This provision is necessary for the proper administration of any institution and it is very salutary. Therefore, this amendment deserves to be accepted.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to support the amendment. The president of the municipality should have the power of controlling the members. I hope the Honourable Minister will agree to accept this amendment, which is a very reasonable one.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I also rise to support this motion because I have seen very unpleasant things happening at meetings of municipalities. If one faction wants to be unpleasant and to have a meeting adjourned the only thing they have to do is to create some disorder at the meeting. The president is thereby overawed, and he has either to adjourn the meeting or dissolve it. In this Council, you have the power to eject the members, and in the House of Commons there is the Sergeant at Arms who is asked by the Speaker to take away unruly members bodily. In the municipalities where

[Moulvi Rafiuddin Ahma]

disobedience of the rulings of the chair frequently occurs there is no one to do such a work. The president is very often a feeble bodied man himself, and it is very difficult for him to turn out a bully. Therefore, it is absolutely necessary that a strong person should be provided to take that bully bodily out of the House : otherwise the business of the municipality will become impossible. I therefore think that the Honourable Minister should accept this motion.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, as it is the desire of the House that I should accept this amendment, I accept it.

Question put and carried.

Clause 33 as amended ordered to stand part of the bill.

Clause 34 (*Rig t of Chief Officer to be present and to speak at municipal and committee meetings*) ordered to stand part of the bill.

Clause 35 (*Standing Committee. Powers of standing committees*).

(1) In every municipality there shall be a committee called the standing committee consisting of such number of councillors not being more than twelve nor less than six, as the municipality may determine. Of these 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 :

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

Mr. NOOR MAHOMED (Hyderabad District) : I beg to move :

In clause 35 (1) after the words "may determine" add the words "and they shall be elected from among the members of the municipality" and delete the words "of these one-third shall be nominated.... under clause (a) of section 55".

Sir, I have pointed out that the president possesses wide powers. In fact this bill confers extensive powers on the president and not on the municipality itself. Therefore, Sir, if the president is given the power to nominate one-third of the members to the standing committee, there will be much room for continual quarrels and bickerings in the municipality. A large number of the members of this House want to move this very amendment ; although some honourable members will not be coming forward to move it. The very fact that they have sent amendments and for some reason are not participating in the deliberations of the House, shows that if they had participated they would have supported me, and that the retention of the words "one-third shall be nominated" is not liked by any section of the House. With these words I move my amendment.

Question proposed.

Mr. D. R. PATIL (East Khandesh District) : Mr. President, I strongly support the amendment moved by my honourable friend. I have also given notice to move an amendment to the same effect. In these days of democracy we should not like to make the president an autocrat. So far as the constitution of the standing committee is concerned there ought to be free choice in the matter of the selection of members to the

[Mr. D. R. Patil]

standing committee. The president has already got sufficient powers of supervision, etc., and I do not think that he should be allowed to interfere with the election of members on the standing committee. With these words I support the amendment.

MOULVI RAFIUDDIN AHMAD (Central Division) : I rise to support the amendment. I have already given some reasons in its support. The matter was seriously discussed in the select committee, and the original idea was, I think, to consider the president as the Prime Minister of a cabinet in England. Upon that model he was allowed to nominate one half of the members to a committee so that affairs may be easy and smooth for him. But Sir, from a cabinet in England to a taluka board it is a big jump. The president in this bill is given very great powers, and there is serious danger of his monopolising all the power and abusing it. The Honourable Minister has told us that he has democratised the whole municipal administration of the country and he says why should we come in the way of democratising this clause. In this particular matter I think he has received bad advice. It very often happens that the man who drafts a particular bill is inconsistent in some places. The president very often is the head of a clique or party and very often he brings in people of his own choice in committee to exercise undue influence and to secure undue advantages. It would be a very bad policy to give too much power to the president in the constitution of committees. The Bombay City Municipal Act is not modelled upon the District Municipalities Bill. But there also no president is allowed to nominate any member to the standing committee and thus allowed to interfere with elections. Therefore, Sir, this is one of the most debatable and controversial matters in the bill which is described as a democratic bill. I do think therefore that the Honourable Minister will see the force of the reasoning on this point. If he has any stronger arguments I shall waive this objection, but if he is satisfied, with the facts brought forward now, I do hope he will accept this amendment.

Mr. NOOR MAHOMED (Hyderabad District) : I have nothing to add.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : The object of giving this power to the president was to make democracy successful and to save it from mobocracy. This bill gives power to the chosen representative of the representatives of the people themselves. He is not nominated by Government; he is elected by the representatives of the people; and he is given this power. It is in order to make the municipal administration successful that this power has been given to him. Now, Sir, there is a fear that he might become an autocrat. The same bill provides safeguards against that, as there is the power to remove him. This bill gives the municipality the power to elect him for a term of one year, and he is re-eligible for election. There is a sword hanging over his head to prevent him from becoming an autocrat. But, Sir, if the honourable House does not like to give this power to the president, I have no objection. But I conscientiously believe it is necessary

[Khan Bahadur Shaikh Ghulam Hussain]

so as to make democracy successful, and I feel strongly that, without this, democracy will not be successful. However, as there is a strong feeling in the House in favour of the amendment, I will accept it. But I think it would be better to adopt the wording used in the amendment of the honourable member Mr. D. R. Patil provided the honourable mover has no objection.

Mr. NOOR MAHOMED : I have no objection, Sir.

The Honourable PRESIDENT : It cannot be done in that way according to the procedure of the House. The amendment before the House is the one already moved and discussed. It will be put to vote and declared carried if the House is in favour of it. Before we take up the second reading verbal alterations can be suggested by the Honourable Minister. There are some amendments which have been carried and which appear to me to require improvement in language. The Honourable Minister will have sufficient time to consult his experts and determine the language of the amendments which have been carried. He can then move them as amendments before consideration of the bill clause by clause is completed.

Question put and carried.

Mr. NOOR MAHOMED : Sir, I merely wish to point out that in the next following sentence, "the members so nominated or elected shall hold office for a period of one year", the word "nominated" will now have to be taken out.

The Honourable the PRESIDENT : I have no objection if the honourable member who has drawn attention to it formally moves it. The actual wording will be looked into by the honourable member, with the help of the Remembrancer of Legal Affairs, and those amendments which require improvement in language in order to carry out the wishes of the honourable House will be put before honourable members and then the language will be put right. That is the only way in which we can deal with such a large number of amendments. At the present moment we cannot go into the question of the language of each amendment. During the third reading only verbal amendments can be moved. The usual procedure to be followed in such cases is that after all the clauses are disposed of I will give Government sufficient time to settle the wording of the clauses as passed by this honourable House, and will allow honourable members to move verbal and consequential amendments before declaring that consideration of the bill clause by clause is completed. This is a better way of dealing with the matter than trying to settle the language now when we are really dealing with what the wishes of the House are.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, I beg to move the following amendment to the clause 35, (3).

Delete sub-clause (3) of clause 35.

As I have pointed out, Sir, the president has got vast powers given to him in the bill. The municipality will in effect be only one man's show. He will practically be the chief executive officer of the municipal corporation,

[Mr. Noor Mahomed]

responsible to no one but dominating everybody and everywhere. There are young men and others who do want to acquire experience in the municipal administration, but they will never have any opportunity of learning the work if the bill remains as it is. Therefore, I propose that the president should not be *ex-officio* chairman of the standing committee. If he is to come in as a member of the standing committee, it should be only by election.

Question proposed.

Mr. D. R. PATIL (East Khandesh District) : Sir, I support the amendment. If the members of a municipality like the president as a chairman of the standing committee, they can very properly elect him. Why should we make the president *ex-officio* member and chairman of the standing committee? Under those circumstances, I think, the amendments would be very properly acceptable to the Honourable Minister in charge.

Mr. S. T. KAMBLI (Dharwar District) : Sir, I support the amendment. The president of a municipality has been given vast powers under this bill and if he is allowed to be *ex-officio* the chairman of the standing committee also, he will be wielding supreme authority and will be running the whole show and the other members will have almost to sit dumb and mute. As we know, the municipalities are a training ground for preparing people for the administration of local affairs and for fitting them for taking part in the administration of their country. That being the case, other members should have an opportunity of being elected to the chairmanship of the standing committee so that they can acquire administrative experience. The duties of looking after the general administration of a municipality should, I think, be left to the president and the work of looking after the detailed affairs of the standing committee should be left to the members and chairman of the standing committee. For these reasons, I support the amendment which appears to me to advance the cause of democracy.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, I have only to add that my amendment is exactly the same as stands in the name of the honourable member, Mr. S. S. Dev, of the Swaraj party, which shows that practically all sections of the House are agreed on it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the amendment proposed seems to me to be a vast innovation which the honourable members want to introduce into the administration of municipal affairs. At present, there is the president, and it is for the municipality to elect the chairman of the standing committee or the managing committee. Here, we wanted to make the president an *ex-officio* chairman, but looking to the feelings of honourable members as reflected in the amendments brought by them it seems to me that the House is averse to the change. Moreover, the other point that has been urged is that if the municipality so desire, they can elect their president as the chairman of the standing committee. They have the power of doing so. As there is a strong feeling on this question in the House, and

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as it is considered that the change is an undesirable innovation, I accept the amendment.

Question put and carried.

Clause 35, as amended, ordered to stand part of the bill.

Clause 36 (*Other executive committees*).

(1) Notwithstanding anything contained in section 55 (2) other 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 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 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.

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move my amendment of clause 36, sub-clause (2). It reads thus:

Debt: sub-clause (2) of clause 36, and substitute therefor the following clause, viz., "2. The members of such committees shall be elected by the municipality in accordance with rules framed under clause (a) of section 55 and such members shall hold office for a period of one year."

With regard to this amendment, I have to submit, Sir, that this House has accepted the principle of election to the standing committee. The standing committee is now to be wholly elected by the municipality; and there is to be no nomination by the president. The clause refers to any other executive committees which the municipality may propose to appoint under clause 36. Clause 36, sub-clause (1), says:

Notwithstanding anything contained in section 35 (2) other 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 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.

So it will be seen that any other executive committees which are already appointed by the municipality or which may hereafter be appointed by it will have some of the powers and duties delegated to them by the municipality which are ordinarily exercised by the standing committee. So the other executive committees have got a standing and status equal to that of the standing committee in respect of such delegated power. If the members of the standing committees are to be wholly elected and the president is not to be the *ex-officio* chairman thereof, I think, there is no reason why with regard to other special executive committees there should be the power of nomination given to the president and why he should be the *ex-officio* chairman thereof. So I hope the Government will accept the amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:
I accept it.

Question put and carried.

Clause 36, as amended, ordered to stand part of the bill.

Clause 37 (*Consultative committees*) ordered to stand part of the bill.

Clause 38 (*When persons other than councillors may serve on committees*) ordered to stand part of the bill.

Clause 39 (*Casual vacancies ; re-eligibility*) ordered to stand part of the bill.

Clause 40 (*Ex-officio and appointed chairman. Non-attendance of chairman*).

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

(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.

Mr. NOOR MAHOMED (Hyderabad District): Sir, on account of my former amendment having been carried, this amendment is only formal. Therefore, I beg to move that

In clause 40, *delete* the sub-clauses (1) and (2) and *substitute* for them the following new sub-clause:

"A municipality may appoint a chairman of any of its committees from among the members of that committee."

Question proposed.

Mr. S. T. KAMBLI (Dharwar District): Sir, I have to support and also to oppose the amendment. The amendment proposed is a sweeping one. It says: "A municipality may appoint a chairman of any of its committees from among the members of that committee". It is a recognised principle accepted up to this day that if a president or a vice-president is a member of any committee—executive committee or consultative committee he is to be the *ex-officio* chairman thereof. It stands to reason that if he be elected a member of any committee, the president should not occupy a subordinate part and another member should not be the chairman of that committee. So I would suggest to my honourable friend an amendment to the effect that sub-clause (1) may be retained and this amendment (the proposed new sub-clause) be also retained with a proviso I am going to suggest. Then I think everything will be all right. It will read like this:

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

"(2) A municipality may appoint a chairman of any of its committees from among the members of that committee, provided there is no *ex-officio* chairman."

If my honourable friend were to accept the amendment I have suggested, I will support him.

The Honourable the PRESIDENT: I see the significance of the amendment which raises a new issue and I will allow the House to decide it. I therefore allow the honourable member to move that as an amendment to the amendment. The difference is this. The House has to consider whether they desire that a president or vice-president who may be elected to a committee should be an *ex-officio* chairman or not, whether any other member of the committee should be allowed to be elected as chairman. Under the original amendment, the *ex-officio* character of the president or the vice-president is taken away and it becomes an open

[The President]

election. The amendment to the amendment introduces the principle that the president or the vice-president, if he happens to be a member of that body, is to be its *ex-officio* chairman, and I will allow the amendment in order to enable the House to decide which principle they are in favour of.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I rise to a point of order. The House has just now decided to *de'te* sub-clause (3) of clause 35, the words of which were "the president shall be *ex-officio* member and chairman of the standing committee". The consideration of this clause is therefore, I submit, out of order. The House.....

The Honourable the PRESIDENT: The distinction that the honourable member wishes to make is that the president shall not be a member of the standing committee by virtue of his office; and therefore the consequential part of that amendment, namely that the president should be an *ex-officio* member first and then chairman fails. Now, the issue that the honourable member wishes to raise is that if the president who is not disqualified to be elected to a committee secures the suffrage of the local body and is elected a member, then what is to be his status in the committee? Is his status to be that of an ordinary member, or should he be the chairman by virtue of his office as president? That is the issue. Under the original amendment, his position will be that of an ordinary elected member. In view of that, I wish to give the House an opportunity of deciding what their wishes are in the matter. Therefore, I am allowing the honourable member Mr. Kampli's amendment as an amendment to the original amendment.

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move an amendment to the amendment already moved. It is:

"That sub-clause (1) of clause 40 should be retained as it is, and in sub-clause (2) the following proviso may be added:

'Provided that if the president or vice-president is a member of any sub-committee.'

The Honourable the PRESIDENT: The honourable member may simply oppose the amendment of the honourable member Mr. Noor Mahomed, because the amendment which he wishes to move is in the clause already. The House either accepts the amendment of the honourable member Mr. Noor Mahomed or rejects it. If it is accepted, then a new principle is introduced.

Mr. S. T. KAMBLI: The words "or nominated" will have to be deleted.

The Honourable the PRESIDENT: That is a consequential amendment which I have decided to allow.

Mr. S. T. KAMBLI: The proviso should be "The president or vice-president if elected to be a member of the committee....."

The Honourable the PRESIDENT: It is there already.

Mr. S. T. KAMBLI: The word "or nominated" ought to be deleted.

The Honourable the PRESIDENT: The Honourable Minister will bring forward verbal and consequential amendments, in consultation

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with his advisers. The original amendment of the honourable member Mr. Noor Mahomed is before the House.

Mr. S. T. KAMBLI: Sir, I oppose the amendment on this ground, that up to this time, there has been in the existing Act a provision that when the president or vice-president of a municipality is elected a member of any sub-committee or the managing committee, then he is to be the chairman thereof. The amendment now proposes that if the president or the vice-president is elected as a member of any committee, then it shall be in the discretion of the committee to elect either any of them or any other member as chairman of the committee. I submit, Sir, that that is a dangerous principle, and for this reason, *viz.*:—The president is elected by the free suffrage of the members of the municipality to preside over the whole body, and therefore, when he is elected as a member of any subordinate committee, he should have the power to preside over the committee. Otherwise, we shall be relegating him to take a subordinate part in the sub-committee. That will be lowering the prestige and dignity of the president which the members have themselves given to him. I think the clause as it stands is all right, and the amendment which seeks to introduce an innovation is not in the right direction, and therefore I oppose it.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I beg to support the amendment. My reasons are these. It is sought to attach too much importance to personal prestige. It is not wise to attach too much importance to personal prestige. It is an artificial dignity. If the president is a popular man, a strong man, an able man, he would be surely elected as chairman, if he is a member of any committee. If he is a feeble man, a weak-minded man, an unpopular person, he would not be elected as the chairman of any committee of which he is a member, neither would his election be desirable. I do not think that it is wise to bolster up this artificial prestige. Besides, if he is a man of any personality, even as a member he would be able to exercise much influence; it is not necessary that he should be in the chair to exercise that influence. He should be a great man enough to be there as a member and help the new men to perform the duties of the chair. He does not lose anything by being a member of the committee. On many occasions even Honourable Ministers and Members of the Executive Council are members of committees and not chairmen. They do not lose their dignity or prestige by that. If they are men of ability, we respect them, are guided by them, and seek their advice. When it comes to the bureaucracy, we say they stand for prestige, but when it comes to the artificial prestige of the president of a municipality, then we hold it up. I do not know for whom my honourable friend (Mr. Kampli) is opposing this amendment. I believe, if a man cannot be elected as chairman by a small committee, he does not deserve to be the president of a big municipality. I therefore support the amendment.

Mr. B. G. PAHALAJANI: But he is already the president.

MOULVI RAFIUDDIN AHMAD: Will you speak yourself as you seem desirous of taking part in the debate.

Mr. S. K. BOLE : Sir, the principle applied in the case of the Municipal Corporation of Bombay is that the president of the corporation automatically becomes the president of any committee or sub-committee that is appointed. So, the question of the personal dignity of the president does not arise. There we have to maintain the dignity of his office, and not his personal dignity. Under these circumstances, I think we should vote out this amendment.

Mr. M. S. KHUHRO (Larkana District) : Sir, I consider that the amendment is unnecessary. In the old Act it is provided that if the president is elected as a member of any sub-committee, by virtue of his being the president, he becomes the chairman of the committee. Even in the District Local Board Act it is so. I do not think that the president should be deprived of his right of being the chairman of any committee, when he is a member of that committee. That right should be retained according to the old Act. I hope, therefore, that the honourable mover will withdraw his amendment, as it is unnecessary, and let the clause remain as it is in the bill.

Dr. K. E. DADACHANJI (Bombay City, South) : Sir, it is highly desirable that the chairman of the standing committee should not be the president of the corporation. The reason is this. All the resolutions of the standing committee will be brought before the corporation by the chairman of the standing committee. If he happens to be the president, he will have to vote for himself. Therefore it is highly desirable that there ought to be two separate individuals for these things.

Mr. D. R. PATIL (East Khandesh District) : Sir, I strongly oppose the amendment. When once you elect your own president of your own free choice as a member of a particular committee, is it not in the interest of the dignity of that man that you must make him the *ex-officio* chairman ? If we do not accept that principle we will be injuring the dignity of the chair. With these words I oppose the amendment and I hope the honourable mover will be pleased to withdraw his amendment.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, I have not followed the argument advanced by my honourable friend the honourable member Mr. Bole. Since yesterday the Honourable Minister has been putting forward the argument that the president being the chosen representative and head of the municipality he must be given executive powers ; and the non-Brahmin members have been all along opposing that argument of the Honourable Minister ; and somehow or other to-day only they agreed with him on that principle. To-day they also argue that the dignity of the president and his prestige should be enhanced which they want to achieve now by making the president or vice-president the *ex-officio* chairman of the committees to which he is elected. I think there should be some consistency in us. The honourable member Mr. Bole brought in the analogy of the Bombay municipal corporation, where the president is the *ex-officio* chairman of the standing committee. But I wish to inform him that the constitution of the Bombay municipality is different from that of the mofussil municipalities, as provided by this

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bill. In the Bombay Municipality, the president is not the executive officer, he has merely to preside at the meetings, but here, according to this bill, the presidents of the mofussil municipalities will be to a great extent what the chief officer of the Bombay Municipal Corporation is. Under the Major Municipalities Bill, the chairman of a mofussil municipality has got executive powers which the president of the Bombay Municipality has not. There he has no other functions except to preside at meetings. This therefore makes a world of difference between the Bombay Corporation and the major municipalities. It was only 15 minutes ago that it was decided that the president should not be the *ex officio* member and chairman of the standing committee. The non-Brahmin members supported that decision and did not accept the suggestion, of making the president *ex officio* chairman of the standing committee. I hope that honourable members of the non-Brahmin party will be consistent and support my amendment. With these words, I leave the amendment to the best consideration of the House.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I think a good deal can be said on both sides. A president if he is elected to the standing committee should be *ex-officio* chairman of that body. That is the amendment proposed by Mr. S. T. Kambli. If the president becomes the chairman of the standing committee, he would necessarily have an effective voice in the deliberations of that body. Now all these matters discussed in the standing committee go before the municipal council. It will thus happen that the president of the municipality will be a partisan with regard to the decisions of the standing committee. That is against the amendment of Mr. Kambli.

The Honourable the PRESIDENT : I should like to point out to the Honourable Minister that the honourable member Mr. Kambli has not moved his amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : On the other hand, if the members of a municipality do not like that the president should become the chairman of the standing committee they should not elect him to that body. They should realise this when they elect him to the standing committee. If they want to elect him to that body, then it is but fair that he should be its *ex-officio* chairman. I think, however, much can be said on both sides. I, therefore, leave the question to be decided by the House.

Question put and lost.

Clause 40 ordered to stand part of the bill.

Clause 41 (*Procedure at meetings*) ordered to stand part of the bill.

Clause 42 (*Procedure by circular*) ordered to stand part of the bill.

Clause 43 (*Subordination of committees to municipality*) ordered to stand part of the bill.

Clause 44 (*Joint committees of local bodies. Joint levy of octroi*).

(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.—(1) 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.

Mr. A. MASTER: Sir, I beg to move:

“In clause 44 (1), omit the first paragraph of the explanation retaining title and omitting the figure (2) in the second paragraph.”

This is a formal amendment to bring this section in conformity with the definition in section 2 (12), which says: “‘Octroi’ shall include a terminal tax”. The first paragraph becomes unnecessary.

Question put and carried.

Clause 44 as amended ordered to stand part of the bill.

Clause 45 (*Power of municipality to sell, lease and contract*) ordered to stand part of the bill.

Clause 46 (*Mode of executing contracts*) ordered to stand part of the bill.

Clause 47 (*Tenders to be invited for contracts involving expenditure exceeding Rs. 1,000*) ordered to stand part of the bill.

Clause 48 (*Security when to be taken for performance of contract*) ordered to stand part of the bill.

Clause 49 (*Recourse to the Land Acquisition Act, 1894*) ordered to stand part of the bill.

Clause 50 (*Councillors to be held responsible for misapplied funds*) ordered to stand part of the bill.

Clause 51 (*Officer or servant of municipality not to be interested in contract with such municipality*) ordered to stand part of the bill.

Clause 52 (*Penalty for councillor, officer or servant of a municipality being interested in contract, etc., with that municipality*) ordered to stand part of the bill.

Clause 53 (*Councillors, etc., to be deemed public servants*) ordered to stand part of the bill.

Clause 54 (*Acts and proceedings of municipality and committee not vitiated by disqualifications, etc., of members thereof*) ordered to stand part of the bill.

Clause 55 (*Municipalities to make rules*) ordered to stand part of the bill.

Clause 56 (*Rules made with approval of Commissioner or without approval*) ordered to stand part of the bill.

Clause 57 (*Power to suspend, reduce or abolish any existing tax*) ordered to stand part of the bill.

Clause 58 (*Power to make by-laws*).

(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.

(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 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—

(i) as a slaughter-house;

(ii) for the manufacture, preparation, storing, sale or supply for the purposes of trade of any 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 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;

(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;

(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;

(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;

(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; (ii) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter;

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

(h) for defining the standard weights and measures used within the municipal borough;

(i) for the registration of births, deaths and marriages and the 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;

(k) for enforcing the supply of information as to any cases of dangerous disease, for enforcing supply of information as to epidemics; 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;

(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 table 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 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 the municipal public baths, etc.; borough;

(q) regulating sanitation and conservancy and the disposal of the carcasses of dead conservancy; animals;

(r) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures on, buildings; public streets or for projections over public streets;

(s) regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of buildings;

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 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 specially provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, drains; 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 requiring information and sections 115 and 121; plans in certain cases;

(y) prohibiting vehicular traffic in any particular street, so as to prevent danger, controlling unwhieldy obstruction or inconvenience 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 unwhieldy objects as may be deemed likely to cause injury to

the road-ways 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 ;

(2) securing the protection of public parks, gardens and open spaces, 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 administration ;

Fine may be imposed for infringement of by-laws.

(2) A municipality shall, before making any by law under this section, 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 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.

Mr. A. N. SURVE (Bombay City, North) : Sir, I move the amendment which stands in my name, and which reads as follows :

In clause 53 (1) (a), add the words " for the regulation and restriction of slaughter of animals " at the beginning.

Sir, animals are slaughtered for various purposes. They are slaughtered for purposes of food and they are also slaughtered for purposes of commerce. As far as slaughter for purposes of food is concerned, I think it would be inadvisable to impose any restriction. But when the slaughter is carried on for purposes of commerce then serious questions arise. It is very well known, that the hides, skins, bones, horns, etc., of animals form articles of merchandise, and that very often merchants, in order to fulfill their contracts, artificially cause much more slaughter than is actually necessary. For this reason, I think, it is necessary in the interests of the cattle wealth of the country, apart from religious feelings to which I am not touching at all, that there should be restriction of such slaughter. Is it right that, for the sake of a few merchants, the cattle of the country should be slaughtered thoughtlessly ? What is the result of such slaughter ? There is serious shortage of milk supply, and the number of cattle employed for ploughing is also decreasing. Perhaps, I might cite only two figures which would throw some light on the seriousness of this question. I have in my hand a report on the Seaborne Trade and Customs Administration of the Bombay Presidency for the year 1924-25.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, before the honourable member moves his amendment, I rise to a point

[Khan Bahadur Shaikh Ghulam Hussain]
of order. The amendment seeks to prohibit the slaughter of animals for purposes of food. By a subsequent clause it is made a penal offence to transgress the rules made under this clause. Therefore it is creating a new offence. The Government of India have refused to sanction such provisions in all cases. They have done so in the case of Mr. Surve's amendment for which he had asked for the sanction of the Government of India. They also did so in the case of Mr. Joshi's private bill to the same effect.

Further, Sir, there is another point of order, and that is that this amendment is outside the scope of the bill. The honourable member wants this provision in order to restrict the slaughter of animals on economic grounds. That is what he has stated. Now, the functions of a municipality, as described throughout the bill, are to deal with education, sanitation, public health, water-supply, drainage, etc. It is not within the province of a municipality to deal with economic, religious or other questions. As the honourable member wants this amendment to be inserted for economic purposes, I submit that it is outside the scope of the bill.

Therefore my objection to the moving of this amendment is two-fold: one is that it is creating a new offence which will require the sanction of the Government of India, and the other is that it is outside the scope of the bill, because it is not the function of a municipality to deal with economic matters as the honourable member desires.

The Honourable the PRESIDENT: This is a very important amendment, about which I know there is considerable amount of feeling in the House. Before giving my ruling I should like to hear any honourable member who may wish to take part in discussing the point of order. There are three points on which a decision is required.

The first point for decision is whether in consequence of creating a new offence the previous sanction of the Governor-General is necessary and whether when that sanction was refused as in the case of the honourable member's present amendment, the fact of that refusal applies on the point of order raised. The second point is whether this amendment is within the scope of the bill which is now under consideration, and the third point, which has not been mentioned by any one, is whether the Standing Order which restricts amendments on the second reading to details and not to principles applies, and whether this amendment introduces a new principle not provided for in the bill at the time of the first reading. These are the three points on which decision is required.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, the sanction of the Governor-General is necessary to create a new offence. So far as this particular clause is concerned I do not know how it creates a new offence. It is an amendment, Sir, for the introduction of a new sub-clause. If we turn to the preamble of the bill we find it stated "Whereas it is expedient to amend the law relating to the management of municipal affairs in certain cities of the Bombay Presidency, etc., etc." Now, Sir, is not the slaughter of cows within the management of municipal affairs? If you want to manage municipal affairs, does not the slaughter of cows

[Moulvi Rafiuddin Ahmad]

or particular animals fall within the category of the management of municipal affairs? Of course "management of municipal affairs" is not defined anywhere. We must see it from a common sense point of view. So long as this particular definition is not given, I do not know how the question of the slaughter of animals can be prevented from falling in the category of municipal affairs.

Mr. E. CLEMENTS : Sir, it is not denied that this amendment would create a new offence and on that ground sanction has been refused by the Governor-General. I think that makes the amendment out of order. I entirely agree with the Honourable Minister that this amendment is entirely outside the scope of a municipal bill. From the preamble and the statement of objects and reasons the object of the bill is to provide for sound municipal administration in the larger cities of the Bombay Presidency and to amend the law relating to municipal affairs. The question is, what is intended by the expression "municipal affairs"? If we are to go by the provisions of the Act we may refer to the duties which are laid down by the municipalities. You will find in clause 68 (g) that it is mentioned "any other measure not specified in section 65 likely to promote the public safety, health, convenience or education". I do not think that the amendment comes within the purposes detailed there. The obligatory duties as laid down in the bill also show what is intended by municipal administration.

Mr. D. R. PATIL (East Khandesh District) : Sir, I would like to make a suggestion that this important clause be postponed for consideration to some other time.

The Honourable the PRESIDENT : A point of order has been raised and it is my duty to decide it.

The Honourable Sir MAURICE HAYWARD : I should have thought, Sir, that the question has been settled by sanction having been refused by the Governor-General. It is a matter which cannot be discussed further when once sanction has been refused definitely by the Governor-General.

MOULVI RAFIUDDIN AHMAD (Central Division) : Does the refusal of sanction refer to the honourable member's present amendment?

The Honourable Sir MAURICE HAYWARD : Yes.

Mr. D. R. PATIL (East Khandesh District) : Sir, I would like to bring to your notice clause 65 which should be read with sub-clause (g) of clause 68. If we have regard to this sub-clause (g) the present amendment falls within its purview. This sub-clause deserves your consideration. In the light of that sub-clause the amendment cannot be ruled out of order.

The Honourable the PRESIDENT : I should like to say in regard to what has fallen from the Honourable Leader of the House that the Council office has received no intimation up to now that His Excellency the Governor-General was approached and that sanction was refused. No official intimation has been received by the Council office up to this

[The President]

moment. Of course if sanction has been refused by the Governor-General the House cannot proceed with the discussion of this question, and it appears to me unnecessary to go into the question of the scope of the bill and the principles underlying it. I would personally welcome a discussion of this character in regard to which there is considerable amount of feeling amongst a large section of this House. I know that an effort was made, as the Honourable Minister pointed out, to introduce a private bill on the subject, but sanction to that was also refused. In view of the Government of India Act and the Rules and Standing Orders which exist on the subject which it is my duty to enforce, it is open to honourable members to give notice of a resolution, and if it is sent in by a large number of members as their first resolution, I shall welcome a discussion on a subject about which there appears to be so much feeling. On the present occasion, as sanction to this amendment has been applied for and refused by the Governor-General, I must rule it out of order.

Clause 58 (1) (a) :

(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.

(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 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.

Mr. R. G. PRADHAN (Nasik District) : Sir, I beg to move the following amendment to the above clause :—

“ In clause 58, sub-clause (1) (a), for the words “ in boroughs.....in such market ”, substitute the following :—
‘ for regulating the sale of fruit and vegetables in the municipal market or other specified places.’ ”

I suggest this amendment because this clause, as it is drafted, is likely in actual working to cause considerable hardship in some places at any rate. To illustrate, I shall cite the case of my own city of Nasik. In that city from times immemorial a market is held on what is called the पटंगण, an open site on the river on the Panchavati side. Recently a market has been built in the city. Except during the rainy season, the market is held on the open site on the bank of the river. Vegetables and fruits are sold there. In the rainy season, until recently, these articles were sold in the city itself. Now a year or two ago a market has been built and since then in the rainy season these articles are sold in that market, but generally except in the rainy season these things are sold in the open market which has been regarded as a city market from times immemorial. Now, that open site is not a market licensed by the municipality. There is one market now, no doubt. It is licensed. But that open site has been used by the people of Nasik from times immemorial but it has not been licensed by the municipality. If this clause were passed as it stands, the result would be that people would be compelled to sell all these articles only in the market which has been recently

[Mr. R. G. Pradhan]

built and in that case great hardship would be caused to the people. If the market is held on the open site, no harm is done; in fact people appreciate holding the market there, because it is extremely convenient to them; it is on the river side, people coming from distant villages in carts or on horse-back can take their meals there, wash their clothes and bathe in the river and for these reasons that open site, which has been serving the purpose of a market from times immemorial is a useful one, and it does not cause the slightest hardship. If this clause is passed without my amendment, the result will be that the people will be compelled to give up that market on the open site and to sell all those articles only in the market that has been recently built. So in order to provide against such hardship I have said in my amendment "for regulating the sale of fruit and vegetables in the municipal market or other specified places". I simply want the municipality to restrict the sale of such articles either in the municipal market or other places which the municipality may specify. I suggest this amendment in order to obviate the hardship which would otherwise be caused, and I hope it will be accepted.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I have no objection to accept this amendment to clause 58 (1) (a) moved by the honourable member Mr. R. G. Pradhan.

Question put and carried.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to move the following amendment:

In clause 58, retain the old-sub-clause (4) now deleted.

The clause that has been deleted by the select committee reads thus:

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.

I think this section is very necessary, as experience has shown that in the past some municipalities have not been very wisely exercising their powers; and in some cases it has been necessary for Government even to suspend some municipalities. It is very necessary, therefore, that Government should have the power of requiring municipalities to make alterations or changes in the by-laws. Without such power in the hands of Government, I think things will not go very smoothly. Sometimes in communal questions very unreasonable things come to be done; and as the Local Self-Government is a Transferred subject, in charge of a Minister, an elected member of the House, there should be no hesitation in permitting Government to retain this very necessary power, which will be in the nature of a safeguard.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I have no objection to accept the amendment, Sir. They want to give me more powers; I have no objection.

Question put. House divided. Ayes, 6; Noes, 7. Motion lost.

Division No. 8.

Ayes.

AHMAD, MOULVI RAFI UDDIN
BHUTTO, Khan Bahadur S. N.
DABHOLKAR, Sir VASANTRAO A.

KHURRO, Mr. M. S.
MANSURI, Khan Saheb A. M.
NOOR MAHOMED, Mr.

Tellers for the Ayes: Mr. NOOR MAHOMED and MOULVI RAFI UDDIN AHMAD.

Noes.

KAMBLI, Mr. S. T.
MUJUMDAR, Sardar G. N.
NAVLE, Mr. N. E.
PATEL, Mr. A. E.

PATIL, Mr. D. R.
PRADHAN, Mr. R. G.
SHANKARRAO JAYARAMRAO ZUNZARRAO,
Mr.

Tellers for the Noes: Mr. R. G. PRADHAN and Mr. A. E. PATEL.

Clause 58 as amended ordered to stand part of the bill.

Clause 59 (*Rules and by-laws to be printed and sold*) ordered to stand part of the bill.

Clause 60 (*Power to acquire and hold property for the purposes of the Act*) ordered to stand part of the bill.

Clause 61 (*Decision of claims to property by or against the municipality*) ordered to stand part of the bill.

Clause 62 (*Municipal fund*) ordered to stand part of the bill.

Clause 63 (*Application of municipal property and funds within and without the municipal borough*) ordered to stand part of the bill.

Clause 64 (*Power to deposit and invest surplus funds*) ordered to stand part of the bill.

Clause 65 (*Duties of municipalities*).

It shall be the duty of every municipality to make reasonable 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;
- (A) 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.

Mr. NOOR MAHOMED (Hyderabad District) : As the honourable member Mr. Surve is proposing a similar amendment to my amendment, I do not wish to move mine.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move the amendment standing in my name. It reads as follows :—

In clause 65 (1) (l) add the word " marriages " after the word " births ".

Sir, it is well known that a marriage causes a change in the status of a man. When a person is born, the municipality makes a note of it. When a man dies, the municipality makes a note of it also. It is only when marriages take place that no note is taken. I know of several religions which have excellent provision in this matter. For instance, when the Jews are married, a regular contract is drawn up, and it is signed by both the parties and witnesses when the marriage is actually celebrated. As for the Christians, there is the parish register and the marriage certificate, but in the case of Hindus, there is absolutely no documentary evidence of marriages, and it very often happens that when questions of fact or validity of a marriage arise, a very great difficulty is experienced. The only way in which a marriage among the Hindus can be proved is by oral testimony, and that testimony is not always a very satisfactory one. For these reasons, I think it is desirable that all marriages should be registered by the municipality when they take place within their limits.

Now, when I am making this suggestion, I have the support of the Bombay City Municipal Act. In it, the registration of marriages is included in the discretionary functions of the Bombay City Municipality. So far, it has not been possible to give effect to that provision, but it is a precedent which we could follow. Similarly, this House is aware that a private bill is coming up for the first reading during this session relating to this subject. If that bill is passed, a provision will be made for all the rural areas, inasmuch as it is to be made applicable to all the districts in the matter of registration of marriages. If such a provision is made for the rural areas in the districts, let the same provision be also made for the towns having major municipalities. Another point to which I would like

[Mr. A. N. Surve]

to refer is that even the present bill which we are considering has under its contemplation this particular item. I would draw the attention of this House to sub-clause (i) of clause 58 of the bill which we have just now passed. It provides that a municipality may make, alter or rescind by-laws for the registration of births, deaths and marriages. Therefore, the municipality has the power of making rules for the registration of marriages. If they can make the registration of births and deaths compulsory, then they should make it compulsory in the case of marriages also. As the present bill has already empowered the municipalities to make rules and by-laws for registering marriages and as registration of marriages is a very salutary provision, I think we should include it in the list of compulsory duties.

Perhaps, it may be urged that public opinion is unknown. But at least in one case, I know that public opinion is in favour of my proposal. In Poona, there is an organisation called the Poona Arogya Mandal, and it has passed a resolution, that this item should be included in the compulsory duties of a municipality. So, we have public opinion also in favour of this proposition.

Besides, if this duty is made compulsory, the municipality will not be put to any expense, because it will pay itself. Every registration could be made on the payment of fees if necessary—and if fees are charged, no burden will fall on the municipal revenue. As it is a very salutary proposal, I hope the amendment will be accepted.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the House seems to be in favour of this amendment, therefore I accept it.

Question put and carried.

Mr. A. N. SURVE (Bombay City, North) : Sir, the next amendment standing in my name is to clause 68, and it reads as follows :

After clause 68 (o), add the following sub-clause (oo) : " construction of sanitary dwellings for the poorer classes ".

I wish that it should be one of the discretionary duties of a municipality to make provision for the sanitary dwellings of the poorer classes. It is well known that when the.....

Mr. W. B. HOSSACK : Sir, I rise to a point of order. Are we not dealing with clause 65 now ?

The Honourable the PRESIDENT : Yes, I have sent the Secretary to draw the honourable member's attention to it.

Mr. A. N. SURVE : I am very sorry, Sir. I should have moved my amendment which refers to clause 65. I beg to move, Sir :

In clause 65 (l) (q) add the words " in the vernacular of the district " after the word " printing ".

The idea appears to be that Government wish that the reports should be published for their information in English. The money is to come out of the municipality, but if the reports are printed in English, the difficulty

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will be that in the districts people are not so highly educated as to be able to read the reports in English. If Government want that they should be in touch with what is going on in the municipalities, they can get these reports in the vernacular, and by their own agency they can get them translated into English. If the reports are going to be published at the expense of the municipality, I do not see any reason why the convenience of Government should be attended to. If the municipality is to bear the cost, its advantage should go first to the public, therefore they should be published in the language of the district, so that a large number of people can read them. I think, if the people are to take a more intelligent part in Local Self-government, it would be a step in the right direction that these reports should be published in the vernacular of the district. It is with this idea that I have brought forward this amendment, and I trust it will be accepted.

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I am not aware of any prohibition mentioned in the present bill for the printing of the report in the vernacular. Therefore I think the amendment is unnecessary. But the reports must be published in English. Because honourable members of this Council coming from different parts of the presidency are not acquainted with all the vernaculars and it is necessary in order to enable them to read all these reports they should be published in English. It is necessary to publish these reports in the local vernacular for the information of the local people but, there is nothing to prohibit that under this section. I hope the honourable member will not press his amendment.

Mr. A. N. SURVE: I have nothing more to add.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, if the reports are printed only in the vernacular of the district it will be very difficult not only for honourable members to know what is happening in particular municipalities, but it will also be very difficult even for the Minister, who is not acquainted with all the languages of the presidency. The Minister will have to study all the languages before he is appointed as such. Moreover as the clause stands, if the municipalities are anxious to publish their reports in the local vernacular there is nothing to prevent them from doing so. I therefore oppose the amendment.

Question put and lost.

Clause 65 as amended ordered to stand part of the bill.

Clause 66 (*Provision of anti-rabic treatment of indigent persons*) ordered to stand part of the bill.

Clause 67 (*Provision for lunatic and lepers*) ordered to stand part of the bill.

Clause 68 (*Discretionary powers of expenditure of municipalities*).

A municipality may, at its discretion, provide, either wholly 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 155 of this Act or under section 49 of the Bombay District Police Act, 1890 ;
- (j) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in sub-section (1) of section 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 the 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 line 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, any public reception, ceremony, entertainment or exhibition within the municipal borough.

Mr. A. N. SURVE (Bombay City, North): Sir, the amendment standing in my name runs as follows :

" After clause 68 (o), add the following new sub-clause :
' (oo) construction of sanitary dwellings for the poorer classes '."

I propose to include this item in the list of discretionary functions of the municipality. My reasons for this proposal are that it is well-known that the mortality is reduced if the people reside in sanitary buildings. It is one of the most important duties of a municipality to keep the mortality as low down as possible. Take for instance the case of the Bombay municipality. On account of the operations of the Improvement Trust and various other improvements carried out by the municipality in the past during the whole of this year we are having very low rate of mortality. It is almost unprecedented within the last 30-40 years. So far as the poor people are concerned they are the care of nobody and they have to find lodgings in very insanitary surroundings. As Improvement Trust is going to be amalgamated with the Bombay municipality the duty of carrying out housing schemes of the Improvement Trust will be cast on the Bombay municipality. I also think it will do more good than harm if the provision of constructing sanitary buildings for the poorer classes is included as one of the discretionary functions of the municipality. The providing of telephones and tramways and railways has been included among the discretionary functions, though we do not

[Mr. A. N. Surve]

know when these will be given effect to. Therefore among these, the function of constructing sanitary buildings may also be included. I think my amendment will be accepted.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I accept the amendment, Sir.

Question put and carried.

Clause 68 as amended ordered to stand part of the bill.

Clause 69 (*Arrangements purporting to be binding permanently or for a term of years*) ordered to stand part of the bill.

Clause 70 (*Taxes which may be imposed*) ordered to stand part of the bill.

Clause 71 (*Payment to be made to the municipality in lieu of a rate on buildings by the Government*).

(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).

(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).

Mr. A. N. SURVE : Sir, I beg to move the amendment standing in my name which runs as follows :

In clause 71 (3), substitute " nine-tenths " for " eight-tenths ".

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I rise to a point of order, Sir. In the old Act, the municipality had no right to levy any tax on Government buildings. This bill has gone to the extent of giving them permission to levy eight-tenths. Now, this amendment proposes that the municipalities should be entitled to levy nine-tenths instead of eight-tenths on Government buildings; that means that the Government should pay more. As this affects the provincial revenues, this amendment should have received the previous sanction of the Governor under section 80C of the Government of India Act.

The Honourable the PRESIDENT : The point of order holds good. Honourable members have been repeatedly told that, when they wish to bring forward such amendments, they should take the precaution of applying to His Excellency for his previous sanction. Otherwise it is of no practical use to send in amendments which obviously require the previous sanction of His Excellency under section 80C. Honourable members when they decide to send in their amendments of this character, which obviously come within the purview of section 80C, should apply to His Excellency for sanction, simultaneously with their sending in these amendments, so that when they come up for discussion, honourable

[The President]

members would know whether such sanction is given or not. The amendment is out of order.

Clause 71 ordered to stand part of the bill.

Clause 72 (*Procedure preliminary to imposing tax*) ordered to stand part of the bill.

Clause 73 (*Power to sanction, modify and impose conditions*) ordered to stand part of the bill.

Clause 74 (*Publication of sanctioned rules with notice*) ordered to stand part of the bill.

Clause 75 (*Preparation of an assessment-list*) ordered to stand part of the bill.

Clause 76 (*Person primarily liable for a rate on buildings or lands or both how to be designated if his name cannot be ascertained*) ordered to stand part of the bill.

Clause 77 (*Publication of notice of assessment-list*) ordered to stand part of the bill.

Clause 78 (*Public notice of time fixed for lodging objections*) ordered to stand part of the bill.

Clause 79 (*Amendment of assessment-list. Notice of new buildings*) ordered to stand part of the bill.

Clause 80 (*Notice to be given to the standing committee of demolition or removal of a building*) ordered to stand part of the bill.

Clause 81 (*New assessment-list need not be prepared every year*) ordered to stand part of the bill.

Clause 82 (*Tax from whom primarily leviable*) ordered to stand part of the bill.

Clause 83 (*Remission of tax in case of vacancies: when obligatory*) ordered to stand part of the bill.

Clause 84 (*Notice to be given to the Chief Officer of all transfers of title of persons primarily liable to payment of a rate on buildings or lands*) ordered to stand part of the bill.

Clause 85 (*Form of notice*) ordered to stand part of the bill.

Clause 86 (*Liability for payment of a rate on buildings or lands or both to continue in the absence of any notice of transfer*) ordered to stand part of the bill.

Clause 87 (*Fees may be charged for certain licenses*) ordered to stand part of the bill.

Clause 88 (*Fixed charges and agreements for payment in lieu of taxes for water supplied*) ordered to stand part of the bill.

Clause 89 (*Taxes on pilgrims may be assigned in part to local boards*) ordered to stand part of the bill.

Clause 90 (*Octroi by-laws to be submitted with proposal for imposition of octroi*) ordered to stand part of the bill.

Clause 91 (*Power to examine articles liable to octroi*) ordered to stand part of the bill.

Clause 92 (*Presentation of bills for octroi*) ordered to stand part of the bill.

Clause 93 (*Penalty for evasion of octroi*) ordered to stand part of the bill,

Clause 94 (*Tables of tolls to be shown on demand*) ordered to stand part of the bill.

Clause 95 (*Power to seize vehicle or animal or goods on non-payment of octroi or toll*) ordered to stand part of the bill.

Clause 97 (*Power to keep account current with person, firm or public body in lieu of levying octroi on introduction of goods*) ordered to stand part of the bill.

Clause 98 (*Collection of octroi by one public body on behalf of others*) ordered to stand part of the bill.

Clause 99 (*Farming of tolls*) ordered to stand part of the bill.

Clause 100 (*Power of Government to suspend levy of objectionable taxes*) ordered to stand part of the bill.

Clause 101 (*Power of Government to require municipalities to impose taxes*) ordered to stand part of the bill.

Clause 102 (*Presentation of bill for taxes*) ordered to stand part of the bill.

Clause 103 (*In what cases warrant may issue*) ordered to stand part of the bill.

Clause 104 (*Sale of goods distrained in special cases*) ordered to stand part of the bill.

Clause 105 (*Sale outside the district*) ordered to stand part of the bill.

Clause 106 (*Fees and costs chargeable*) ordered to stand part of the bill.

Clause 107 (*Summary proceedings taken against persons about to leave the borough*) ordered to stand part of the bill.

Clause 108 (*Appeals to Magistrates*) ordered to stand part of the bill.

Clause 109 (*Entries in the assessment list and taxes and decisions to be final*) ordered to stand part of the bill.

Clause 110 (*Liability of land, buildings, etc., for rates*) ordered to stand part of the bill.

Clause 111 (*Receipts to be given for all payments*) ordered to stand part of the bill.

Clause 112 (*Power regarding public streets, etc.*) ordered to stand part of the bill.

Clause 113 (*Power to require repair, etc., of private streets*) ordered to stand part of the bill.

Clause 114 (*Power to declare any street a public street subject to objections by the owners*) ordered to stand part of the bill.

Clause 115 (*New private streets*) ordered to stand part of the bill.

Clause 116 (*The regular line of a public street*) ordered to stand part of the bill.

Clause 117 (*Setting back projecting buildings*) ordered to stand part of the bill.

Clause 118 (*Setting forward to regular line of street*) ordered to stand part of the bill.

Clause 119 (*Roofs and external walls of buildings not to be made of inflammable materials*) ordered to stand part of the bill.

Clause 120 (*Level of buildings*) ordered to stand part of the bill.

Clause 121 (*Notice of new buildings*) ordered to stand part of the bill.

Clause 122 (*Completion certificates ; permission to occupy or use*) ordered to stand part of the bill.

Clause 123 (*Regulation of huts*) ordered to stand part of the bill.

Clause 124 (*Improvement of huts*) ordered to stand part of the bill.

Clause 125 (*Municipal control over drains, etc.*) ordered to stand part of the bill.

Clause 126 (*Powers for making and repairing drains*) ordered to stand part of the bill.

Clause 127 (*Power to require sufficient drainage of houses*) ordered to stand part of the bill.

Clause 128 (*New buildings not to be erected without drains*) ordered to stand part of the bill.

Clause 129 (*Powers of owners and occupiers of buildings or lands to drain into municipal drains*) ordered to stand part of the bill.

Clause 130 (*Right to carry drain through land or into drain belonging to other persons*) ordered to stand part of the bill.

Clause 131 (*Rights of owner of land through which drain is carried in regard to subsequent building thereon*) ordered to stand part of the bill.

Clause 132 (*Provision of privies, etc.*) ordered to stand part of the bill.

Clause 133 (*Power to require owners to keep drains, etc., in proper order : or to demolish or close a privy or cesspool*) ordered to stand part of the bill.

Clause 134 (*Power to close existing private drains*) ordered to stand part of the bill.

Clause 135 (*Power in respect of sewers, etc., unauthorisedly constructed, rebuilt or unstopped*) ordered to stand part of the bill.

Clause 136 (*Encroachments on municipal drains*) ordered to stand part of the bill.

Clause 137 (*Inspection of drains, etc.*) ordered to stand part of the bill.

Clause 138 (*Standing Committee may execute certain works under this sub-chapter without allowing option to person concerned of executing the same*) ordered to stand part of the bill.

Clause 139 (*Pipes, etc., constructed by municipality to be municipal property*) ordered to stand part of the bill.

Clause 140 (*Power of carrying water mains*) ordered to stand part of the bill.

Clause 141 (*Permission necessary for certain projections.*)

(1) The Chief Officer, subject to 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 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 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 196.

Mr. A. MASTER : I beg to move :

In clause 141 (1) omit the words " as the municipality may fix by by-laws from time to time ".

The object of this amendment is that in the select committee the words " any by-laws made under the provisions of this Act " were inserted ; it is now proposed to omit the words " as the municipality may fix by by-laws from time to time ".

Question put and carried.

Clause 141 as amended ordered to stand part of the bill.

The Honourable the PRESIDENT : The House will now adjourn to 2 p.m. on Monday, the 26th October 1925.

26 Oct. 1925]

Monday, the 26th October 1925.

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Monday, the 26th October 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
 ABDULPURKAR, Mr. N. A.
 ADWANI, Mr. D. B.
 AHMAD, MOULVI RAFIUDDIN
 ANGADI, Mr. S. N.
 BAPTISTA, Mr. J.
 BEDREKAR, Khan Bahadur I. M.
 BHOPATKAR, Mr. L. B.
 BHURGRI, Mr. J. M.
 BHUTTO, Khan Bahadur S. N.
 BOLE, Mr. S. K.
 BUNTER, Mr. J. P.
 CHAUDHARI, Mr. L. S.
 CLEMENTS, Mr. E.
 COOPER, Khan Bahadur D. B.
 DABHOLKAR, Sir VASANTRAO A.
 DADACHANJI, Dr. K. E.
 DEHLAVI, the Honourable Mr. A. M. K.
 DELVES, Mr. R. H. A.
 DESAI, Rao Saheb D. P.
 DEV, Mr. S. S.
 DIXIT, Dr. M. K.
 FERNANDEZ, Dr. COSMAS
 FRANJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
 GRANTHAM, Mr. V. A.
 HAJI ABDULLAH HAROON
 HAJI KHAMISO GUL MAHOMED
 HAMID M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOSSACK, Mr. W. B.
 HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JAYAKAR, Mr. M. R.
 JEHANGIR, the Honourable Mr. COWASJI
 JOG, Mr. V. N.

JOSHI, Mr. P. G.
 KALBHOR, Mr. G. M.
 KAMBLI, Mr. S. T.
 KAZI INAITULLAKHAN
 KHUERO, Mr. M. S.
 KOKANI, Mr. G. J.
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MCKEE, Mr. W. G.
 MEHTA, Dr. M. M.
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 MUKADAM, Mr. W. S.
 NANAL, Mr. B. R.
 NARIELVALA, Mr. H. H.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAHALAJANI, Mr. B. G.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATEL, Mr. G. I.
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOSENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SARDESAI, Mr. S. A.
 SAYED GHULAM NABI SHAH
 SAYED SHAHJADE SAHEB HAIDAR SAHEB
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. D.
 SHIVDASANI, Mr. H. B.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.
 THAKOR of Amod, the
 THOMAS, Mr. G. A.
 WADIA, Mr. C. N.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT : Questions.

CENTRAL SCHOOL FOR MAHOMEDANS, SHOLAPUR.

Mr. ADBUL LATIF HAJI HAJRAT KHAN (Poona and Sholapur Cities) : Will Government be pleased to state—

(a) whether it was proposed to open a central school for Mahomedans at Sholapur in the current year ;

(b) whether they have done anything up to now towards carrying out the proposal ;

(c) if not, why ?

The Honourable Mr. B. V. JADHAV : (a) Yes.

(b) The opening of the school was sanctioned in August 1925.

(c) The question does not arise.

MOULVI RAFIUDDIN AHMAD : Has the school been opened, may I ask ?

The Honourable Mr. B. V. JADHAV : It was sanctioned.

MOULVI RAFIUDDIN AHMAD : But has it been opened ?

The Honourable Mr. B. V. JADHAV : If the honourable member will give me notice, I shall find that out.

REPAIRS TO CANALS AT SHOLAPUR.

Mr. ABDUL LATIF HAJI HAJRAT KHAN (Poona and Sholapur Cities) : Will Government be pleased to state—

(a) what will be the total expenditure of the repairs of the present perennial canal at Sholapur from mile No. 19 to mile No. 26 ;

(b) what will be the total expenditure of the repairs of the Right and Left bank canals at Sholapur separately ?

The Honourable Mr. COWASJI JEHANGIR : The information has been called for.

RESOLUTIONS REGARDING GRIEVANCES OF AGRICULTURISTS.

Mr. S. K. BOLE : Will Government be pleased to state—

(a) whether they have received resolutions passed at a meeting of agriculturists held at Velamb, Petha Guhagar, on the 27th March 1925, and on the 12th May 1925 at Talesur, Taluka Dapoli, District Ratnagiri, and on the 24th May 1925 in Bombay regarding their grievances in khoti villages ;

(b) what steps they have taken in the matter ?

The Honourable Sir CHUNILAL MEHTA : (a) Yes.

(b) The matter is under the consideration of Government.

Mr. S. S. DEV : I do not ask my questions,

POWERS TO INAMDARS UNDER SECTION 88 OF THE LAND REVENUE CODE.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state their policy underlying the granting of powers to Inamdars under section 88 of the Land Revenue Code with regard to both surveyed and unsurveyed Inam villages?

The Honourable Sir CHUNILAL MEHTA: The Honourable Member is referred to section 88 of the Land Revenue Code and to the orders of Government quoted under that section in Rao Bahadur Joglekar's annotated edition of the Code, a copy of which is in the Council Library. The policy of Government is to adhere to the law and the orders above referred to.

Sardar G. N. MUJUMDAR: Is there no difference or contradiction between the section 88 of the Code itself and the orders of Government issued thereunder (to which reference is made in Rao Bahadur Joglekar's edition of the Code)?

The Honourable Sir CHUNILAL MEHTA: Not that I know of.

ASSISTANT DEPUTY EDUCATIONAL INSPECTOR, NASIK DISTRICT.

Mr. R. D. SHINDE (Nasik District): Will Government be pleased to state—

(a) whether it is a fact that Mr. E. G. Botithor, lately assistant deputy educational Inspector, Nasik district, has been suspended on account of certain allegations made against him;

(b) if so, what steps have been taken by Government to investigate into the several complaints made by the teachers;

(c) if an enquiry has been already made, what is the result of the inquiry?

The Honourable Mr. B. V. JADHAV: Enquiries are being made.

WESTERN INDIA TURF CLUB RACES.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state the total number of races run during a year and also the number of races in which entries are confined to country-bred horses only?

The Honourable Sir MAURICE HAYWARD: The entries in 8 races were reserved for country-bred horses out of 309 races in 1923-24 and a similar number out of 308 races in 1924-25.

Mr. A. N. SURVE: In view of the small number of entries reserved for country-bred horses, may I enquire if there is any truth in the statement that horse-racing leads to the betterment of the breed of country horses?

The Honourable Sir MAURICE HAYWARD: I am afraid that is a question of opinion.

ANGLO-URDU HIGH SCHOOL, HUBLI.

Mr. A. F. I. K. PATHAN (Southern Division): Will the Honourable Minister (Education) be pleased to state—

(a) what steps have been taken to provide a suitable building and hostel for the Anglo-Urdu High School at Hubli;

(b) what is the rental amount sanctioned by Government for renting a suitable building for the said high school and how much of it is now spent;

(c) whether it is a fact that the number of admissions to the first standard in the said high school has been limited for want of accommodation and if so, how many boys have been refused admission and whether no building could be secured on rent for their accommodation?

The Honourable Mr. B. V. JADHAV: (a) The school and the hostel attached to it are located at present in rented buildings. The question of providing the institution with its own buildings will be considered when the financial situation permits and after the pressing needs of similar other institutions are met.

(b) The sanctioned grants for rent are—

Rs. 250 per mensem for the school and Rs. 100 per mensem for the hostel. The amount spent is Rs. 295 per mensem (Rs. 170 for the school building and Rs. 125 for the hostel premises).

(c) Yes. 19 applications for admission to standard I of the said school were refused. For financial considerations Government have decided not to open another class for standard I of the school. It was therefore unnecessary to hire a building for providing accommodation for students in excess of the prescribed limit of students for one class.

MOULVI RAFIUDDIN AHMAD: May I know what was the amount necessary for opening the first standard?

The Honourable Mr. B. V. JADHAV: I cannot tell just now but if the honourable member gives me notice I shall find that out for him.

MOULVI RAFIUDDIN AHMAD: In view of the Honourable Minister's oft-repeated sympathies for Mahomedans, may I ask whether next year the amount will be sanctioned?

The Honourable Mr. B. V. JADHAV: I shall see what can be done.

(Consideration of Bill No. XVI of 1925 [A Bill to give wider powers in the management of municipal affairs in certain cities] resumed.)

Clause 142 (*Troughs and pipes for rain water*) ordered to stand part of the bill.

Clause 143 (*Fixing of lamps, brackets, etc., to houses*) ordered to stand part of the bill.

Clause 144 (*Naming streets and numbering houses: penalty for defacing, etc.*) ordered to stand part of the bill.

Clause 145 (*Penalty for defacing building, etc.*) ordered to stand part of the bill.

Clause 146 (*Removal and trimming of hedges, trees, etc.*) ordered to stand part of the bill.

Clause 147 (*Ruinous or dangerous buildings : precautionary measures*) ordered to stand part of the bill.

Clause 148 (*Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply*) ordered to stand part of the bill.

Clause 149 (*Displacing pavements, etc.*) ordered to stand part of the bill.

Clause 150 (*Obstructions and encroachments upon public streets and open spaces*) ordered to stand part of the bill.

Clause 151 (*Hoads to be set up during repairs, etc.*) ordered to stand part of the bill.

Clause 152 (*Fencing and lighting during repairs, etc.*) ordered to stand part of the bill.

Clause 153 (*Timber not to be deposited or hole made in street without permission*) ordered to stand part of the bill.

Clause 154 (*Dangerous quarrying*) ordered to stand part of the bill.

Clause 155 (*Provision as to dogs*) ordered to stand part of the bill.

Clause 156 (*Depositing dust, etc. : committing nuisance*) ordered to stand part of the bill.

Clause 157 (*Discharging sewage, etc.*) ordered to stand part of the bill.

Clause 158 (*Non-removal of filth, etc.*) ordered to stand part of the bill.

Clause 159 (*Removal of night-soil*) ordered to stand part of the bill.

Clause 160 (*Filthy buildings, etc.*) ordered to stand part of the bill.

Clause 161 (*Buildings or rooms in buildings unfit for human habitation*) ordered to stand part of the bill.

Clause 162 (*Power to enter and inspect, etc., buildings*) ordered to stand part of the bill.

Clause 163 (*Bathing places*) ordered to stand part of the bill.

Clause 164 (*Fouling water*) ordered to stand part of the bill.

Clause 165 (*Abatement of nuisance from wells, etc.*) ordered to stand part of the bill.

Clause 166 (*Using offensive manure, etc.*) ordered to stand part of the bill.

Clause 167 (*Tethering cattle, etc.*) :

Whoever tethers cattle or other animals, or causes or suffers 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.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, the amendment which I wish to move reads as follows :—

In clause 167, delete the words " or to cause a nuisance or who or danger to any person."

The bill, as framed, is so very comprehensive and so very elastic that everything and anything can be brought under it. During the discussion on this bill you must have noticed, Sir, that the tendency of the House is to encourage cattle-breeding and that is exactly the thing that has not been provided for. In towns like Ahmedabad many poor people own and keep a few heads of cattle for purposes of milk. At best a man keeps two or three cows and it is very difficult for him to keep a servant to look after his cows, because he does not make much

[Mr. Noor Mahomed]

profit from the milk he sells. The middlemen get all the profit and therefore *gowlies* are always liable to be harassed by the subordinate staff of the municipalities. These poor people cannot afford to displease the municipal subordinate staff. The temptation in the way of such subordinate staff to harass the poor *gowlies* is always very great. Owing to the strictness of the municipal laws of Rangoon, the cow has practically disappeared from that town. I know it for certain that in the town of Rangoon no fresh milk can ever be had. In the tea-shops, hotels and private houses people live on and consume condensed milk that comes from Switzerland. That is only because in Rangoon such restrictions as this bill contains have been imposed. In Rangoon the cow has been practically extinguished and what has happened in Rangoon will happen everywhere if this clause is allowed to remain. I shudder to think of the condition of cattle owners in small towns when so many restrictions are put on cattle owners in this bill. Sir, in this clause it is stated "Whosoever keeps cattle so as to cause a nuisance shall be punished with fine." The word "nuisance" is defined in clause 2 of the bill. The definition is :

" '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."

When such elastic meaning will be given to this clause, the only best course is to delete them, and leave it to the Police to regulate traffic and deal with stray cattle and other animals as is done in Bombay. When the Municipal Corporation of Bombay has not got that power, why allow these municipalities to harass the poor in the mofussil !

Mr. N. E. NAVLE (Ahmednagar District) : Sir, I rise to support the amendment moved by my honourable friend Mr. Noor Mahomed. Under the clause as it stands, very wide and extravagant powers are being given to municipalities. Sir, many people are in the habit of allowing their animals, generally cows, to go about, not with the intention of causing mischief or trouble to anybody but with the sole intention of giving the animals some chance of free air and exercise. These cows and other animals are usually tied up in the house for a considerable length of time, and it is very necessary that the animals should have some free air at intervals during the day time. This is the object in view, and the amendment is not moved with the object of creating any mischief or trouble to other people. With the object of giving the animals some chance of getting good ventilation and some exercise, many people let their cattle to go out, and such cattle would come under the words in the clauses which are now proposed to be omitted. In order to avoid this difficulty, I support the amendment.

Sir VASANTRAO A. DAEHOLKAR : Sir, I rise to oppose the amendment, and I can speak about four municipalities of which I have some experience, namely, Bandra, Dharwar, Hubli and Ratnagiri. This clause has been taken from the Bombay City Municipal Act, section 137, which provides that no stray cattle should be allowed on the streets. My

[Sir Vasantao A. Dabholkar]

honourable friend who preceded me said that the amendment is necessary in order to give some free air and exercise to the cows. If that is necessary, I think the cows can be taken to the grazing grounds under some lead and control. Why should these be allowed to stray and be a nuisance to the traffic by obstructing the roads? When these cows or cattle are allowed to stray on the road they enter anyone's compound and destroy the garden or do damage to the plantation or the standing crops. When such stray cattle are taken to the cattle-pound the fine is nominal; hence those who possess cattle and feed them at others' cost, always keep them loose on the public roads. If a deterrent fine, as provided in this clause, is inflicted, I am sure those who own cattle will not allow them to stray in the public streets. Under these circumstances, I oppose the amendment.

Mr. A. E. PATEL (Northern Division): Sir, I rise to oppose this amendment, and my ground is that if cattle are allowed to stray in the streets, they generally go out of the city at night and cause great damage to the crops of agriculturists in the neighbourhood, and agriculturists are put to great trouble on this account. They have to pass nights together in the fields in order to protect their crops, and this destruction of crops by cattle ought not to be encouraged. Rearing and keeping of cattle is much to be desired, but I do not see why they should be allowed to stray in the streets. I therefore oppose the amendment.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I rise to support this amendment, and I am very glad that a Mahomedan member has got up to move it. My honourable friend on my left (Mr. Navle) has raised the point that constitutional walks should be provided for the cattle. That of course is a very reasonable thing for their physical development. But the point which I want to make is that it would be depriving many people of the opportunity of offering charity, if these words were allowed to remain in the clause. Many cows prowl in the streets, and it is a matter of common knowledge that people offer grass to them. They think it is an act of great charity to do so, and both Hindus and Mahomedans do it. In this city of the Peshwas, Poona, there are sacred cows and bulls which are often grazing in the streets, and if a Mahomedan or anybody else disturbs them, serious riot might ensue. So, it would be inflicting a great punishment upon the people to pass this clause as it is. After all, in the case of nuisance, my honourable friend leaves that nuisance to be remedied, and there is a remedy provided for the nuisance. But to say that cows should not be allowed to go out in any way seems to me to be unfair. It is too much power to be given to the municipalities. I think the amendment will be accepted.

Mr. M. S. KHUHRO (Larkana District): Sir, this section as it stands will work a great hardship on the people. If, for instance, a cow goes out owing to the slight negligence of the owner, he will be fined Rs. 25. This may not be even the worth of the cattle, and if he has to pay the fine he may be compelled to sell the cow. If any damage is done by the cattle

[Mr. M. S. Khuhro]

the owner is liable to be sued against. Ordinarily when a cattle is allowed to stray, it is impounded and the owner has to pay a fine of Re. 1 or so. I think that will be sufficient punishment. The provision of inflicting a punishment of Rs. 25 is unnecessary.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to oppose the amendment. It has been tried to make out that they are giving protection to cows and bulls. One who has got experience of every day life in big cities will realise that these bulls and cows which are allowed to stray without a guide are a great danger to human life, and crops of the cultivators.

Mr. R. S. NEKALJAY: I rise to a point of order. I want to know whether the honourable member is supporting or opposing the amendment.

The Honourable the PRESIDENT: Surely the honourable member will be able to find that out when the honourable member Khan Saheb Mansuri concludes his speech.

Khan Saheb A. M. MANSURI: If not for anything else at least for the sake of safety to human life this amendment ought to be opposed.

Mr. R. D. SHINDE (Nasik District): Sir, the primary object of this clause as stated in the section is to prohibit the practice which is prevalent in some bigger cities of tethering cattle in the public street, which causes obstruction to public traffic. In the case in which owners allow their cattle to stray about in public street, a punishment is provided for by the owner having to pay the poundage fees. My honourable friend to the right says that it is not a deterrent punishment. Our experience in the mofussil municipalities has been that, if on a particular day a cattle is allowed to stray and if the owner is made to pay the poundage fees, it is a deterrent punishment and the objectionable practice ceases. In view of this I think this provision should be rejected.

Mr. S. K. BOLE: Sir, I support the amendment. The practice of allowing cattle to stray is very dangerous and a great nuisance; but still I think that the fine that is proposed to be inflicted by this section is very heavy. It will be a great hardship on the poor agriculturists. Even in the big city of Bombay people charged with having allowed their cattle to stray are fined at the most Rs. 5, and the fine ranges between Re. 1 to Rs. 5. Here the fine proposed is Rs. 25, which may be even the worth of the cattle. Under these circumstances I submit that the amendment should be accepted.

Mr. A. MASTER: Sir, I believe that this section has been framed with a view to cope with serious difficulties that occur in many large cities in this presidency. I became acquainted with this trouble in the city of Ahmedabad, while I was municipal commissioner. There the cattle nuisance was a serious problem, and one of my great difficulties was to remove the stray cattle from public streets. In Surat also, where I was for some time, the cattle nuisance was very great and I believe it is so even now. There is a certain class of people who keep cows and

[Mr. A. Master]

nightly turn them out in order that they may feed on the grass and even flowers in the compounds of bungalows or houses. These cows are so trained that they run away as soon as the occupier of the house appears and come back again the moment he returns to the house.

I was surprised when one honourable member referred to the fact that grass and other food are given by way of charity to cows straying in the streets. Very often that charity is involuntary, because cows enter into grain and vegetable shops and eat whatever they want to the great detriment of the shop-keeper. I am afraid that the support given to the amendment is due to sympathy with the cows at the expense of the dwellers in the city. I think it is important that the interests of the citizens should be considered first.

Mr. S. T. KAMBLI (Dharwar District) : Sir, this clause does not only relate to cattle straying in the streets but also to animals that are kept on the premises of a person. The section amongst other things says : " or who keeps any animal on his premises so as to be a nuisance or danger to any person ". Allowing cattle to stray in the public streets may be a source of hindrance to the public traffic. I fail to see how the animal that is kept within the premises of a person becomes dangerous to the public or a nuisance to traffic. If a man keeps an animal on his own premises and if he is liable to be dragged before the authorities under this clause, then this clause would provide a dangerous instrument in the hands of menial servants of the municipality. I hope the Honourable Minister will consider this point. If it had been meant that if an animal proves to be a danger to the neighbourhood, then and then only the owner renders himself liable to be punished, I can understand the position and it would have been a different thing. I fail to see the object of inserting this particular provision in the form in which we find it in this section. Under the old section 137 the provision is as follows :

" Whoever tethers cattle or other animals, or causes or suffers 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, shall be punished with fine which may extend to twenty-five rupees."

All arguments advanced in favour of the retention of this whole clause were directed to pointing out the dangers and inconveniences caused by straying cattle in the streets and the great obstruction they cause to traffic in great cities like Ahmedabad. But I do not understand the object of inserting this particular provision with regard to animals kept by persons on their own premises.

Generally the provisions of the Municipal Act are brought into operation by municipal servants and not by the chief officer. The chief officer has not the time to visit every house in the municipal area and inspect it. I do not think he has the time to do all this himself and therefore he shall have to depend on municipal subordinate servants. If municipal inferior and subordinate servants are made aware of this clause they will be tempted to tease and torture any peaceful citizen. I request therefore

[Mr. S. T. Kambli]

that the Honourable Minister will see his way to delete this provision from the clause.

The Honourable the PRESIDENT: I may tell the honourable member (Mr. Kambli) that if he wishes to move his suggestion as an amendment I will allow it as an amendment to the amendment now before the House.

Mr. S. T. KAMBLI: Sir, I thank you for it. I beg to move as an amendment to the amendment proposed by the honourable member Mr. Noor Mahomed:

In clause 167, delete the words "or who keeps any animal on his premises so as to be a nuisance or danger to any person".

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, it was suggested that by 'any animal' it was intended to exclude monkeys. I hope the Honourable Minister will throw some light upon the suggestion.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The honourable mover of the amendment said that if we retain this clause the poor people will suffer. This clause has been in the Municipal Act for many years, and I do not think that the poor people have suffered. The other argument was that municipal servants will misuse the section. There have been no complaints about that also. So far as Mr. Kambli's amendment is concerned, he has pointed out that those are new words, and as I see there is a strong feeling in that direction I accept the amendment as proposed by Mr. Kambli.

Mr. NOOR MAHOMED (Hyderabad District): Sir, the honourable member Mr. Alibhai Patel urged, as one of the reasons why this clause should be retained, that in Broach the cows were let loose at night and allowed to graze in the fields. I cannot understand how the cattle strays out at night and grazes in the fields from such a big town as Broach and very secretly returns to stables in the morning. Even if that does happen the best course is to take them to the cattle pound or to resort to the Police Act. The police have the power to catch hold of cattle roaming about like that, doing mischief or obstructing any public road. But it is not the function of the municipality to protect the fields of agriculturists.

The Honourable Minister said that this clause is borrowed from the old Act. That is exactly the reason why I oppose it. Our experience of the section contained in the old Act is that poor people are harassed unnecessarily. If there is a capitalist's house near that of the *gowli* he does not and will not want his poor neighbours near him. If this clause is retained as it is, it will not be possible for these poor people to live in the municipal towns. Once a rich man goes and lives near *gowlies*, it becomes impossible for them to remain there. Everything of the poor will be a nuisance to the capitalist. Some people think that it is only a fine of 8 annas that cattle owners will pay if their cattle is impounded and that it is not too much. But if the poor man has got ten heads of cattle the fine will amount to Rs. 5 a day and if feeding charges are added it may come to Rs. 20. That is the reason why people have suffered by this section, and that is why I press my amendment.

The Honourable the PRESIDENT: The original amendment is that moved by the honourable member Mr. Noor Mahomed :

Delete the following words from clause 167 :— “ 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 ”.

To that there is an amendment from the honourable member Mr. Kambli :

Delete the following words from clause 167 : “ or who keeps any animal on his premises so as to be a nuisance or danger to any person ”.

I will put the amendment to the amendment first.

Question put :

In clause 167, delete the words “ or who keeps any animal on his premises so as to be a nuisance or danger to any person ”.

and carried.

The Honourable the PRESIDENT: I will now put the amendment of the honourable member Mr. Kambli as a substantive proposition.

The honourable member Mr. Kambli's amendment put as a substantive proposition and carried.

Clause 167, as amended, ordered to stand part of the bill.

Clause 168 (*Feeding animals on filth*) ordered to stand part of the bill.

Clause 169 (*Consumption of smoke*) ordered to stand part of the bill.

The Honourable the PRESIDENT: The next clause is 170. To that there is an amendment from the honourable member Mr. Pahalajani, but that is out of order under the ruling given in regard to the amendment to sub-clause (20) of clause 58.

Clause 170 (*Licensing markets and slaughter-houses*) ordered to stand part of the bill.

The Honourable the PRESIDENT: The next clause is 171. To that there are amendments from the honourable members Mr. Karki, Mr. G. I. Patel, Mr. Swaminarayan, and Dr. M. K. Dixit. All these amendments also fail in view of the ruling given on the amendment to sub-clause (20) of clause 58.

Clause 171 (*Opening, closing and letting of markets and slaughter-houses*) ordered to stand part of the bill.

Clause 172 (*Farming of market and slaughter-house rents*) ordered to stand part of the bill.

Clause 173 (*Slaughter-houses, etc., beyond municipal limits*) ordered to stand part of the bill.

Clause 174 (*Search for and inspection of unwholesome articles*) ordered to stand part of the bill.

Clause 175 (*False weights and measures*) ordered to stand part of the bill.

Clause 176 (*Licensing of dairies*) ordered to stand part of the bill.

Clause 177 (*Powers to prevent disease which may at any time be conferred*) ordered to stand part of the bill.

Clause 178 (*Duties of municipality on threatened or actual outbreak of dangerous disease*) ordered to stand part of the bill.

Clause 179 (*Withdrawal and modification of powers and orders*) ordered to stand part of the bill.

Clause 180 (*Duties of municipality in respect of diseases among cattle, sheep or goats*) ordered to stand part of the bill.

Clause 181 (*Proceedings to abate the overcrowding of the interiors of buildings*) ordered to stand part of the bill.

Clause 182 (*Special powers which may be conferred by the Government in respect of overcrowded area*) ordered to stand part of the bill.

Clause 183 (*Closing of places for disposal of the dead*) ordered to stand part of the bill.

Clause 184 (*Regulation of certain trades*).

(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.

Mr. A. MASTER : Sir, I beg to move :

In clause 184 (1), Explanation, for the words " or any mechanical noise is caused " substitute the words " is caused or any mechanical noise ".

Question put and carried.

Mr. A. MASTER : Sir, I beg to move :

In clause 184 (1), Explanation, before 1st paragraph, add a heading " Explanation 1 " and before the second paragraph, add a heading " Explanation 2 ".

Question put and carried.

Mr. A. MASTER : Sir, I beg to move :

In the same clause, Explanation, 1st paragraph for " (r) " substitute " (q) and (r). "

Question put and carried.

Mr. A. MASTER : Sir, I beg to move :

In clause 184 (1), Explanation, 2nd paragraph for " this sub-section " read " sub-sections (q) and (r). "

Question put and carried.

Clause 184 as amended ordered to stand part of the bill.

Clause 185 (*Prohibition of use of steam-whistles, etc.*) ordered to stand part of the bill.

Clause 186 (*Loitering or importuning for purposes of prostitution*) ordered to stand part of the bill.

Clause 187 (*Brothels*) ordered to stand part of the bill.

Clause 188 (*Pilgrims' lodging houses*) ordered to stand part of the bill.

Clause 189 (*Police and municipal officers to aid fire brigade*) ordered to stand part of the bill.

Clause 190 (*Service of notices, etc., addressed to individuals*) ordered to stand part of the bill.

Clause 191 (*Punishment for disobedience of orders and notices not punishable under any other section*) ordered to stand part of the bill.

Clause 192 (*Municipality in default of owner or occupier may execute works and recover expenses*) ordered to stand part of the bill.

Clause 193 (*Occupier in default of owner, may execute works and deduct expenses from his rent*) ordered to stand part of the bill.

Clause 194 (*Proceedings if any occupier opposes the execution of the Act*) ordered to stand part of the bill.

Clause 195 (*Entry for purposes of the Act*) ordered to stand part of the bill.

Clause 196 (*Arbitration in cases of compensation, etc.*) ordered to stand part of the bill.

Clause 197 (*Costs or expenses how determined and recovered*) ordered to stand part of the bill.

Clause 198 (*Municipality may prosecute*) ordered to stand part of the bill.

Clause 199 (*Distress lawful though defective in form*) ordered to stand part of the bill.

Clause 200 (*Damage to municipal property how made good*) ordered to stand part of the bill.

Clause 201 (*Alternative procedure by suit*) ordered to stand part of the bill.

Clause 202 (*Power to sue, compromise and pay compensation*) ordered to stand part of the bill.

Clause 203 (*Assistance for the recovery of rent on land*) ordered to stand part of the bill.

Clause 204 (*Limitation of suits, etc.*) ordered to stand part of the bill.

Clause 205 (*Powers of police officers*) ordered to stand part of the bill.

Clause 206 (*Accounts to be kept*) ordered to stand part of the bill.

Clause 207 (*Presentation of accounts. Budget Estimates*) ordered to stand part of the bill.

Clause 208 (*Audit of accounts*) ordered to stand part of the bill.

Clause 209 (*Transmission of accounts to Government*) ordered to stand part of the bill.

Clause 210 (*Publication of accounts*) ordered to stand part of the bill.

Clause 211 (*Power of inspection and supervision*) ordered to stand part of the bill.

Clause 212 (*Collector's powers of suspending execution of orders, etc., of municipalities*),

(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.

Mr. R. G. PRADHAN (Nasik District) : Mr. President, I beg to move that

For clause 212, the following shall be substituted :—

(1) If, in the opinion of the District Magistrate 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 likely to lead to a breach of the peace, he may make a provisional order in writing under his signature, suspending the execution or prohibiting the doing thereof.

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(2) When the District Magistrate makes any such provisional order, he shall forthwith forward to the Government and the municipality affected thereby a copy of the order with a statement of the reasons for making it, and the Government may confirm, revise, modify or rescind such order.

Provided that no such order shall be confirmed, revised or modified before giving the municipality reasonable opportunity of stating what it has to say thereon.

Honourable members will see that clause 212, for the modification of which I am moving my amendments, is an old provision existing in the District Municipal Act of 1901. It forms part of the chapter of the District Municipal Act which deals with the control of municipalities. Now, I submit to this honourable House that the retention in this new bill of the old section as regards control constitutes a serious blot on an otherwise excellent bill. The principle as regards the constitution of local bodies and the outside control that should be exercised over them is very clearly stated in formula 1 of the Montagu-Chelmsford Report. Every measure, I submit, dealing with local self-government must be tested by that formula. If the liberalisation of our local bodies does not come up to the standard or to the level which has been embodied in that formula, to that extent the liberalisation must be considered to be defective. That formula, as the honourable members are fully aware, is this :

"There should be, as far as possible, complete popular control in local bodies and the largest possible independence for them of outside control."

This is the formula laid down that there should be the largest possible independence of outside control. I submit, Sir, that this clause and other clauses in the bill regarding control contravene this latter part of the formula. They do not conform to the principle that there should be the largest possible independence of outside control. Now, if honourable members will read the clause as it stands and the amendment which I beg to propose, they will find that in the original clause the Collector is authorised to interfere with a municipality to suspend the execution of its resolution, or to exercise the veto in more than one case. Honourable members will see that this right of veto, of interfering with and suspending the execution of a resolution of a municipality or the execution of any act done or proposed to be done by a municipality is, in the first place, given to the Collector. Now, I am opposed in principle to such very large control being exercised over any municipalities, and in particular these major municipalities, by the Collector. That is my first objection. The Collector is not responsible, is not subordinate, to the Minister. Local Self-government is a transferred subject. Moreover, as the honourable members are fully aware, the rights, privileges and status of the Collector are specially secured by the Government of India Act and the rules thereunder. It seems to me, therefore, that this is a very serious anomaly that control should be exercised over self-governing bodies, which are under a transferred department, by an officer who is not subordinate, at all events who is not responsible to the Honourable Minister in charge of Local Self-government who is responsible to the Legislative Council. And we must take steps to remove that anomaly as early as possible. It was all right in 1901 when the reforms had not come into existence and when Local Self-government had not reached

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that high level which it has reached now. It was all right in those days that the Collector, as a representative of the Crown, should have been invested with a large measure of control over these local bodies, but we are now living in entirely different days and we have made considerable progress. Local Self-government has now become a transferred subject over which the representatives of the people have control and the question before this honourable House is this: Is it at all right or proper in the present circumstances that such an officer as the Collector should have such wide powers of outside control over these self-governing bodies, in particular the major municipalities? That is then one objection which I raise to the passing of the clause as it is. My objection goes still further. A careful perusal of the section as it stands will show that a Collector can interfere and exercise his veto in more than one case. Now, I submit that the Collector, as District Magistrate, will be justified in exercising control and that too only provisionally only in one case; that one case is when breach of peace is likely to occur or is threatened by anything which is done or proposed to be done by a municipality. I am perfectly prepared to concede that the Collector as District Magistrate, not as Collector, should be empowered to exercise his functions, as the keeper of peace and order in his jurisdiction. If anything which a municipality resolves to do or has done interferes with peace and order, the Collector as the District Magistrate should have the right of exercising control over the doings of the municipality. To that extent it is reasonable that he should exercise control over the municipality, but, beyond that, his control must not be allowed to go because it would be inconsistent in the first place with the formula which I have already laid down and secondly, because it will interfere with the healthy growth and development of Local Self-government. So my amendment is this: I say that only in one case the District Magistrate should interfere; in that case he should pass a provisional order and as soon as he passes a provisional order exercising his veto, he should furnish a copy of that order to the municipality and he should also send a copy of that order to the Government and the final order in this particular respect should emanate not from the District Magistrate but from the Government. That is my amendment and I submit that it is a very reasonable amendment. The section, as it stands, would have been all right in the year 1901 or before that, and I venture to think that the amendment which I have proposed will be considered to be in conformity with the conditions as they exist at present. I am very pleased to congratulate the Honourable Minister upon his tendency to meet the wishes of the people as far as possible, but in this particular respect, I believe, he finds himself powerless to the influence, coming from Commissioners and Collectors. With these words, I commend this amendment to the acceptance of the House.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the speech of my honourable friend may have created some confusion in the minds of some honourable members in regard to the constitutional

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point. Therefore I want in the first instance to make the constitutional position very clear to this House. The stand which the honourable member took was that Local Self-Government is a transferred subject, and yet certain powers of control under this bill are to be exercised by the Collectors. Therefore, he wants to delete the word "Collector" and put in the words "District Magistrate". But under the bill, the Collector, though he belongs to a reserved department, is, for the purposes of Local Self-Government, subordinate to the Minister, and the Minister has the right of modifying, revising or rescinding the Collector's order. I refer the honourable mover to the last clause, namely, clause 218, which reads as follows —

In all matters connected with this Act the Government, 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.

Therefore the Collector, for the purposes of this Act, is subordinate to the Minister. Now, take the present clause 212. Under it, though the Collector passes the order he has to forward that order at once to the Commissioner, and the Commissioner, if he confirms it, has to forward that order at once to the Government, that is, to the Minister, and it is for the Minister to confirm or modify or rescind that order. Therefore, the constitutional position is not affected by the present clause as it stands. On the contrary, if, according to the amendment of the honourable mover, the words "District Magistrate" are substituted for the word "Collector", the District Magistrate being a subordinate in a reserved department will not be subject to the control of the Minister. Therefore, the constitutional point is in favour of the provision as it stands. If any order is passed by the District Magistrate, it will be subject to revision by the Sessions Court, or the High Court. Therefore, as the provision stands, it is constitutionally correct. As regards the merits, I will speak hereafter.

Mr. L. J. MOUNTFORD: Mr. President, I have little to add to the arguments that have fallen from the Honourable Minister on this matter. I would point out one more difficulty which, I think, the honourable member from Nasik has not quite understood. Apparently, he has not read clause 211 of the bill. Under clause 211, the Collector will receive information of everything that is going on in a municipality. He can call for reports from the municipality, he can call for any returns from the municipality; and it is the practice for all municipalities to send copies of all resolutions to the Collector, under section 173 of the District Municipal Act. The District Magistrate is not aware of what is going on; he is not the man to interfere at all from any point of view; the Collector alone knows what is going on. I do not wish to go over the same ground of argument as was covered by the Honourable Minister as to the subordination of the Collector to Government in the transferred departments, but Government in the transferred departments has absolutely no authority over the District Magistrate. I doubt very much whether municipalities would desire to be brought under the power

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of the criminal courts. If a District Magistrate issues an order to a municipality, it is the order of a magisterial court, and must be obeyed. He could, on his motion, insist upon that order being carried out. Therefore, all through, it is far better that any sort of interference—and that interference is necessary is admitted by the honourable member for Nasik—should be carried on by those officers who are extra-judicial, to whom the members or the president will go and converse, and discuss the order, rather than a court whose order is final once it is issued. I therefore consider that the anomaly mentioned by the honourable member for Nasik is not an anomaly at all, and what he proposes to introduce is a far greater anomaly than anything that at present appears in the Act.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, the honourable member Mr. Pradhan has referred this House to the "formula" that there should be no outside control at all, that control should not be exercised on occasions. I need not remind the honourable member that cases do arise, especially in new municipalities, where such powers are absolutely necessary to be given to the Collector; it would be more anomalous to hand over these powers to the District Magistrate than to the Collector. He should not forget that these powers are to be exercised in urgent cases, and in cases where, if no immediate action is taken, more serious harm would be done than by the non-interference of the Collector. As things stand at present, I am afraid some kind of control will be necessary for some time to come—not the kind of control which the honourable member fears. In urgent cases, in matters of peace it would be wrong to take away all the powers of control from the Collector. As the honourable member Mr. Mountford has pointed out, there are sections which already give power to the Collector to get all kinds of information from the municipalities. Is he not therefore the right person to exercise judgment or to issue temporary orders in such matters? Besides, Sir, the clause is hedged round by so many safeguards. The Collector has immediately to forward a copy of his order to the Commissioner, and the Commissioner also has immediately to report to the Honourable Minister. Therefore, there is no serious danger in allowing the Collector to interfere on urgent occasions. He would be a very bad Collector indeed who would exercise his powers to satisfy mere whims and fancies, because they are liable to be immediately revised by the Commissioner and the Honourable Minister. Moreover, the Collectors know that under reformed Councils, there is from every district a member in this House to exercise vigilance over the affairs of his constituency. I say it is unlikely that under such circumstances the Collector would do anything to make a mere show of his powers. I therefore trust that, after the explanation given by the Honourable Minister, my honourable friend will withdraw his motion.

Mr. S. T. KAMBLI (Dharwar District): Sir, the provisions of clauses 211 and 212 of the bill seem to be bodily taken from sections 173 and 174 of the existing District Municipal Act. Under these two clauses, the

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Commissioner and the Collector have been given the power to inspect the accounts of the municipality, to inspect their works, etc., and in fact they have been given the power to be in close touch with the daily administration of the municipality. Nobody has taken any objection to these powers being vested in these two officers, the Commissioner and the Collector, and I do not think that any reasonable objection could be taken to them, because municipal administration is carried on in the interest of the public, and in open and broad daylight. But when powers are proposed to be given to the Collector and Commissioner under clause 212, the honourable mover of the amendment proposes that these powers should be curtailed and should be given only to the Collector and the Collector should immediately report the matter to Government. That is what the proposal comes to. Under clause 212, the Collector can interfere only in three cases. Let us examine these three cases, and let us see, after our examination, whether it is improper or inadvisable or inexpedient or against the proper administration of municipalities that in these three cases powers should be given to the Collector to interfere and to take action. Clause 212 (1) says :

"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."

The Collector can interfere and pass orders only in three cases, namely, when an act is unlawful, or the execution of any resolution is likely to cause injury or annoyance to the public, or is likely to lead to a breach of the public peace. I beg to submit that in such cases some outside interference is necessary especially where the municipalities do or attempt to do something unlawful or prejudicial to public peace. Under the existing provisions there is no interference contemplated with regard to the executive duties of municipalities. I think it is necessary that the Collector in his capacity as District Magistrate as being responsible for the peace and order of the district should be invested with some power to interfere with the municipalities in cases where their action might lead to breach of the peace or injury to the public. I think no self-respecting municipality will take it an offence if it is brought to their notice that their resolution is unlawful or it is likely to cause breach of the peace or injury to the public. I think the municipality concerned will take it in a better spirit and will like to be profited and guided by the advice of the Collector. When the Collector makes such an order he is required to communicate it to the Commissioner and as the Commissioner is nearer to the municipality than the Government and gets more time and leisure than the Government, the Commissioner can visit the spot and bring about some speedy settlement in the matter. It is provided by clause (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 the statement of the reasons for making it ; and it shall be in the discretion of the Commissioner to rescind this order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit."

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These provisions make it incumbent on the Collector not only to forward the order to the Commissioner, but also to forward it to the municipality concerned also. I do not think that by this clause the routine administration of the municipality will be interfered with in any way. Under sub-clause (3) the order that the Commissioner may pass will be submitted to Government who may revise or modify the order of the Commissioner. The Government will consider on the one hand the case of the municipality and on the other the report of the Commissioner. The Honourable Minister in charge of the portfolio of Local Self-government will consider both sides of the case and pass an order which will be final. I do not think this is in any way objectionable.

Mr. D. R. PATIL (East Khandesh District) : Sir, if we read clause 211 with clause 212 we can very properly say that clause 212 is a corollary to clause 211. When we give power of inspection and supervision to the Collector what is the use of that power unless he has got power to suspend execution of the orders of municipality which are either unlawful or injurious to the public or likely to lead to a breach of the peace? I quite agree with my honourable friend the honourable member from Nasik (Mr. R. G. Pradhan) when he said that the Collector should not be allowed to interfere with the powers given to municipalities under this Act. But if we read clauses 211 and 212, the cases in which the Collector will interfere are those that relate to a breach of the peace, injury to the public and so on. I do not think that the municipality should be left to act without control in such cases. The Collector is given power to interfere with the municipality only in the abovementioned cases and he has no power to interfere with the real administration of the municipality. Suppose some members of a municipality pass a resolution which is really not in the interests of the public then I should think the Collector should be allowed to interfere. Suppose in any city municipality some members join together and pass a resolution that Rs. 1,000 should be spent on some object which will not serve any public purpose. In that case the Collector can interfere. So far as my experience of the Bhusawal Municipality is concerned, the Collector has very rarely, practically has not, interfered with any resolution which we pass there. Under these circumstances I hope the amendment will not be accepted.

Mr. R. G. PRADHAN (Nasik District) : Mr. President, I shall first deal with the arguments of my honourable friend Moulvi Rafiuddin Ahmad. He says that the formula to which I have referred does not lay down that there should be no control at all over local bodies. He is quite right. But my amendment does not say that there should be no outside control whatever over local self-government. I myself have never said that no control whatever should be exercised over local self-governing bodies; but what I contend is—and that contention is not in the least affected by his arguments—that that control should be the least possible, the minimum that may be absolutely necessary; and secondly that, that control should be exercised not by the Collector but by the Honourable Minister in charge of the portfolio of Local

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Self-Government. In the speech I made when I moved this amendment I fully stated my reasons for holding that this power should not be exercised by the Collector. In that connection the Honourable Minister has thrown some light on the constitutional position. It may be that so far as Local Self-government is concerned, that the Commissioner and the Collector are subordinate to the Honourable Minister. But we know what that subordination means in the light of the essential features of dyarchy. We know it very well. No argument is necessary to explain that point. We further know what subordination means in the light of the special privileges, the special rights, the special status and so forth that have been secured to the Collectors by the Government of India Act and the rules made thereunder. In the light of the essential features of dyarchy, in the light of the inherent defects of the dyarchical constitution under which we are working, and in view of the special privileges and status and rights which have been secured to the I.C.S. and other high officers, I say that this so-called subordination of the Collector and the Commissioner to the Honourable Minister in charge of Local Self-government is of the most shadowy character; it is unreal, it is chimerical in its nature. And therefore not the slightest weight should be attached to the argument based on this unreal and illusory subordination of the Collector and the Commissioner to the Honourable Minister in charge.

Sir, reference has been made by my honourable friend Moulvi Rafiuddin Ahmad that immediate action is necessary. Certainly whenever there is a necessity for control and such control will be justifiable, I quite concede that immediate action is desirable. But as I have said, there is only one case in which the Collector in the capacity of district magistrate should be allowed to interfere, and in that case the amendment I move does provide for immediate action. The amendment is quite clear, that as soon as something is about to be done or is being done by the municipality, which is likely to interfere with public peace or order, the Collector in his capacity as district magistrate may pass immediately a provisional order vetoing that particular action of the municipality. So that, the fear that my honourable friend Moulvi Rafiuddin Ahmad has expressed is absolutely baseless. The only question is whether these wide powers should be given to the Collector—whether there is any justification for it. Should not the municipalities in these big cities be trusted to refrain from acts which are likely to be harmful to the public or to be unlawful? If an act is harmful to the public or unlawful there are other ways in which the ratepayers can control the municipality.

As I have said, it is quite proper and reasonable that a distinction should be made in the case of acts which are likely to cause a breach of the public peace, because after all the interests of peace and order are of a high order; they are of prime importance; and they are paramount over everything else; and special care must be taken to safeguard them. I have therefore made the provision that if anything is being done or is about to be done by the municipality which is likely to disturb peace and order, at once the Collector should come forward and in his capacity as district magistrate should interfere with what has been done by the

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municipality or is about to be done by the municipality. But in that single case alone interference by the Collector as district magistrate will be justified ; in no other case interference will be justified.

Then, Sir, may I draw the attention of honourable members to one point, a very important point ? It is this. In the clause as it stands, in all these processes—the Collector suspending execution of a resolution, etc., his reporting to the Commissioner, the Commissioner passing orders on his report, the submission of the case by the Commissioner to the Government and the final order of Government—in all these processes, there is not the slightest scope given for the municipalities concerned to be consulted. The Collector vetoes a resolution ; he refers the matter to the Commissioner ; the Commissioner sends the matter to Government ; and the Government issues final orders. But throughout this procedure the municipality is not consulted, and no question is asked of the municipality, the municipality's views are not ascertained. I know of many cases where unjustifiable and arbitrary orders have been issued ; I have known of interference under circumstances which would not warrant it. The whole thing is done without consulting the municipality, without the Government taking care to know what the municipality have got to say on the matter. Is it not arbitrary ? Is it not inconsistent with local self-government, with what ought to be the powers and functions and privileges of a municipality, with what ought to be the real principle of local self-government ? I do submit, Sir, that the amendment I have moved is in the truest and best interests of local self-government, and I am surprised at the mentality of those who are against its acceptance.

With these words I commend the amendment to the House.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, my honourable friend admits that there ought to be control, and even by his amendment he gives a certain amount of control. The next point he raised was the constitutional point—as to how far the Collector and the Commissioner are under me—but I am not going to deal with that. He admits that immediate action should be taken in certain cases, but he says that the Minister in charge of Local Self-government should pass orders and exercise that control. Now, the Minister of Local Self-government is sitting in this hall. In Shikarpur or Hyderabad, the municipality passes an illegal resolution. Before I can take action, the harm will be already done. It may take two or three months before a representation will reach me. I can quote examples. The municipality may pass an order refusing to allow certain depressed classes to take water from a certain well, and there is no other well, private or municipal, that the depressed classes can draw from. The Collector is to be given no authority to interfere, and they will thus go without water till the matter is represented to the Minister, who will have to make enquiries before taking action. I will give yet another instance. The municipalities are not allowed to restrict the slaughter of animals. Suppose a municipality takes the law into its own hands, and stops the slaughter of animals. All meat-eating people will have to go without meat till the Minister receives

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a representation from the people affected and decides the matter. Therefore, power is given to the officer on the spot to take immediate action.

I have been hearing for so many years that we should take away all these powers from these wicked Collectors, but nobody has suggested to me to whom we should give these powers. So far as I am aware, there are two systems. One system is the system under which the Minister works with a paid agency, such as inspectors, inspectors-in-chief, and so on. It is a very costly system, and if you introduce that it will cost the presidency several lakhs and the municipalities will murmur each time these inspectors try to interfere with them. The other is the French system, like our system working through Collectors or men on the spot, and the third suggested by the honourable mover of the amendment is that the Minister should exercise the powers in question. I have already said that it is impossible for the Minister to exercise these powers. If any resolution passed by a municipality causes injury, it would be impossible to remove the injury at once. Similarly in the case of unlawful resolutions, it would be impossible to remedy the defect promptly. I do not think the honourable member would encourage municipalities to pass resolutions likely to cause a breach of the peace. I really appreciate the last point that the honourable member made that there is no provision in this bill giving an opportunity to the municipalities to consider the orders passed by the Collector and the Commissioner. With your permission, Mr. President, and if the honourable House agrees with me, I may add a new clause at the end—

“ Provided that no order of the collector or commissioner passed under this section shall be confirmed, revised or modified by Government before giving the municipality reasonable opportunity of stating what it has to say thereon.”

If the House agrees and if the Honourable the President allows I am ready to move this amendment.

The Honourable the PRESIDENT: Certainly. But is this amendment an amendment to the amendment moved by the honourable member?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: No.

The Honourable the PRESIDENT: It is a part of the amendment now under discussion.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I oppose the amendment, Sir, but I want to add a new clause at the end of clause 212.

The Honourable the PRESIDENT: Do you want to make exactly the same proviso?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Slightly altered, namely:

“ Provided that no order of the collector or commissioner passed under this section shall be confirmed, revised or modified by Government, etc. etc.”

The Honourable the PRESIDENT: The reason why I asked the Honourable Minister to tell me whether it was part of the amendment

[The President]

that is now before the House was to suggest a procedure which would be more suitable. But I now find that the proviso is different from that in the amendment. Therefore the procedure appears to me to be that the whole amendment should at present be voted upon. The Honourable Minister is now replying and on the occasion of replying it is hardly proper to introduce new matter into the discussion. That being so, I will put the amendment to the vote and if it is rejected I might allow the Honourable Minister to move his new amendment so that honourable members may have an opportunity of discussing it before voting upon it. It cannot be done now as the Honourable Minister is at present replying on the debate.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
With these words, I oppose the amendment.

Question put and lost.

(After recess.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
Sir, the amendment I propose to move is as follows :

Add a proviso at the end of clause 212 as follows :

“ Provided that no order of the Collector or the Commissioner passed under this section shall be confirmed, revised or modified by Government without giving the municipality reasonable opportunity of showing cause against the said order.”

Question put and carried.

Clause 212, as amended, ordered to stand part of the bill.

Clause 213 (*Extraordinary powers of Collector in case of emergency*)
ordered to stand part of the bill.

Clause 214 (*Power of Commissioner to prevent extravagance in the employment of establishment*) :

If in the opinion of the Commissioner the number of 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 :

Provided that the municipality may appeal against any such requirement to the Government whose decision shall be conclusive.

Mr. R. G. PRADHAN (Nasik District) : Sir, I beg to move the following amendment :

Omit clause 214.

Honourable members will see that clause 214 gives to the Commissioner power to reduce the number of persons in the municipalities' employ or their remuneration. The general arguments which have been advanced while moving my last amendment apply to this amendment also. If any additional argument is necessary, it is this : Can we not trust municipalities to exercise due care in employing their establishment and in preventing extravagance, and is it necessary to keep municipalities in leading strings even in such a small matter as the engagement of the establishment and its pay ; in such a small matter as this, is it really

[Mr. R. G. Pradhan]

necessary to give power to the Collector or Commissioner? Can we not trust in this matter to the good sense and judgment and the sense of responsibility of the municipalities concerned?

Question proposed.

Mr. D. R. PATIL (East Khandesh District): Sir, I rise to support the amendment moved by my honourable friend the honourable member from Nasik (Mr. R. G. Pradhan). So far as the last amendment was concerned, it was quite a different thing. This clause really vitiates the principle of Local Self-government, and therefore I support the amendment.

Mr. N. E. NAVLE (Ahmednagar District): Sir, I oppose the amendment. My reason is this, that these powers which are given to the Commissioner are quite necessary as these local bodies have got into the habit nowadays of employing excessive staff and paying them extravagantly. Therefore a salient check like the one proposed in the clause is absolutely necessary and so I oppose the amendment.

Mr. R. G. PRADHAN (Nasik District): Sir, my honourable friend Mr. Navle seems to forget that in this bill we are dealing with major municipalities. He makes a statement that several municipalities are in the habit of being extravagant. He has cited not a single instance in support of his contention. His argument would have received some support if he had been in a position to cite instances showing that the municipalities to which this bill applies have been guilty of extravagance on particular occasions or in particular matters. He has not given a single illustration in support of his argument, and therefore I fail to understand why we should interfere with local self-governing bodies in such a small matter as their establishment. If they are not to be trusted in a small matter like this, then Local Self-government can hardly be said to be worth having.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, it is not a question of trusting or not trusting the municipalities. They may employ any establishment they need. This is only to check extravagance or excess in establishment. Instances have actually occurred in certain municipalities in which posts have been created for friends of certain members. The honourable mover has not pointed out a single instance in which a Commissioner has wrongly exercised his power. After all, what is this power? A Commissioner will simply write to the municipality concerned that a particular establishment of that municipality is excessive or extravagantly paid, and the municipality will have to consider the matter. If the municipality still adheres to its own views as regards that establishment, the order of the Commissioner does not become conclusive. The municipality can appeal to the Government, that is, to the Minister in charge of Local Self-government. It is simply a safeguard against extravagance. There has been absolutely no complaint about these powers having been wrongly exercised by the

[Khan Bahadur Shaikh Ghulam Hussain]

Commissioners. This provision has worked very satisfactorily up to this time, and I do not think there should be any objection to it.

Question put and lost.

Clause 214 ordered to stand part of the bill.

Clause 215 (*Government inquiry into municipal matters*):

(1) The Government may order an inquiry to be held by any officer appointed by it in this behalf into any 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 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.

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.

(4) 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.

Mr. R. G. PRADHAN (Nasik District): Sir, I beg to move the following amendment:

Omit section 215.

This is a new section introduced in the bill. It did not exist in the District Municipal Act, 1901. As far as I see, no reasons have been given for introducing this clause into this bill. I do not want to say anything further than that in support of this amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, this clause has been introduced in the interest of the municipalities. Generally, the complaint is that Government take extreme steps without giving the municipalities an opportunity of defence. This is a clause which will enable Government to make enquiry into municipal administration. The public will come to know about the working of the municipalities, about Government's charges against the municipalities and the municipalities will have to rebut the charges brought against them by Government. In fact, it is giving an opportunity to the public to know actually how the municipalities are working. If they are working satisfactorily Government cannot take any extreme steps against them. If they are working unsatisfactorily, the public will know of it, and that will support the action of Government in superseding, dissolving or taking any other measures against the municipalities. I, therefore, oppose the amendment.

Question put and lost.

Clause 215 ordered to stand part of the bill.

Clause 216 (*Power of Government to provide for performance of duties on default by municipalities*) ordered to stand part of the bill.

Clause 217 (*Power of Government to dissolve or supersede municipality in case of incompetency, default or abuse of power*) ordered to stand part of the bill.

Clause 218 (*Powers of Government and of the Commissioners over Collectors, etc.*) ordered to stand part of the bill.

Mr. R. G. PRADHAN (Nasik District) : Sir, I beg to move :

After clause 218 add a new clause as follows :

" 219. All rules made by the Government or the Commissioner under this Act shall be laid on the table of the Bombay Legislative Council for one month previous to the next session thereof, and shall be liable to be rescinded or modified by a resolution of the said Council tabled at its next session."

The object of this amendment is simply to bring this bill into line with the various bills which were passed in this session. In fact, this clause has been taken bodily from the Bombay Children Act.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I have already accepted an amendment, more or less in the same terms, moved by the honourable member Mr. Hossenally M. Rahimtoola. What is the difference between the two ?

Mr. R. G. PRADHAN : There is one difference. That amendment does not contain the word 'rescinded'. It simply says 'modified' whereas all along we have used the expression 'modified or rescinded'. The amendment already accepted refers to clause 9 (1) (c).

The Honourable the PRESIDENT : If the facts are as stated, and the Honourable Minister is agreeable to the addition of the word "rescinded", the better procedure would be to amend that section by adding the word "rescinded". I have made the suggestion as that appears to be a better way than to insert a new clause, repeating everything that has already been passed and adding one word more.

Mr. HOSENALLY M. RAHIMTOOLA : May I point out that that amendment of mine refers only to clause 9, while this refers to all the clauses in the bill ?

The Honourable the PRESIDENT : I understand that the amendment which has already been accepted refers to clause 9, while this refers to the rules made under the whole Act.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : In that case, I have no objection to this amendment. I accept it.

Question put and carried.

Clause 219 ordered to stand part of the bill.

Schedule I (*Municipal Boroughs*) ordered to stand part of the bill.

Schedule II ordered to stand part of the bill.

Schedule III (*Form of notice of transfer to be given when the transfer has been effected by instrument*) ordered to stand part of the bill.

Schedule IV (*Form of notice of transfer to be given when the transfer has taken place otherwise than by instrument*) ordered to stand part of the bill.

Schedule V (*Form of notice of demand*) ordered to stand part of the bill.

Schedule VI (*Form of Warrant*) ordered to stand part of the bill.

Schedule VII (*Form of inventory and notice*) ordered to stand part of the bill.

The preamble ordered to stand part of the bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I will move the consequential amendments the day after to-morrow.

The Honourable the PRESIDENT : If the Honourable Minister is ready to-morrow, and the House is agreeable to do so, the consequential amendments may be made to-morrow. It is a very important bill, and I should like the Honourable Minister to look up all the changes and alterations including verbal alterations, which are necessary, so that they may be made before the third reading. After this is done I will then declare formally that the bill has been considered clause by clause.

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.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Mr. President, I present 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).

The Honourable the PRESIDENT : The report is presented.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
Second reading. Sir, I move that Bill No. XVII of 1925 as amended by the select committee be read a second time.

Bill read a second time. Question put and carried.

Bill read clause by clause.

Clause 1 (*Short title*) ordered to stand part of the bill.

Clause 2 (*Extent and operation*).

(a) This Act extends only to the City of Bombay ; and

(b) it shall come into operation from such date as the Government may, by notification in the *Bombay Government Gazette*, appoint.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move the following amendment :

" In clause 2 (b), substitute ' 1st January 1926 ' for ' such date as the Government may by notification in the *Bombay Government Gazette* appoint ' . "

[Mr. Hoosenally M. Rahimtoola]

Sir, this bill has been delayed for a considerable number of years, and by giving this power to Government they may delay it for a considerably longer period. I want this Council to fix the date when this Act should come into force and the earliest reasonable date is 1st January 1926.

Sir VASANTRAO A. DABHOLKAR : Sir, I rise to support the amendment of my honourable friend. When the original Improvement Trust Act of 1898 came into existence it was provided that the Improvement Trust would be handed over to the Municipal Corporation after 20 years ; if this promise had been carried out by Government the Improvement Trust would have been handed over to the Corporation in the year 1918. Now, we are now in the year 1925 and seven years more have already elapsed ; if we further leave in the hands of the Government as to when the Improvement Trust should be handed over to the Corporation it will take still longer time, and we are not in a position to say when this will be handed over, so a definite period must be provided.

The reason why the Improvement Trust should be handed over to the Corporation on the 1st of January is, that the Board will frame its next budget in January and so the Corporation or Board will have the control over the expenditure side ; if it is handed over after 1st January, then the Corporation will have very little voice over the budget framed by the Improvement Trust. On these grounds the handing-over of the Improvement Trust should not any further be delayed, so that the Corporation may have a voice in the framing of the budget of the Improvement Trust. I support this amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I am surprised at the attitude of the honourable member who just preceded me. He complains that the Government have delayed so long in handing over the Improvement Trust to the Corporation, and that the Government was not willing to do so. I must remind honourable members that it is now five years since this bill was forwarded to the Corporation for its opinion ; and it was the Corporation that delayed it so long. I assure the House that as soon as the bill is passed, we will bring it into force.

But as regards the date, 1st January 1926, we do not know when the bill will receive the assent of the Governor General. The small amendment moved by the honourable member Mr. Rahimtoola with regard to election by ballot took nearly three months to receive the assent of the Governor General. If we lay down the 1st January as the date on which this Act should come into force, how are we sure of getting the assent of the Governor General before that time ? Further, there is a fresh election of the municipality and the new Corporation will come in April next. I assure honourable members that Government will transfer the Improvement Trust as soon as the new Corporation is constituted. All these various circumstances have to be taken into consideration. Therefore leave it to us. As soon as we get the assent of the Governor General, we will lose no time in transferring the Improvement Trust to the Corporation.

Question put and 'lost.

Clause 2 ordered to stand part of the bill.

Clause 3 (*Saving the provisions of the Indian Telegraph Act and the Indian Railways Act*) ordered to stand part of the bill.

Clause 4 (*Repeal*) ordered to stand part of the bill.

Clause 5 (*Definitions*) ordered to stand part of the bill.

Clause 6 (*Corporation charged with the execution of this Act*) ordered to stand part of the bill.

Clause 7 (*Municipal Commissioner and Chief Officer may attend meetings of Board*) ordered to stand part of the bill.

Clause 8 (*Existing Board to continue pending formation of Improvements Committee*) ordered to stand part of the bill.

Clause 9 (*Provisions concerning the Board's proceedings*):

The following provisions shall be observed with respect to the proceedings of the Board, namely:—

(1) during any vacancy in the Board the continuing Trustees may act as if no vacancy had occurred;

(2) the Board shall have power to make rules regarding the transaction of business, subject to the following provisions, namely:—

(a) an ordinary meeting shall be held at least once in every quarter. The first meeting after the 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 undischarged 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 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.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): Sir, I beg to move:

"After clause 9 (2) (b) insert the following sub-clause as sub-clause (bb):

"In the event of the office of the president being vacant or of the death or resignation of the president or of his ceasing to be a Trustee or of his being incapable of acting, the Chairman of the Committee shall fix the day, time and place of all ordinary and special meetings."

[Mr. Hoosenally M. Rahimtoola]

Under the bill only the president is authorised to call a meeting of the board and there is no provision as to what should happen in the contingencies mentioned in my amendment. I have taken this provision from the Municipal Act and I hope the Honourable Minister will accept it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
I accept the amendment, Sir.

Question put and carried.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move :

In clause 9 (2) (c), substitute "seven" for "three" and insert "three clear days' notice of all" between the words "and" and "special".

Sir, in the present bill it is provided that "three clear days' notice of all ordinary and special meetings shall be given". But the Municipal Act provides for seven days' notice in the case of ordinary meetings and three days' notice in the case of urgent meetings. I think it is desirable that similar provision should be made in the case of the Improvement Trust Board also.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
I accept it.

Question put and carried.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move :

In clause 9 (2) (c) insert the words "and the business to be transacted thereat" between the words "held" and "and".

It is provided that notice should be given of the time and place at which the meeting is to be held, but it is not provided that the business that is to be transacted should also be shown in the notice. This amendment follows the wording of the Municipal Act.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
I accept the amendment, Sir.

Question put and carried.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move :

Insert the following sub-clause as sub-clause (cc) after sub-clause (c) of clause 9 :—

"Every meeting shall be open to the public unless a majority of the trustees present thereat decide by a resolution, which shall be put by the presiding authority, of his own motion or at the request of any trustee present, without previous discussion, that any inquiry or deliberation pending before the Board is such as should be held in private, and provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings."

This is also a clause in the Municipal Act, and it is desirable that the public should be allowed to be present at the meetings of the board to know what is happening.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
Sir, I accept it.

Question put and carried.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move :

In clause 9 (2) (d), substitute the word "twenty" for the word "thirty".

In the bill it is provided that 30 trustees should form the quorum, whereas in the Municipal Act the quorum is only 20. I think in the Improvement Trust Board the same standard as is adopted for the Municipal Corporation should be accepted. I therefore move this amendment that twenty members should form the quorum.

Mr. J. BAPTISTA (Bombay City, North) : Sir, in this matter I should like to point out the proviso. In the proviso "thirty" is mentioned, because in the substantive clause "thirty" is mentioned. If it is altered into "twenty" in the substantive clause, it should be so altered in the proviso also.

The Honourable the PRESIDENT : That will be consequential.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, no doubt under the Municipal Act, the quorum is 20. But the number "20" was fixed under the old Act when the number of councillors in the corporation was 72. When we increased the number of councillors, we did not increase the quorum through oversight. Now, the number of members of the Board is 106, and 20 would be a very small quorum. Under the present Act (the Improvement Trust Act of 1898) out of 14 members, 8 is the quorum. That proportion is fixed because the Trust has to deal with important financial schemes. The Improvement Trust schemes involve lakhs and lakhs of rupees. Besides, if we refer to section 109, we will find a provision that two-thirds of the members present can remove important officers of the Improvement Trust. If we fix a quorum of 20, then it will mean that only 14 members can remove important officers of the Trust. Therefore, I submit that 30 is a very reasonable quorum, and I think that it ought to be retained.

Question put and lost.

The Honourable the PRESIDENT : The next amendment is from the honourable member Mr. Surve. It is the same as the last.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move :

In clause 9, after sub-clause (e) add the following sub-clause (ee) :—

"any trustee who desires at any meeting to bring forward any business or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same at least three clear days before the day fixed for the meeting, and a supplementary notice of such business shall be sent by post to the last known addresses of the trustees not later than the day previous to the meeting."

In the Municipal Act, Sir, there is a similar provision. When a member wants to have any information or to move any resolution he can under this clause bring in that business before the meeting. I think that similar provision should be made in the Improvement Trust Act.

Question proposed.

Mr. R. H. A. DELVES : Mr. President, I rise to oppose the amendment. I should have been prepared to accept it had the mover of the amendment provided that Trustees should receive sufficient notice of special business. But as the amendment stands, the notice will only be posted

[Mr. R. H. A. Delves]

the day before the meeting, and that means that it will reach them on the morning of the day that the meeting will be held. If the honourable mover were to agree to the amendment being altered so as to provide that notice shall be received by the trustees "two days" before the meeting, I for one would not oppose it.

Mr. HOOSENALLY M. RAHIMTOOLA : Sir, I would accept the suggestion.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I accept the amendment with the alteration suggested by the honourable member Mr. Delves.

The Honourable the PRESIDENT : The amendment as amended will read as follows :—

In clause 9, after sub-clause (e) add the following sub-clause as sub-clause (ee) :—
 " Any trustee who desires at any meeting to bring forward any business or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same at least three clear days before the day fixed for the meeting, and a supplementary notice of such business shall be sent by post to the last known addresses of the trustees not later than two days previous to the meeting."

Question put and carried.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : I beg to move :—

Insert a new sub-clause after sub-clause (e) of clause 9 :—

" The Trustees shall have the right to ask questions at the meetings of the Board concerning the affairs of the Trust subject to rules to be framed by the Board in that behalf."

In the Corporation the question of the right of asking questions is before a committee. A legal question was raised whether under the Municipal Act it was permissible to ask questions of the Commissioner on the affairs of the municipality. The matter is being considered by a sub-committee of the Corporation. To provide against any legal technicality I think it desirable that a new clause should be added. As regards the merits of the subject, Sir, if we want to obtain any information we have to give notice of a resolution and then we have to move a resolution if it comes on in the agenda. A discussion takes place. Considerable time is wasted and the Commissioner is asked to report. Some months after the report is received another discussion takes place and valuable time is wasted. If questions were allowed the information would be available and so much time of the corporation will be saved. I therefore move this amendment.

Question put and carried.

Mr. A. N. SURVE (Bombay City) : I beg to move the amendment which stands in my name. It runs thus :

In clause 9 (2) (g), omit the words " by not less than four trustees ".

The clause as it stands requires that if a poll is to be demanded the demand should be made by four persons. Sir, it must be borne in mind, that the clause if accepted will take away the individual right of a member. When a poll is not demanded the decision is arrived at by show of hands or by the volume of sound produced, which very often leads to mistakes. It has often been found that the volume of sound

[Mr. A. N. Surve]

leads to erroneous decisions. Another point is that when a poll is not demanded the members are not quite alert and they vote one way or the other. But when a poll is demanded it becomes a matter of record; and therefore every member takes care to see that his vote shall be given after mature consideration. Another point is that even in this House if a single member demands a poll it is granted. For these reasons I think it would be in the interests of individual right and also for the sake of correct exercise of one's vote the poll should be granted even if only a single member asks for it. With this object I have moved this amendment and I hope it will be accepted.

Question proposed.

Sir VASANTRAO A. DABHOLKAR : Sir, I rise to oppose the amendment. Sir, in the Corporation of Bombay four members have either to sign their names on a paper or rise in their seats when demanding a poll. If this power of demanding a poll is granted to a member or one member, then a poll will be demanded on every resolution and it would be difficult to carry on the work of the Board and it will also delay the proceedings of the meeting. The honourable mover said that this power was asked for to see how the questions were voted upon. A poll is demanded on important questions when the House is not satisfied with the counting of the votes or when the House desires to record the names of the members who may have voted for or against a particular resolution. Let us therefore follow the rule of demanding a poll as is provided in the Bombay Municipal Act.

Mr. J. BAPTISTA (Bombay City, North) : Sir, I should like to say a few words on the subject. I should like to ask the Honourable Minister what is the object of these provisions? Is it to be a rule of evidence or is it to be a rule to grant a poll? So far as one can see it is a rule of evidence such as provided in the Evidence Act. The declaration by a presiding authority, and an entry to that effect shall be conclusive evidence. But then it is absurd to confine it to propositions that are carried. Why should it not be extended to propositions that are lost?

It is, of course, manifest that the declaration and entry shall not be conclusive if four persons demand a poll. But if a poll is demanded, and a record is made of persons voting for or against, the record is not conclusive evidence of the facts recorded. It is rebuttable as there is no provision for conclusiveness in such a case. It does not seem reasonable that it should be conclusive in the first case or not conclusive after the elaborate procedure in recording the votes.

I think we must draw a distinction between a mere rule of evidence and a rule for granting a poll, and not mix up these two things and confine this provision for the purpose of evidence, and not extend it for the purpose of granting the poll. In this House when an individual asks a poll, I think it is much better that it should be left to the discretion of the board to provide by a rule whether a poll shall be granted or shall not be granted. As a rule of evidence it is right to insist that four persons should demand a poll. But I cannot see why four persons must demand

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a poll, not for the purpose of evidence in a court of law, but for the purpose of ascertaining the opinion of the board more formally than mere show of hands. In this Council a division may be demanded by a single member; why not in the case of the board? Moreover, why should it be limited to the case of propositions that are carried, and not to cases of amendments, that are carried or rejected? I do not think, Sir, the Honourable Minister had really considered these points carefully, and he has not expressed clearly whether this is to be a rule of evidence or a rule for granting a poll. So far as the rule of evidence is concerned, it seems right. It is right when a proposition is carried, but why not right when a proposition is lost. I do not know why you draw a distinction between a proposition that is carried and a proposition that is lost. I should like to ask the Honourable Minister to consider what object he has in making this proposition. A rule of evidence should be quite distinct from a rule for granting a poll. From the little experience that I have I find that sometimes a poll is demanded merely for the purpose of obstruction. On such an occasion the presiding officer should be at liberty to refuse a poll. When a poll is demanded for the purpose of informing the electors how their representatives have voted in a matter of importance, it is right to demand a poll. In such a case a poll would be granted, but not in the case of frivolous demands or obstructive tactics. I am sorry I could not put in any amendment. I thought, when I was in Bombay, that this meeting of the select committee was to be held in Poona. But when I came to Poona, I found it was to be held in Bombay, and I did not get further notice. I am making these observations for the purpose of asking the Honourable Minister to carefully consider whether it is a rule of evidence that he wants or a rule for the purpose of granting a poll. If it is for the granting of a poll, then let the board make the rule. If it is for the purpose of evidence it should be clearly so stated in the bill. Otherwise there is a room for confusion and misapplication.

Dr. K. E. DADACHANJI (Bombay City, South): Mr. President, I am in favour of four persons demanding a poll. The distinction here, that is, in this Council and the Corporation is this, that when four persons demand a poll there in the Corporation, the President is bound to grant it. Here, in this Council, it is at the discretion of the President, he may allow it or he may not allow it. Sometimes, the late President, Sir Narayan Chandavarkar, said he would not allow a division because it was frivolous. Sir, this discretion vests in the President of the Council. The discretion does not so vest in the President of the Corporation. So if we allow that four persons should demand a poll, the President is bound to grant it.

Mr. A. N. SURVE: I have nothing more to add.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I have nothing more to add, Sir. Others have already said all that could be said.

Question put and lost.

Clause 9, as amended, ordered to stand part of the bill.

Clause 10 (*Constitution of Improvements Committee*).

(1) The Improvements Committee shall consist of 18 members, that is to say, of 1 *ex-officio* member, 14 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.

Mr. HOUSENALLY M. RAHIMTOOLA (Bombay City): Sir, I beg to move that—

Substitute the following clause for clause 10 :

"The Board shall, at their first meeting after this Act comes into force, and thereafter at their first meeting after the Corporation is constituted appoint fourteen persons to be members of the Improvements Committee (hereinafter called "the Committee") of whom 12 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."

This is my amendment for clause 10 (1).

Sir, when Government forwarded their bill to the Corporation in 1921, they had provided a committee of sixteen, of whom twelve were to be elected by the Corporation out of their members and four to be nominated by Government out of the members of the Corporation. This was the provision made by Government in the bill when it was forwarded to the Corporation in 1921. The Corporation after a long time thereafter sent in a recommendation on the lines of my present amendment. My amendment is in accordance with that recommendation. The Corporation had recommended that the number of members should be reduced to fifteen, of whom twelve should be elected out of themselves, as suggested by Government, that one should be the Municipal Commissioner, who should be an *ex-officio* member, and two should be Government officials to be elected out of a panel of four Government officials. Government, when they published the bill, kept the number of fifteen but reduced the number of members of the Corporation from twelve to eleven and raised Government officials from two to three keeping the Municipal Commissioner *ex-officio*. The select committee have made a recommendation increasing the number from 15 to 18, adding three more members giving one each to the Bombay Chamber of Commerce, the Indian Merchants' Chamber and the Millowners' Association. These three associations are already represented on the board because they are represented on the corporation and the corporation will be the board. Therefore there is absolutely no necessity and no reason why they should

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have a double representation on this new body, namely, the board where they are already represented by having one representative each and then they want further representation by having special representatives on the committee. In the corporation we have got a standing committee which consists of 16 members, 12 elected by the corporation and 4 nominated by Government, but all the sixteen are members of the corporation. These associations say that they have a great stake in the affairs of the city, but up to now they have never asked for representation on the standing committee, which is the financial committee of the corporation and a very important committee. This committee is not entirely subordinate to the corporation, but it is co-ordinate with the corporation. The authorities charged with the carrying out of the Bombay City Municipal Act are the corporation, the standing committee and the Commissioner. Even there these associations have never thought of asking separate representation. When this bill came before the corporation and the corporation formulated their proposals, these associations had their representatives on the corporation but those representatives never asked for separate representation on the committee. When the bill came before the Improvement Trust Board, two of these associations had their representatives on that board, but even there they did not think it necessary to ask separate representation on this new committee to be constituted. They did not even make a representation to Government and it was only when Government published the bill and it came before the House for the first reading that it seems these associations which were sleeping until then woke from their sleep and all of a sudden jumped up and said "oh! we ought to have double representation", but I ask why should they have double representation? They are already represented on the board. All important matters such as the budget, approving of schemes, appointment of officers, sanctioning of loans and so on will come before the board and their representatives will be able to place their views before the board. Where is then the necessity of giving separate and double representation to these associations on the committee? Have you ever heard of an association asking for and having double representation on the same body? In the Major Municipalities Bill which we have just passed, Government had provided for representation of associations which might exist in the various cities, but in this House the Honourable Minister in charge accepted an amendment removing that provision. I hope, Sir, the Honourable Minister will be consistent and accept my amendment and will not grant double representation to these various associations which are already represented on the board.

Question proposed.

Mr. A. N. SURVE (Bombay City, North): Sir, I oppose the amendment, not because I am against what the honourable member has stated, but simply because there is an amendment in my name which will come up later on, and if his is accepted, mine will be ruled out of order. The honourable member suggests that the two chambers of commerce and

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the millowners' association should not have any representation. I agree with him as far as that is concerned. But I differ from him because he has not made any provision for representation to the poorer and the working classes. As my own amendment is coming on shortly and I shall be speaking on it at greater length, I do not say anything more, but I oppose this amendment on the ground which I have stated just now.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce) : Mr. President, I oppose this amendment. I have already explained on a previous occasion in this House my reasons for considering it desirable that the mercantile associations in Bombay should continue to be represented on the Improvement Trust. I submit, Sir, that the management of the Improvement Trust is not on all fours with the management of the municipality. The question involved is the handing over to the municipality of a big body on which the commercial bodies in question have been represented for many years and, while we agree that it should be handed over, we feel that we should be entitled for some considerable time at all events to representation, and by that I mean direct representation, on the Improvement Trust. The honourable member has pointed out that the Chamber of Commerce and the Millowners' Association are directly represented on the corporation. I would point out the extent of that representation. It amounts to about 2 per cent. and I would ask this House to consider what the position of these big commercial bodies with two per cent. representation, is likely to be. Is it possible or probable that they will always continue to be represented on the Improvement Trust? I submit there is a grave improbability of this happening. It has been mentioned by some honourable members that these bodies have an indirect form of representation in that some of their members are sitting as representatives of other constituencies on the municipal corporation. That, I submit, is an argument which should not be taken into consideration. The representatives on the municipal corporation, who are members of the Chamber and the Millowners' Association and the Indian Merchants' Chamber and are not directly representing those associations, represent their ward constituencies and they must primarily consider the interests of those constituencies. I think the argument which has been put forward by the honourable member that these bodies have never in the past asked for representation on the Standing Committee of the Corporation, particularly, has not much force in it, because as far as I am aware it is not the custom for people to ask to be allowed to sit on committees, but usually they are invited to sit on committees. If they are not invited, it may be due to a variety of reasons and doubtless the honourable member will say it is because they have not taken an interest in the corporation's affairs in the past. That I submit is a very inadequate answer. It has been found impossible for many of these members to take a deep interest in the corporation's affairs in the past, because of the manner in which the corporation's affairs are managed. But in spite of that many of the representatives of the commercial associations have taken a deep and practical interest in the corporation's affairs.

[Mr. V. A. Grantham]

The Improvement Trust's affairs cover finances running into very large figures. Any loss or mismanagement in handling them will cause not only loss to the corporation, but also an immense loss to the trade in the city. I submit, Sir, that the report that has been submitted to the public by the Bombay Municipality's retrenchment officer, Sir M. Vishweswaraiya, is not one that inspires the public with confidence in the municipality's conduct of its own affairs. For that reason alone, I submit that the commercial bodies should continue as at present to have direct representation on the Improvement Trust. I have reason to believe that in the past the representatives of the commercial bodies on the Improvement Trust have given the benefit of their advice and service to the Improvement Trust and that their breadth of vision and business experience has been of the greatest value, and therefore, I cannot see why these members should now be denied by the municipality their right to continue to help the Improvement Trust in the conduct of its affairs even now that this body is to be handed over to the Bombay Municipality. I therefore oppose this amendment.

Sir VASANTRAO A. DABHOLKAR : Sir, on this occasion, I am sorry I cannot agree with the honourable mover of the amendment. He said that these three bodies, namely, the Millowners' Association, the Indian Merchants' Chamber and the Bombay Chamber of Commerce were already represented on the Corporation, and to give them further representation on the Improvement Trust Board would be giving them double representation. Does my honourable friend guarantee that the representatives of these commercial bodies will be elected on the new committee? What guarantee is there that it will be so? If the Indian Merchants' Chamber, the Chamber of Commerce and the Millowners' Association claim separate representation, they are quite justified in doing so. Take, for instance, the Millowners' Association. There has been a question about the housing of the millhands, and the Improvement Trust is intimately connected with that body under the Act. If there is no representative of the Millowners' Association elected on the Improvement Trust Board, who is going to watch the interests of the millowners? The honourable mover of this amendment has said that these bodies never cared for representation on the standing committee; but from the records of the Bombay municipality it will be seen that members of these bodies were always nominated by Government, and as such there was no necessity for these bodies to ask for separate representation on the standing committee. If the opinion of the mover of this amendment is that the Corporation will be losing its majority, if separate representation is given to these bodies, then I think he is wrong. The Corporation has got the lion's share of 11 members - 3 are to be representatives of commercial bodies and 3 are to be nominated. As regards the question of nomination of the officials, the honourable mover wants to have these members co-opted. How is it possible for the Corporation to choose certain officials to act on that committee, if certain official has got no time? I think it should be left to Government. (Mr. Hoosenally M. Rahimtoola made an observation which was inaudible). That is not a question for the Corporation. I

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think I was quite right in making the suggestion in the select committee, and it was at my suggestion in the select committee that co-option was changed to nomination. In the bill as read for the first time, it was to be co-option, but I recommended in this select committee that as far as the representation of Government officials is concerned, it should be left to Government, and they should nominate them. The honourable mover of the amendment says that out of the Director of Development, the Chairman of the Bombay Port Trust, the Collector of Bombay, and the Executive Engineer, Presidency, two members should be co-opted; but how can the honourable member say that they will have time to attend to the work of the committee? So, it will be better if it is left to Government to nominate officials of their own choice. Also, on account of the interest the representatives of the Bombay Chamber of Commerce and the Millowners' Association have taken on the Improvement Trust ever since its creation and the good work they have done, I think these two bodies have an inherent right for a special representation and the Council should not deny them that right.

Mr. C. N. WADIA (Bombay Millowners' Association): Sir, I rise to oppose the amendment, and I think the honourable member Mr. Grantham has very distinctly and in detail set out the reasons of his opposition, with which I entirely agree. He has, however, not mentioned one fact—perhaps he did not like to—that for busy men it is quite impossible to attend to the meetings of both the Corporation and the Improvement Trust. The demands of commercial life in Bombay are so strenuous that it is not possible to find time, unless you are a landlord or some other leisured, cultured individual, to attend to both bodies. Therefore, Sir, as we have had direct representation on the Improvement Trust and we have enjoyed it for so many years, we are merely asking to continue on the new body, and I submit we are entitled to that representation.

Mr. J. BAPTISTA (Bombay City, North): Sir, if I am at liberty to move an amendment to this amendment, I would like to do so.

The Honourable the PRESIDENT: I should like to know what amendment the honourable member proposes to move.

Mr. J. BAPTISTA: The amendment that I propose to move is this:—

The Improvement Trust Committee shall consist of 16 members as follows:

- (a) The Municipal Commissioner;
- (b) Eleven members elected by the Corporation by ballot;
- (c) Three members nominated by Government by notification from among the following:

- (1) The Director of Development, Bombay.
- (2) The Chairman of the Bombay Port Trust.
- (3) The Collector of Bombay.
- (4) The Executive Engineer, Presidency District.

I understand the honourable mover of the first amendment is prepared to accept it.

Mr. HOOSENALLY M. RAHIMTOOLA: I would accept it, if Government also accept it.

Mr. J. BAPTISTA : If Government accept it, it would be one of the most reasonable things for Government to do.

The Honourable the PRESIDENT : That will depend upon what Government will ultimately do. The honourable member asked the question as to whether his amendment would be an amendment to this amendment. I am inclined to think it would be.

Mr. J. BAPTISTA : Instead of co-option of two members, I make nomination of three by Government.

The Honourable the PRESIDENT : I think it is an amendment to this amendment.

Mr. J. BAPTISTA : Sir, I beg to move an amendment to the amendment in the following terms :

The Improvement Trust Committee shall consist of 16 members as follows :

- (a) the Municipal Commissioner ;
- (b) Twelve members elected by ballot by the Corporation ;
- (c) Three members nominated by Government by notification 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.

I should like to say that I cannot agree with my honourable friends Mr. Grantham or Mr. Wadia in their desire to give representation to the Commercial bodies upon the Improvements Committee. So far as the present Improvement Trust is concerned, the Millowners' Association have no representation on it.

An Honourable MEMBER : The Millowners' Association is represented, but the Indian Merchants' Chamber is not.

Mr. J. BAPTISTA : I knew one of them was not. I see it is the Indian Merchants Chamber which is not represented. But all these three bodies have representation on the Corporation of Bombay, and the Corporation of Bombay now becomes the board. Whatever representation they originally had on the Improvement Trust Board they will now have on the new board. Therefore they will have the same representation upon the Board as they have on the Corporation. This ought to satisfy the representatives of the Millowners and the Chambers concerned. I think, Sir, every one of us will agree that it is right on the principle of representation that they should have representation upon a governing or administrative body, but I think it is most mischievous to extend that principle to an executive body which is subordinate to the administrative or governing body. Let me illustrate my point. In my opinion these commercial associations would be quite justified in asking for representation in this Council, but they would not be justified, and as a matter of fact they dare not ask for representation in the Cabinet or in the executive body of Government. This is really asking for representation on the executive of the board. The board will have full power to control this subordinate body called the Committee. I know of no single instance ; I have come across no case of a commercial body asking for representation on the executive body. It is right that we should hear their voice on the governing or administrative body, but

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it is most mischievous to allow them representation in the executive body. The Government nomination stands on a different footing. It is confined to four specified officers. These four specified officers are public officers doing public work. They are working in the interest of the public. They have no particular interest of their own to safeguard or promote, such as the Millowners' Association or the Chambers of Commerce have. Besides these officers would be very helpful. Their knowledge and experience would be valuable to the Committee in carrying out their duties, but so far as the Millowners' Association and others are concerned, what will they do there? What will be their object but to promote their own interest? I hope this House will not go so far as to extend this principle for the purpose of giving them an opportunity to enforce their own interest in the executive body, which is subordinate to the controlling authority of the board. I, therefore, think that this amendment is a very reasonable one and hope that the Honourable Minister will find his way to accept it, because I assure him that the extension of the principle of giving mercantile bodies representation on executive bodies will have far-reaching and disastrous consequences. I hope the Honourable Minister will accept my amendment and will not go to the length of giving mercantile bodies representation on the executive bodies.

The Honourable the PRESIDENT: I should like to inform honourable members that there are amendments in regard to the membership of the Commissioner, putting certain disabilities on the discharge of his duties as a member. These amendments will be allowed only if the honourable member Mr. Baptista's or the honourable member Mr. Rahimtoola's amendment is carried. The House will then decide how the Municipal Commissioner as ex-officio member will discharge his duties on the committee. That I think ought to be clearly understood. Both the original amendment and the amendment to the amendment are before the House. As regards the discussion I wish to bring to the notice of honourable members that those who have spoken already can only speak on the new matter that has now been introduced.

The Honourable Mr. COWASJI JEHANGIR: Mr. President, I rise to oppose both the amendments. As a matter of fact there is very little difference between the amendment moved by my honourable friend Mr. Baptista and the one moved by my honourable friend Mr. Rahimtoola. The honourable member Mr. Rahimtoola desires that Government officers on this committee should be co-opted by the corporation: while the honourable member Mr. Baptista is good enough to give power to Government to nominate them. Both the amendments attempt to leave out the recommendation of the select committee that the Millowners' Association, the Indian Merchants' Chamber and the Chamber of Commerce should have representation on the committee. The honourable member Mr. Rahimtoola pointed out that these Associations have already representation on the corporation which will in the future become the Board of Trustees. The honourable member Mr. Rahimtoola called it a double representation. But in my humble opinion, Mr. President, this argument is fallacious. The committee that is to come into existence

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will do the work that is now being done by the trustees of the Improvement Trust. The powers to be entrusted to the corporation can to a certain extent be compared to the functions now performed by Government under the present Improvement Trust Act. The committee will in future carry on the administration of the Improvement Trust and the corporation will have certain powers of revision, and will be able to sanction, reject or initiate schemes. Therefore if these associations have representation on the corporation, that is, on the Board of Trustees, I contend that that representation can in no way be compared to the representation they now enjoy on the Improvement Trust. There is no dual representation. The twelve members that my honourable friend wishes the corporation to elect to the committee are trustees in the first instance and are also members of the committee; and if the representation of these associations in the first instance on the corporation and then on the committee can be called dual representation, I contend that all the twelve members elected by the Corporation are in the same position. Therefore there is no point in that argument.

Then the honourable member Mr. Baptista tried to make out that this committee is an executive body. I think he has misread the proposed legislation. The committee is not an executive body. It will take the place of the old board, which is not an executive body. If the old trustees form an executive body then the honourable member can fairly contend that the new committee will also be an executive body. But it is not. The executive functions will vest in the new chief officer as they do in the chairman at present. I contend that the argument of the honourable member Mr. Baptista that the committee will be an executive body and therefore the three associations should not have representation on it, falls to the ground.

The honourable member Mr. Grantham has already put before the House the reason why these three associations should have representation on this committee. These associations are representative bodies the members of which have large vested interests in the city of Bombay. They represent a very important section of the population of the city. May I ask my honourable friend whether he will contend that the representative of the Indian Merchants' Chamber is not a representative citizen of Bombay? We have been told that the representative of the Indian Merchants' Chamber is a representative of Indian commerce.

Mr. HOOLENALLY M. RAHIMTOOLA: They are already represented on the Corporation.

The Honourable Mr. COWASJI JEHANGIR: My honourable friend fails to realise that they are only trustees, not in the old sense, but in the new sense. They are certainly members of the Corporation. Government's functions are being partly handed over to the Corporation. But the old Trustees' powers are being handed over to this new committee. Therefore if a member of one of the three associations happens to be a member of the Corporation he gets no more power, exercises no more influence than any single member of the Corporation of Bombay. These associations desire their representatives to influence the working of the

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Improvement Trust as they do at present. They desire to continue to have that representation which they now possess—a representation given to them after due consideration—under the Improvement Trust Act.

Mr. J. BAPTISTA : This was not in the original bill.

The Honourable Mr. COWASJI JEHangIR : Then, who inserted it ?

Mr. J. BAPTISTA : That was put by the select committee.

The Honourable Mr. COWASJI JEHangIR : Mr. President, the Indian Merchants' Chamber, the Chamber of Commerce and the Mill-owners' Association have had representation on the Improvement Trust ever since the Improvement Trust came into existence. (Sir Vasant Rao A. Dabholkar : Not the Indian Merchants' Chamber.) That is because the Indian Merchants' Chamber was not in existence at the time. You, Mr. President, are well aware of the fact. You have been a member of the Improvement Trust along with myself for many years, and you will agree with me that from the beginning it has been the policy of Government to give these bodies direct representation on the Improvement Trust. They have been given direct representation on the Improvement Trust from the day the Act came into existence. If the Indian Merchants' Chamber had been in existence then, it would surely have been represented. So, my argument is that from the day that the Act came into existence Government have thought it necessary to give these bodies direct representation, and there is no reason to deprive them of that representation, when the same functions that the Improvement Trust are performing are going to be performed by the new committee.

Mr. J. BAPTISTA : But Government never gave them when they brought forward the bill. It was inserted in the select committee.

The Honourable Mr. COWASJI JEHangIR : That is no argument. The honourable member Mr. Baptista wishes to argue.....

Mr. J. BAPTISTA : Are you speaking on behalf of the merchants ?

The Honourable Mr. COWASJI JEHangIR : I am speaking on behalf of myself.

Mr. J. BAPTISTA : I thought you were speaking on behalf of the merchants.

The Honourable the PRESIDENT : Order, order.

The Honourable Mr. COWASJI JEHangIR : Let us come to the argument and not jump to personalities.

Mr. J. BAPTISTA : On a point of order, Sir. I have distinctly said that Government in their original bill did not give any representation to these mercantile bodies on the committee. When I saw the bill I wondered whether Government had changed their mind and whether the Government members all agreed, or whether there was some non-cooperation among Government members themselves. But my point is that my honourable friend as an Executive Member of Government has no business to speak in his private capacity.

The Honourable Mr. COWASJI JEHangIR : Mr. President, bills are sent to select committees for consideration and improvement. I did not know that bills were sent to select committees for any other purpose. The majority of the members have signed the report with this amendment in the bill, and Government consider it an improvement and have accepted it. Government did not think of this in the first instance, but that is no reason why the select committee should not make a recommendation and that, that recommendation should not be supported by Government and accepted by this House. My argument is that when the existing Act was passed Government thought fit to give representation to these bodies. Therefore if the select committee recommended this, they had a very good precedent to follow, and there is nothing novel in the idea that the select committee have brought forward. My honourable friend has tried to confuse the duties to be performed by the corporation which will be called the board with the duties that will be performed by the committee. The duties that the committee will perform are the same as are now being performed by the Improvement Trustees, and the duties that the corporation will perform are many of those now performed by Government. Therefore if the old Council and the Government of those days thought fit to give representation to these associations, we may well follow the same precedent if we agree with the policy that Government then adopted. That is the long and short of it. No change is being made : only the old practice, the old precedent, is being followed.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, as I was a member of this committee and as I wish to vote on this motion I do not wish to give a silent vote. I have heard the arguments of the last speaker, but I am sorry that they are not convincing. The Honourable the General Member says that the twelve members that the corporation will elect will also have a dual capacity.

The Honourable Mr. COWASJI JEHangIR : No. I said, if the argument stands good that these representatives will have double representation, then all those twelve members will also have double representation.

MOULVI RAFIUDDIN AHMAD : I mean the same. But the difference is this. These twelve members who are trustees are being elected by the corporation, and I have not the least doubt that if the representatives of the Chamber of Commerce and the Indian Merchants' Chamber are popular and exert themselves to be returned as members the corporation will elect them. If they were not popular, if they failed to take interest in municipal affairs, they would not be elected.

Sir, I am in principle opposed to these rich corporations being represented everywhere in their capacity as corporations. I wonder why the railways do not ask to be represented and why the Turf Club is not represented ! When the first Improvement Trust was formed, there were no labour organisations and no bodies of the working classes. Now it is different. If representation is to be given to corporations of rich men, I maintain the Labour Association should be represented. Labour now

[Moulvi Rafiuddin Ahmad]

Here my honourable friend Mr. Bole cried hoarse for the representation of labour. The father of this legislation, the Honourable Minister himself, never thought fit, when he brought this bill, to give separate representation to the Millowners' Association and to the Chamber of Commerce, and this was sprung on him by the select committee, which had the majority of officials. There was a good deal of difference in the select committee on this point, and it was only carried by a small majority, a majority of one, I think. So that the question was a controversial one and the House should be given an opportunity to divide upon the subject. I do not see why double representation should be given. It is a double representation and there is no doubt about it. I am quite convinced that if the representatives of the Chamber of Commerce and of the Millowners' Association like to be elected as representatives, I am sure their influence is such that they will be elected by the corporation. But they should not come *qua* representatives of those bodies: they should come in as representatives of the public. I do not see any reason why the amendments of my honourable friends the honourable member Mr. Rahimtoola and the honourable member Mr. Baptista should not be adopted. With these arguments I support the amendment.

Mr. V. A. GRANTHAM: (Chamber of Commerce): Sir, may I say a few words on the honourable member Mr. Baptista's amendment?

The Honourable the PRESIDENT: I should like to invite the honourable member's attention to the fact that he can only speak on the new matter introduced by Mr. Baptista's amendment.

Mr. V. A. GRANTHAM: I propose to speak on the arguments advanced by the honourable member Mr. Baptista and the speakers subsequent to him.

The Honourable the PRESIDENT: The honourable member cannot do that. The real difference that Mr. Baptista's amendment makes is, as the Honourable the General Member pointed out, that instead of co-opting Government officers, Mr. Baptista wants them to be nominated by Government. In regard to the elimination of the proposed representatives of the commercial bodies, both the original amendment and the amendment to the amendment are identical. The reply to the arguments as regards this must be made by other members who have not spoken or by the Honourable Minister. I am very sorry for it, but that is the recognised rule of procedure and it is my duty to enforce it.

Mr. W. G. MCKEE: Sir, I rise to oppose the amendments. I fail to understand why the honourable members propose to do away with the assistance that the committee will receive from these representatives. I would have thought their presence and assistance would have been welcomed. The Improvement Trust have spent and will have to spend vast sums of money, and their schemes affect the cost of living and the cost of Bombay as a port and so affect the prosperity of Bombay. Therefore it is necessary to have men of commercial experience in the committee. These bodies have been represented before, and I am sure

[Mr. W. G. McKee]

their representatives have done good work. I am also sure that the improvements committee, which is proposed to be constituted, will also get good assistance from them in the future.

The Honourable Mr. H. S. LAWRENCE : Sir, in regard to the assistance that may be expected from the special representative on the financial side of the business of the Improvement Trust, I would point out that we have recently seen a radical change in the body of the municipal corporation. The personnel was greatly altered in the last election. Government have been severely criticised for their action in democratising the Bombay municipal corporation. There are interests concerned which have regarded this radical change with some apprehension. However, Government took their courage in both hands and reduced the franchise very largely before the last election. Now, Sir, we have every confidence that that radical change will eventually work out to the benefit of the city of Bombay. At the time when such large changes are in the process of being made there is always a considerable share of risk involved, more particularly in regard to financial problems. It is impossible for men to come to the discussion of large financial interests for the first time, to appreciate what those problems mean when they have to deal in lakhs and crores of rupees and when those representatives have never been accustomed to the handling of large sums of money. Now, Sir, this is a question of further delegation; the representatives of the municipal corporation are being asked to select representatives to deal with the affairs of the Improvement Trust. In regard to the municipal corporation, financial business proceeds more or less as a matter of routine in accordance with precedents and traditions and machinery that have been elaborated in the course of the last fifty years and more. There are not a very large number of new and vastly important problems to be faced at once. The position of affairs of the Improvement Trust is very different. The Improvement Trust has been at work now for not quite thirty years. Within the last ten years the changes introduced by the Improvement Trust have been on a perfectly colossal scale. Their commitments, as this House may remember, already amount to fifteen crores of rupees and will rise to rupees twenty crores in a few years. Now, Sir, in the spending of those fifteen crores of rupees the Government and the public of Bombay have been well served by a small committee of expert financial and business men. Anybody who knew Bombay thirty years ago will recognise that the work of the Improvement Trust has been very greatly to the benefit of the citizens of Bombay. We are now asked to transfer the responsibility of that Trust to a new body of largely untried men. I say nothing against their devotion to the interests of Bombay. I have no doubt their work will be characterised by perfect sincerity and integrity. But there is the solid fact that these men have not been accustomed to deal with financial problems running into crores of rupees. Now you have the advice open to you of men such as the representatives of the Bombay Chamber of Commerce, the Indian Merchants' Chamber and the Mill-owners' Association, of men who are accustomed to financial matters

[Mr. H. S. Lawrence]

on a large scale. I ask this House whether it is wise to discard that assistance which is offered to them and whether the interests of the great mass of taxpayers of this country which is very largely at stake would not be rendered more secure by the assistance of these gentlemen.

Sir, I do not deal with the small matter raised by the honourable mover, that this representation means double representation. Because I regard that argument as entirely without substance. How can you speak of double representation when you have one man in a body of 60 or 80 representatives of the municipal corporation? How can you expect that that man will be elected to the subsidiary body? In most cases this is impossible.

Mr. H. M. RAHIMTOOLA (Bombay City): As you know, Sir, the first president was elected by the millowners.

The Honourable Mr. H. S. LAWRENCE: I regard that argument as entirely unworthy of respect. Since the honourable member cannot bring forward better arguments, I hope that no member of the House will support him.

Mr. R. S. NEKALJAY: Sir, I really fail to understand why the select committee rejected my honourable friend Mr. Bole's suggestion to give a chance to labour. It is really a fact that the labour has much to do with the Improvement Trust as a large section of labour is its tenant and their voice in such committee is quite necessary.

The Honourable the PRESIDENT: The honourable member cannot go into that question on this issue. There is a specific issue on that question which will come before the House. At present the honourable member can only speak on the issue which is now before the House.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): Sir, I have been opposed from a quarter from which I expected help. I mean the Honourable the General Member, who was a leading member of the Corporation, an ex-president of the Corporation and a representative of the Corporation on the Improvement Trust. I expected him to fight the battles of the Corporation instead of opposing their proposals in this House. But it seems, Sir, that his association with Government has changed his outlook and his angle of vision completely. Well, Sir, I will deal with him first. When Government forwarded the bill to the Corporation, the Corporation sent it to a committee and the committee appointed a sub-committee and the sub-committee appointed a further sub-committee consisting of three gentlemen, namely, the Honourable the General Member, the Chairman of the Improvement Trust and Dr. Nadirshaw Sukhia, and these three gentlemen prepared a fresh bill on entirely new lines without a mandate from the Corporation, changed the whole aspect of the question and wanted to perpetuate the Improvement Trust Board. And what have they done? They kept the new board consisting of sixteen members, twelve to be appointed by the Corporation, one to be the Municipal Commissioner and three to be nominated by Government. They had not given any representation

[Mr. Hoosenally M. Rahimtoola]

to the Millowners' Association, to the Bombay Chamber of Commerce or to the Indian Merchants' Chamber. That bill, Sir, was drafted mainly by my honourable friend the Honourable the General Member and an ex-chairman of the Improvement Trust, Mr. Turner. In the report on this bill, in the last paragraph, it has been said :

"As the Honourable Mr. Cowasji Jehangir has resigned from the Corporation he cannot now sign this report but all the conclusions arrived at were made whilst he was still a member of the committee, and only clerical emendations and the final drafting have been done since his resignation. This report and the final draft have been shown to him and he has endorsed this report in token of his having seen it."

He did not think it then necessary to give this representation on the board to the Bombay Chamber of Commerce, the Indian Merchants' Chamber and the Millowners' Association. Then, Sir, he was a leading member of the Corporation. But now for several years he has been a Member of Government and.....

Mr. C. N. WADIA : May I ask the date of that report ?

Mr. HOOSENALLY M. RAHIMTOOLA : It is dated 1st February 1922. One of his main arguments was that these two associations, the Bombay Chamber of Commerce and the Millowners' Association, have been given representation on the present board since 1898, and therefore their representation should be continued on the committee because they were given representation in 1898. I want to ask him, Sir, whether the conditions are the same now as they were in 1898, whether we are on the same ground as we were in 1898, whether we have made any advance, whether we have progressed or not, or are we still on the same ground ? Is the representation on this Council the same as it was in 1898 ? Is the Corporation now the same as it was in 1898 ? Have we not progressed since then ?

The Honourable Mr. COWASJI JEHANGIR : Is it progress to reject the services of the Chairman of the Indian Merchants' Chamber ? (Mr. J. Baptista : Progress in the direction of the tail.) (Laughter.)

Mr. HOOSENALLY M. RAHIMTOOLA : Sir, in 1898 the J. P.s had a representation of sixteen on the Corporation. Why have you discontinued that ? If people who had representation 30 years ago should be continued that representation, then the representation of the J. P.s ought to be continued, and my honourable friend ought to have been one of those to fight for it and get the J. P.s' representation continued.

The Honourable Mr. COWASJI JEHANGIR : The one deserved it and the other did not. What is the J.P.s' analogy ?

Mr. HOOSENALLY M. RAHIMTOOLA : What was the analogy in 1922, and when this bill was published last July ? Government did not think it necessary to give these bodies representation. It was because some members of the select committee did not attend and the representatives of these bodies and one or two Members of Government had a majority that they carried in the select committee. If all the members of the select committee had been present and attended, the select committee would not have made this recommendation. Is it because the

[Mr. Hoosenally M. Rahimtoola]

members of the select committee happened to carry on account of the absence of some members that Government should change their attitude and say that this House should accept the recommendation of the select committee?

Mr. A. MASTER : On a point of order, Sir. Which amendment are we now discussing?

The Honourable the PRESIDENT : Both together.

Mr. HOOSENALLY M. RAHIMTOOLA : Now, Sir, it has been said that vast financial interests are at stake in the Improvement Trust. Are not vast financial interests at stake in the Corporation? Have not the Corporation raised greater amounts of loans than the Improvement Trust? Their loans are about 17 to 18 crores now and they want to raise more. And then if the Corporation can carry on their work without having the representation of these bodies on the standing committee, why cannot the work of the Corporation be carried on without having the representation of these bodies on the Improvements Committee? I have got a statement here, Sir, which shows that the loans raised by the Improvement Trust come to about Rs. 14·54 lakhs. The information has been obtained from the Improvement Trust Office. And the loans raised by the Corporation come to nearly Rs. 17·26 lakhs—about 2 or 3 crores more. Why have not Government thought fit to give representation to these associations on the standing committee which is the financial committee of the Corporation? The analogy ought to apply. If it is necessary that these associations should have representation on the Improvements Committee, more so—all the more reason—that they should have representation on this standing committee. But their presence there, they say, is not necessary. Here they say it is necessary. Have not Government got control on the Improvement Trust? Are not their schemes to be sanctioned by the Government? Are not their loans to be raised subject to the sanction of the Government? Then, where is the necessity of this want of confidence in the Corporation?

As regards my honourable friend here, Sir Vasantrao Dabholkar, I may only say, Sir, that the report of the Corporation was signed by Sir Vasantrao and in that report the Corporation had agreed that out of 15 members 12 should be elected by the Corporation, 1 to be the Municipal Commissioner and 2 to be co-opted by them from Government officials. It seems he has subsequently changed his mind as he did not hold this opinion before.

Sir VASANTRAO A. DABHOLKAR : Signed or seen?

Mr. HOOSENALLY M. RAHIMTOOLA : No, no. Not seen but signed. That report is dated 15th August 1924.

The Honourable the Finance Member said that the Corporation was a new body, that it was a democratic corporation, with a new element introduced into it and it was not wise to entrust the new corporation entirely with the financial interests of the Improvement Trust. My reply to him is this : Either you have confidence in the Corporation or

[Mr. Hoosenally M. Rahimtoola]

you have not; if you have, then transfer the Improvement Trust to it; if you have not, then better not transfer it and we do not want it with your suspicions and want of confidence in our ability to carry on its affairs. This is a sort of a mockery like the mockery of the Montagu-Chelmsford Reforms.

Then they say that the representatives of these three associations will watch the interests of the taxpayers. How will they do it? In the corporation their members sit dumb like mutes, they do not take any part in its affairs, they come for a few minutes, sit for some time, have a cup of tea and at the time of voting look at the Commissioner's face....

Mr. V. A. GRANTHAM: I rise to a point of order, Sir. Is the honourable member in order in not stating facts correctly? The honourable member knows perfectly well that they take interest in the corporation discussion, they make speeches and so on.....

Mr. J. BAPTISTA: The honourable member Mr. Grantham is not correct, Sir. The mercantile bodies' representatives make speeches once in the blue moon. They do not.....

The Honourable the PRESIDENT: A point of order has been raised. I do not think that the speech is out of order, but I can tell the honourable member who has raised the point of order that the Rules and Standing Orders provide that if an honourable member wishes to make a personal explanation, he can do so, and if he wishes it I will certainly permit him to do so. The honourable member can make a personal explanation now if he so desires.

Mr. V. A. GRANTHAM: There is no question of making a personal explanation. The honourable member has made accusations against members of three honourable bodies which are represented on the Corporation. I submit to you, Sir, that the honourable member did not correctly state facts, and I ask whether in doing so he was in order.

The Honourable the PRESIDENT: The honourable member can by way of a personal explanation contradict these statements made by the honourable mover, and the House will decide.

Mr. V. A. GRANTHAM: I contradict these statements made by the honourable mover. I say they are not correct.....

Mr. J. BAPTISTA: On a question of fact, Sir, the honourable member Mr. Grantham is not in order when he makes allegations against the Municipal Corporation and says it is not doing its duty properly. These allegations are worthless and unjustifiable allegations that the honourable member Mr. Grantham makes.

The Honourable the PRESIDENT: I am sorry honourable members are forgetting that every public body and every public representative is open to all legitimate criticism.

Mr. J. BAPTISTA: What the honourable member Mr. Grantham alleges against the Corporation is not true.

The Honourable the PRESIDENT: The House will decide between the honourable member Mr. Baptista and the honourable member Mr. Grantham.

Mr. V. A. GRANTHAM: I may explain, Sir, that the remarks made by me about the municipality's conduct of its affairs were not my own but they were borrowed from the report of the municipality's own retrenchment officer, Sir Vishweswaraiya. I submit that report deals with the municipality's gross mismanagement of its affairs.

Mr. J. BAPTISTA: On a question of fact, Sir. The honourable member, Mr. Grantham, seems to have read that report with blue eyes....

The Honourable the PRESIDENT: I cannot allow this sort of discussion. I can make and I have made allowance for the extent of feeling that this discussion has given rise to and I have extended some latitude both to the representative of the Chamber of Commerce and to the honourable member who is at present the President of the municipal corporation, but the dignity of the House has to be maintained and I cannot allow this kind of thing to go on.

Mr. HOSENALLY M. RAHIMTOOLA: The honourable member representing the Bombay Chamber of Commerce took exception to my description of the conduct of the representatives of the mercantile associations on the corporation and he characterised my statement as incorrect. If he had been present at the corporation meetings, he would have found that I was not making incorrect statements. Every member here who has been a member of the Corporation will bear me out when I say that I was making nothing but absolutely correct statements. As a matter of fact we want the representatives of those associations to take an active interest in the city's municipal affairs; we would welcome them with open arms if they would but sacrifice their time and give us the advantage of their experience, advice and opinion. Unfortunately what do we find? Every member of the Corporation knows that these representatives of the mercantile associations come for a few minutes, and that too not regularly, and that they do not take interest.....

The Honourable the PRESIDENT: The honourable member need not repeat that. He can go on with his next point.

Mr. HOSENALLY M. RAHIMTOOLA: Then it is said that these members want to safeguard the interests of taxpayers. Is it not a ridiculous idea? What interest do they take and how will they safeguard the taxpayers' interests when all that they do is to support the Commissioner in everything that he proposes? It is preposterous.

One of the main arguments put forward by the honourable member Mr. Grantham is that these associations have at present their representatives on the Improvement Trust. Now under the bill they will continue to have that representation but the honourable member, Mr. Grantham, wants that those associations, should in addition have a second representation on the Improvement Trust Committee. That is what we are objecting to. Has any single institution been given a separate representation on the committee of any body on which it has its representatives

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already? Can the Honourable Minister quote a single instance in existence where representation to an association has been given on a large body as well as on its committee separately? Why does he want to make an exception in the case of these three associations? If their representatives would but evince active and keen interest in the city's affairs and sacrifice their time a little, I am sure they would be bound to be returned to the Improvements Committee, just as this democratic corporation elected as its first president the representative of the Millowners' Association. How can it be then said that they might be neglected by the corporation? But the trouble is that these representatives make a fetish of want of time, they say they are very busy men, that they cannot neglect their own business and that they cannot sacrifice their time. Is it right, is it proper, that the corporation should be responsible for the affairs of the Improvement Trust which have to be managed by a committee, on which more than one-third of the members will be outsiders, who will not be responsible to the corporation? Is it fair that the corporation should be responsible for the affairs of a committee like that which will have to handle crores of rupees? Unfortunately, Sir, the Honourable Minister does not come from the city of Bombay, and he does not feel for the city of Bombay. He cannot feel for the city of Bombay as I or other citizens of Bombay would feel. Sir, in the Major Municipalities Bill he gives 80 per cent. representation of elected members, and even out of the 20 per cent. nominated, he makes provision that the municipality may be wholly elected in future. But here, what does he do? The Corporation, following his lines, suggested representation of 80 per cent., but he himself reduced it to something like 75 per cent. and the select committee has further reduced it to 60 or 65 per cent. In the Major Municipalities Bill he has agreed to omit representation to such commercial associations, and still he wants to insist that representation should be given in the city of Bombay to commercial associations. Is he consistent? His treatment to the city of Bombay is of a step-motherly form. He is an elected representative of the people and not a member of the Executive Council.

As regards co-opted members, I have no objection if Government want to change it to nomination. We thought that Government would not agree to a wholly elected body; therefore we provided for two Government officials. We are not keen on co-opting if Government want nomination, and they are welcome to it; I would accept this change if the Honourable Minister wants it. I think I have taken a fairly long time of the House, and I hope the House will be consistent as in the case of the Major Municipalities Bill and will accept my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I must assure the honourable mover of the amendment and the other honourable members of this House that though I do not belong to the city of Bombay, I feel as much interest in it as the honourable mover. But my difficulty has been increased by the citizens of Bombay who are members of this Council and who are members of the Corporation, and by the past and present presidents of the Corporation. This House has heard the interesting speeches of the honourable members

[Khan Bahadur Shaikh Ghulam Hussain]

of this House who are members of the Corporation. One member gets up and says that special representation should be given to these bodies, and another member who is a member of the Corporation desires that it should not be. I listened to the speech of the former president of the Corporation, my honourable colleague to my left (Honourable Mr. Cowasji Jehangir) and that of my honourable friend opposite to me, the present president. There is an acute difference of opinion between them. None of them can blame me for this separate representation. The original bill did not contain it; and in order to ascertain the views of the citizens of Bombay and the members of the Corporation, I packed the whole select committee with almost every member of this House who is a member of the Corporation, and the recommendation of the select committee is that special representation should be given. If some of the members of the select committee did not attend the meetings of the select committee, it is no fault of mine or of the Government; it is their fault. In addition to the present speeches, if the honourable members refer to the amendment standing in the name of the honourable member Mr. Nariman, an ardent advocate of the interests of the Corporation, they will see that he also wants to give representation to these three associations, the Millowners' Association, the Indian Merchants' Chamber and the Chamber of Commerce. Now, Sir, this representation was given after the whole question was considered in the select committee. The honourable mover of the amendment says that we should not be guided by the select committee. If that is to be so, what is the good of appointing any select committee? The select committee, which was representative of almost every member of the Corporation who is a member of this House, have decided that question.

Now, Sir, under the Improvement Trust Act, these two bodies, the Millowners' Association and the Chamber of Commerce, have representation, and they have done very good work on the Improvement Trust. I have nothing to do with their work on the Corporation, but on the Improvement Trust they have done very good work. Not only have they representation on the Improvement Trust, but, at the same time, they also have representation on the Corporation. The select committee have given them what they have enjoyed up to this day, that is, they have given them the right of representation on the Improvement Trust, as they already enjoy it, and nothing further. With these words, I oppose the amendment.

The Honourable the PRESIDENT: I will first put to the House the honourable member Mr. Baptista's amendment. It reads as follows:

For clause 10 of the bill, substitute the following:

"The Improvements Committee shall consist of 16 members as follows:—

- (a) The Municipal Commissioner;
- (b) Twelve members elected by the Corporation by ballot;
- (c) Three members nominated by Government by notification 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."

Question put. House divided. Ayes, 6; Noes, 32. Amendment lost.

Division No. 9.

Ayes.

AHMAD, MOULVI RAFI UDDIN
BAPTISTA, Mr. J.
BOLE, Mr. S. K.

NEKALJAY, Mr. R. S.
NOOR MAHOMED, Mr.
RAHIMTOOLA, Mr. HOOSENALLY M.

Tellers for the Ayes: Mr. J. BAPTISTA and Mr. HOOSENALLY M. RAHIMTOOLA.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
DELVES, Mr. R. H. A.
FERNANDEZ, Dr. COSMAS
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan
Bahadur SHAIKH
GRANTHAM, Mr. V. A.
HAMID M. ABDUL ALI, Mr.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE

HOTSON, Mr. J. E. B.
JADHAV, the Honourable Mr. B. V.
JEHANGIR, the Honourable Mr. COWASJI
LAWRENCE, the Honourable Mr. H. S.
MASTER, Mr. A.
MCKEE, Mr. W. G.
MEHTA, the Honourable Sir CHUNILAL
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
MUJUMDAR, Sardar G. N.
OWEN, Mr. A. C.
PAINTER, Mr. H. L.
SAYED SHAHJADE SAHEB HAIDAR SAHEB
THOMAS, Mr. G. A.
WILES, Mr. G.
WOODS, Mr. E. E.

Tellers for the Noes: Mr. V. A. GRANTHAM and Mr. C. N. WADIA.

The Honourable the PRESIDENT: I shall now put the amendment of the honourable member Mr. Hoosenally M. Rahimtoola.

Question put and lost.

The Honourable the PRESIDENT: The House will now adjourn to 2 o'clock to-morrow, Tuesday, the 27th October 1925.

27 OCT. 1925] *Tuesday, the 27th October 1925.*

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Tuesday, the 27th October 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
 ABDULPURKAR, Mr. N. A.
 ADDYMAN, Mr. J.
 ADWANI, Mr. D. B.
 AHMAD, MOULVI RAFIUDDIN
 ANGADI, Mr. S. N.
 BAPTISTA, Mr. J.
 BEDREKAR, Khan Bahadur I. M.
 BHOPATKAR, Mr. L. B.
 BHURGRI, Mr. J. M.
 BHUTTO, Khan Bahadur S. N.
 BIJARANI, Khan Saheb SHER MAHOMED KHAN
 BOLE, Mr. S. K.
 BUNTER, Mr. J. P.
 CHAUDHARI, Mr. L. S.
 CLEMENTS, Mr. E.
 COOPER, Khan Bahadur D. B.
 DABHOLKAR, Sir VASANTRAO A.
 DADACHANJI, Dr. K. E.
 DEHLAVI, the Honourable Mr. A. M. K.
 DELVES, Mr. R. H. A.
 DESAI, Rao Saheb D. P.
 DEV, Mr. S. S.
 DIXIT, Dr. M. K.
 FERNANDEZ, Dr. COSMAS
 FRAMJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
 GRANTHAM, Mr. V. A.
 HAMID, M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOSSACK, Mr. W. B.
 HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JAYAKAR, Mr. M. R.
 JEHANGIR, the Honourable Mr. COWASJI
 JOG, Mr. V. N.
 JOSHI, Mr. P. G.
 KALBHOR, Mr. G. M.

KAMBLI, Mr. S. T.
 KANGA, Mr. J. B.
 KAZI INAITULLAKHAN
 KHUERO, Mr. M. S.
 KOKANI, Mr. G. J.
 KOTHARI, Mr. V. R.
 LALJI NARANJI, Mr.
 LALLJEE, Mr. HOSEINBHOY A.
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MCKEE, Mr. W. G.
 MEHTA, Dr. M. M.
 MEHTA, the Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 MUKADAM, Mr. W. S.
 NANAL, Mr. B. R.
 NARIELVALA, Mr. H. H.
 NARIMAN, Mr. K. F.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAHALAJANI, Mr. B. G.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATEL, Mr. G. I.
 PATHAN, Khan Bahadur JAN MAHOMED KHAN
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOSEENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SARDESAI, Mr. S. A.
 SAYED GHULAM NABI SHAH
 SAYED SHAHJADE SAHEB HAIDAR SAHEB
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. D.
 SHIVDASANI, Mr. H. B.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.

SWAMINARAYAN, Mr. J. C.

THAKOR of Amod, the

THOMAS, Mr. G. A.

WADIA, Mr. C. N.

WILES, Mr. G.

WOODS, Mr. E. E.

The Honourable the PRESIDENT : Questions.

PLATFORMS FOR CERTAIN STATIONS ON G. I. P. RAILWAY.

Mr. ABDUL LATIF HAJI HAJRAT KHAN (Poona and Sholapur Cities) : Will Government be pleased to state—

(a) whether they are aware of the fact that there are no raised platforms at the stations of (1) Jeur, (2) Pakni, (3) Tilati, (4) Malikpeth, (5) Borati, (6) Hadapsar and Bala on the G. I. P. Railway ;

(b) if so, whether they are aware of the resulting inconvenience to the public ;

(c) what action they propose to take in the matter?

The Honourable Sir CHUNILAL MEHTA : (a) Yes.

(b) Yes, the Agent however intimates that it is not feasible to provide high level platforms at the stations referred to which are used by very few passengers, as in addition to the large number of stations to be dealt with there are other complications, such as, plinth levels of the existing station buildings, etc.

(c) Government do not propose to take any action in the matter.

Mr. N. E. NAVLE : Is not the case of Hadapsar different from that of other stations?

The Honourable Sir CHUNILAL MEHTA : I have no information about that.

MOULVI RAFIUDDIN AHMAD : Did the Agent give Government a list of passengers at all the stations?

The Honourable Sir CHUNILAL MEHTA : The Agent of the railway gave a list of the passengers by each train at the stations, and they worked out, as he showed, to a very small number indeed.

Sir VASANTRAO A. DABHOLKAR : What does the Honourable the Revenue Member mean by "high level platforms"? Is it not a fact, whether they are high level or low level platforms, passengers have to alight on the level on the ground?

The Honourable Sir CHUNILAL MEHTA : The question was "whether they are aware of the fact that there are no raised platforms....". The answer is there are no raised platforms in these stations, and high level platforms cannot be provided for the reasons stated by the Agent, namely that the plinth level of the existing stations do not allow it.

Mr. ABDUL LATIF HAJI HAJRAT KHAN : Is the Honourable the Revenue Member aware that there is a platform to the goods shed at Jeur ? Why not to the station then?

The Honourable Sir CHUNILAL MEHTA : As the Agent explains, there are two reasons, firstly, that the number of passengers is small, and secondly that the plinth levels of the existing station buildings are so low that high level platforms cannot be provided.

Mr. ABDUL LATIF HAJI HAJRAT KHAN : They can be demolished easily.

The Honourable Sir CHUNILAL MEHTA : In view of the fact that the number of passengers is so small, Government do not think that it would be advisable for them to ask the railway company to undertake the heavy expenditure when the railway company do not desire to do so.

Mr. N. E. NAVLE : If high level platforms are not possible, some sort of platforms should be provided for.

The Honourable Sir CHUNILAL MEHTA : The company are not prepared to do that. That is all that I can say.

Sir VASANTRAO A. DABHOLKAR : Is it the number of passengers that matters or the safety of the passengers?

The Honourable Sir CHUNILAL MEHTA : I do not know that the safety of the passengers is concerned very much. The particular points I made are what I have stated in the answer, namely that the number of passengers is very small and that the existing station buildings do not permit the building of high level platforms.

Mr. ABDUL LATIF HAJI HAJRAT KHAN : Jeur is a cotton centre.

The Honourable Sir CHUNILAL MEHTA : I did not catch that question.

(Mr. ABDUL LATIF HAJI HAJRAT KHAN did not repeat his question.)

DRINKING WATER FOR DEPRESSED CLASSES OF SHOLAPUR DISTRICT.

Mr. ABDUL LATIF HAJI HAJRAT KHAN (Poona and Sholapur Cities) : Will Government be pleased to state—

(a) whether they are aware of the difficulties of the depressed classes of the Sholapur district owing to their having to fetch water for drinking purposes from very long distances?

(b) If so, whether they propose to take any action in this matter?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Inquiries are being made.

DEPRESSED CLASSES BOYS IN HIRAPUR SCHOOL.

Mr. S. K. BOLE : Will Government be pleased to state—

(a) whether the mamlatdar of Chalisgaon taluka in the East Khandesh district issued instructions to the headmaster of the school at Hirapur in the said taluka not to allow the boys of the depressed classes to sit with the other boys;

(b) whether the said mamlatdar changed the old punch committee of the school because they were in favour of allowing all the boys to sit together;

(c) what steps Government have taken in the matter?

The Honourable Mr. B. V. JADHAV : (a) and (b) No.

(c) The question does not arise.

HARASSMENT OF AGRICULTURISTS.

Mr. S. K. BOLE : Will Government be pleased to state—

(a) whether they are aware of the harassment to which the agriculturists are subjected by the khots in the villages of Pimpar, Sheer, Pangari, Velamb, Kutkari, Pabhare, Terav, Adare, Konkare, Shirgaon Malan, Dadwadi and Varveli in the Chiplun taluka and in the villages of Tees, Boraghur, Natu, Sanglot, Payner, Kasedi, and Sherwal and Sukhadar in the Khed taluka;

(b) what steps they have taken in the matter?

Will Government be pleased to state whether they are aware of the oppression practised on agriculturists at the village of Kutgiri Pabhare in the Chiplun taluka by the khots with the assistance of Mahars?

The Honourable Sir CHUNILAL MEHTA : Khoti tenants who held no lands in their names but who used to cultivate khots' private lands struck work and demanded high wages from the khots. Thereupon the khots prohibited these khoti tenants from cultivating their (khots') private lands and from grazing their (tenants') cattle thereon. Better counsels have since prevailed and the khots and the tenants in all the villages referred to in the questions have come to terms.

Mr. R. D. SHINDE : Will the Government be pleased to state what steps are being taken to meet the several complaints of the tenants of khots at present?

The Honourable Sir CHUNILAL MEHTA : Government are asking the Commissioner of the division in his touring season to examine the questions that may be raised in regard to this dispute between the khots and the tenants.

Sardar G. N. MUJUMDAR : Will the Government be pleased to state what the subject matter of the enquiry is?

The Honourable Sir CHUNILAL MEHTA : There are no special terms of reference given to the Commissioners. It is a general enquiry that they have to undertake.

MR. KISHINCHAND.

MOULVI RAFIUDDIN AHMAD on behalf of HAJI ABDULLA HAROON (Karachi City) : Will Government be pleased to state—

(a) whether there are any existing rules regarding the purchase of landed property by a gazetted officer in the district where he is serving and, if so, what these rules are;

(b) whether it is a fact that Mr. Kishinchand, Head Clerk to the Deputy Commissioner, Upper Sind Frontier District, has purchased one otak and one dwelling house from a Mussalman zamindar and a supervising tapedar, respectively at Jacobabad ;

(c) whether Mr. Kishinchand had obtained previous permission of the Commissioner in Sind for purchase of landed property in Jacobabad ;

(d) whether it is a fact that Mr. Kishinchand has been carrying on trade also at Jacobabad and at his native place ;

(e) what Mr. Kishinchand's pay is and how many dwelling houses he owned at Jacobabad before his appointment in that district and how many he owns now ;

(f) whether it is a fact that Mr. Kishinchand has passed the whole of the period of his service which is about 29 years in the Upper Sind Frontier District at Jacobabad.

The Honourable Sir CHUNILAL MEHTA : (a) Already answered.

(b) Mr. Kishinchand has purchased a house at Jacobabad from a Supervising Tapedar but he has not purchased an otak from a Mussalman zamindar.

(c) The purchase of the house from the Supervising Tapedar was made with the Deputy Commissioner's sanction, as Mr. Kishinchand was not then borne on the list of Mukhtiarkars and the Commissioner's sanction was therefore not necessary.

(d) No.

(e) Mr. Kishinchand's present pay is Rs. 230 per mensem. Before his entry into Government service he owned a house at Jacobabad, but it being in an unsuitable locality was sold by him and he purchased another house in the Gharibabad quarter of the town for Rs. 280 in the year 1901. He continues to have that house in addition to the one purchased from the Supervising Tapedar as stated above.

(f) Yes.

SALE OF LAND UNDER SUBURBAN SCHEMES.

Mr. LALJI NARANJI (Indian Merchants' Chamber) : Will Government be pleased to state—

(a) how much land has been sold under the different suburban schemes and at what price ;

(b) whether the lands sold on deferred payment system under Bandra, Khar and other schemes have been taken delivery of and paid for by the purchasers ;

(c) whether any land that is purchased has been given up ; if so, how much and the amount not recovered owing to the refusal of the purchasers to take up land ?

The Honourable Mr. COWASJI JEHANGIR : The information is being obtained.

ANGLO-URDU HIGH SCHOOLS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities) : Will Government be pleased to state when they propose to open the new Anglo-Urdu High Schools as promised by them ?

The Honourable Mr. B. V. JADHAV : New Anglo-Urdu High Schools have already been opened by Government by (1) converting the Camp Government English School, Pooná, into an Anglo-Urdu High School and (2) taking over the Anglo-Urdu High School, Hubli, and maintaining it as a Government institution.

MOULVI RAFIUDDIN AHMAD : Is the Honourable Minister aware that a promise was made to open a new Anglo-Urdu High School in the Northern Division ? and it is about that, that this question is asked. Has the Honourable Minister anything to say about it ?

The Honourable Mr. B. V. JADHAV : Government are considering the question.

SPECIAL SCHOOL AND COLLEGE FOR DECCAN SARDARS AND INAMDARS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) whether there are any special schools and colleges for the education of the sons of the ruling Chiefs, Deccan Sardars, Gujarat Sardars, Talukdars, Mehewasi Chiefs, etc., in the Bombay Presidency ?

(b) if so, will they be pleased to give their names and the places where they are located ?

(c) what was the object of Government in starting and encouraging such schools and colleges, if any ?

The Honourable Mr. B. V. JADHAV : (a), (b) and (c) There are no special schools or colleges for the education of the sons of Sardars, Talukdars, Mehewasi Chiefs, etc., in British District in the Presidency. As regards the information regarding such institutions in Native States and Agency Areas, the Honourable Sardar is referred to the Honourable Leader of the House.

Sardar G. N. MUJUMDAR : I do not know why I am referred to the Honourable Leader of the House. My question was sent to the Secretary to the Legislative Council and that was sent by him to Government. I do not know why the Honourable Minister has not replied to it.

The Honourable Sir MAURICE HAYWARD : Because matters pertaining to the Native States do not come within the cognisance of the Honourable Minister.

The Honourable the PRESIDENT : I have tried to explain the position previously more than once. Under the Rules and Standing Orders a question should be addressed to an individual member or Minister of Government. The difficulty of honourable members to ascertain to which particular member a question should be asked was realised and a special facility offered to honourable members to send questions in the omnibus name of Government. The Council office after finding out to what department the question relates sends it to that department and it gives the answer. If any question deals with more than one department

a similar answer is being given by the Honourable Member in charge. If honourable members want to strictly carry out the Standing Orders their questions should be addressed to the particular Member concerned as is the case with some honourable members. When a question deals with two departments the facility of allowing members to put questions in the general name of Government is granted to enable them to get their questions answered without the difficulty of ascertaining beforehand the special department they want to interrogate.

MOULVI RAFUDDIN AHMAD: With regard to the difficulty kindly explained by the Honourable the President, I sent Government a question not to the Minister of Education. While the Honourable the Minister replied yesterday he referred the other part of the question to Sir Maurice Hayward.

The Honourable the PRESIDENT: I am sorry that some misunderstanding still appears to exist. Honourable members are required to ask questions of individual members of Government and not of Government as a whole. It is a special facility allowed by the Council office to enable honourable members not to be obliged to find before sending in the question to which department they should be addressed. That work is done on their behalf by the Council office, who send the questions on to the departments concerned. Honourable members are only entitled to ask questions of one Member of Government. This is a facility which is specially extended to honourable members by the Council office.

PAYMENT OF ZAMINDARI 'CHHER'.

SAYED GHULAM NABI SHAH (Thar and Parkar District): Will Government be pleased to state—

(a) whether the Executive Engineer, Eastern Nara, and the Divisional Officer, Upper Mithrao, engage Zamindari "Chher" during the Christmas Holidays for Shikar and pleasure trips and also during their tour?

(b) If so, whether they have paid the men thus engaged and obtained receipts for the wages paid to them?

(c) If the reply to the above be in affirmative, will Government be pleased to state how much was paid in each month by each of the above officers in 1923-1924 and 1924-1925?

The Honourable Mr. COWASJI JEHANGIR: (a) No.

(b) and (c) Do not arise.

BROACH STATION PLATFORM SHADES.

Dr. COSMAS FERNANDEZ on behalf of **THE THAKOR** of **KERWADA** (Gujarat Sardars and Inamdars): Will Government be pleased to state whether they are aware that the distance between the shades of the up and down platforms at the Broach railway station being very great, passengers making use of the overbridge there are exposed to sun and rain?

The Honourable Sir CHUNILAL MEHTA: Yes.

THE NEW ENGLISH HIGH SCHOOL, HUBLI.

Mr. S. T. KAMBLI (Dharwar District): Will Government be pleased to state—

(a) the grant from Government made to the New English School at Hubli in 1924-25.

(b) the amount of expenditure of the said school during the said period ;

(c) the total number of boys in that school during the said period ;

(d) the total number of non-Brahmin students in that school during the said period ?

The Honourable Mr. B. V. JADHAV: (a) Rs. 4,900 (ordinary Rs. 4,733 and supplementary Rs. 167). The grant was, as usual, based on the expenditure of the School during the previous year, viz., Rs. 14,200.

(b) Rs. 18,449.

(c) 320 on 31st March 1925.

(d) 113 on 31st March 1925.

(CONSIDERATION OF BILL No. XVII OF 1925—IMPROVEMENT TRUST TRANSFER BILL—RESUMED).

Mr. A. MASTER: Sir, I beg to move that

In clause 10 (1), line 1, after the word "Committee", insert "(hereinafter called the Committee)".

The reason for this is that the Improvements Committee is referred to subsequently in the bill by the term "the Committee" and it is desirable to insert these words to make the meaning clear.

Question put and carried.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move that

In clause 10, paragraph 1, substitute the figure "17" for "18".

My object in proposing this amendment is to give representation to the poorer and the working classes. I might explain the whole idea underlying this amendment. The clause as it stands at present is for 18 members, 1 of which is *ex-officio* and 11 are to be elected by the Corporation and 3 by the two Chambers and the Millowners' Association and 3 are to be nominated by Government. I propose that the representation given to the two Chambers and the Millowners' Association should be taken away and, instead of that, it should be given to two representatives of the poorer and the working classes. In this way the committee will consist of 17 instead of 18 members. The necessity for giving representation to the poorer and the working classes is that the bill contains a provision for housing schemes for the poorer and the working classes. There are various things connected with it. First, the schemes are to be undertaken, then they are completed, the rents are to be fixed. For these reasons it is necessary that there should be some representative of these classes. The instance of the Development chawls is before this House. When the plans of the Development Department chawls were passed and approved, I think there was nobody representing the labouring classes, and we know how defective those chawls have been. What a

[Mr. A. N. Surve]

hue and cry was raised for want of *nahanies* in these rooms? Government afterwards realised that *nahanies* were really essential and they accordingly fitted up some of the rooms with *nahanies*. This is therefore an instance of why people who actually come from these classes should be consulted, and why they should have an opportunity of expressing their opinion in matters which concern them very intimately. In matters relating to the poor people the rich cannot have an accurate idea of the conditions and needs of the.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Only yesterday, Sir, this House has given representation to the Chambers and this new amendment wants to do away with that representation. Therefore, it is out of order, Sir.

The Honourable the PRESIDENT : The honourable member's amendment is "Substitute the figure '17' for the figure '18'." I do not see anything out of order in that. At present the only thing before the House is that the total number should be 17 instead of 18. For distribution of the number there should be a special amendment to that effect. He is merely making a speech now explaining to the House that if his amendment, which is strictly confined to the numerical strength of the committee, is carried, it is his intention to move certain other amendments. The point of order can legitimately be raised when those amendments are before the House. In order that the House may clearly appreciate his object, the honourable member is taking it into his confidence and explaining why he is suggesting that instead of the number provided in the bill the number should be 17.

Mr. A. N. SURVE : Sir, I was mentioning that the rich people cannot have an accurate idea of what the poor people require, and, as the Improvement Trust (or the Improvements Committee) is going to undertake housing schemes for the poor, it is absolutely essential that some representative belonging to these classes should be in it. Another point is, if you refer to clause 46, you will find that this committee will fix the rents of these rooms. When there is nobody to guard the interests of the poor, I do not know at what rate the rents will be fixed. Therefore, this will make quite clear that it is absolutely essential that the poor should have their representative on this committee. Another fear is that some of the housing schemes are perhaps likely to be undertaken by the millowners, and if they have their representative in the committee, it necessarily follows that somebody should be there to combat the views put forward by the millowners. It must be remembered that in times of strike the millowners' interests and the mill operatives' interests are always conflicting, and the millowners should not have the privilege of gaining audience of this committee and be able to fix rents of the rooms occupied by millhands during the time of a strike. They may perhaps take undue advantage of their position and the millhands will be at their mercy.

Another point is that this is going to be a committee. Therefore, if you go on increasing the number of members, it really loses its characteristic of a committee. Therefore, I suggest that these bodies, the

[Mr. A. N. Surve,
Chamber of Commerce and the Millowners' Association, should not be given any representation but the labouring classes should be given representation. This representation is not going to be by election but by nomination. So, Government can make a selection of the best man available and put him there. With this idea, I have placed this amendment before the House.....

The Honourable Sir MAURICE HAYWARD: I rise to a point of order, Sir. The honourable member has here four amendments, all of which hang upon one another and it is quite impossible to make sense of the amendments by dealing with them, one at a time. I would suggest that the right procedure would be to move all of them as one single amendment as they really are a single amendment. It is impossible to understand them without reading them together.

The Honourable the PRESIDENT: I should like the Honourable Leader of the House to tell me under what authority I can compel honourable members to frame their amendments in a particular way.

This is hardly a point of order. The honourable member suggests an amendment to clause 10 (1), line 1, and I have no option but to permit it. If the honourable member wishes to accept the suggestion of the Honourable Leader of the House and asks my permission and the permission of the House to amend or amalgamate these amendments, I for one will raise no objection.

Mr. A. N. SURVE: Therefore I appeal to the honourable House.....

The Honourable Sir MAURICE HAYWARD: I should like to appeal to the honourable member to consolidate his four amendments into one so that we can understand them rather better.

Mr. A. N. SURVE: If this amendment is rejected, I shall not move my remaining amendments. That is why I tried to explain my object. As a matter of fact, the Secretary will bear me out that I had already suggested that I should be given permission to club all these amendments together, but unfortunately my request was not granted.

Question proposed.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce): Sir, I oppose this amendment. The honourable member has made it quite clear that his object in reducing the number is not only to add members of the working classes to the committee but also to remove the representation of the three commercial bodies. I submit, Sir, that his reasoning cannot be followed by this House. He has told the House that the reason why the working classes should have representation is that they should be there on the Improvement Trust Committee in order to combat the views of the millowners' representative and at the same time he does not want the millowners' representative to be on the committee. If that is so, why should he want a representative of the working classes there? I submit that the sense of his amendment will be very much better considered later on when we listen to what the honourable member, Mr. Bole, has got to say on his amendment. I oppose the amendment now before the House.

The Honourable Mr. COWASJI JEHangIR: May I point out that if the House accepts the honourable member's amendment reducing the number from 18 to 17, he will naturally move his other amendments which, I believe, are out of order. A ruling cannot be given until he moves them. They deal with points that were dealt with yesterday and decided by the House, and therefore we cannot reverse any decision that was taken yesterday. But if the honourable House accepts this amendment, we shall be rather in a mess because the honourable mover cannot move his other amendments afterwards, and there will be 17 members on this committee but there will be no clause to define how the Committee shall be made up.

Mr. A. N. SURVE: Sir, I only make an appeal that my amendment should be accepted.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I oppose the amendment.

Question put and lost.

Mr. S. K. BOLE: Sir, the amendment which I beg to move to clause 10 (1) reads as follows:—

In clause 10 (1) omit "18" and substitute "20" in line 1. In the same clause in line 2 omit "3" and substitute "5".

In the same clause, in sub-clause (c) add "of" before "the" in line 7. In the same sub-clause (c) insert "3" between "members" and "shall" in line 7.

After clause 10 (c) add the following clause: "(d) 2 members belonging to the backward and working classes shall be appointed by Government to represent labour."

The original bill, as it was drafted, did not contain any clause for giving any representation to Capital but in the select committee the representatives of Capital urged for giving them representation and it was given. When representation is given to Capital, it is fair and just that the same privilege should be extended to Labour. In the Bombay Municipal Corporation Capital is fully represented and they have got direct representation for certain of their bodies and many members of the corporation belong to capitalistic associations. Then, the representatives of Capital can be elected on the Improvement Trust Board. Besides that, now it has been proposed to give them direct representation on the board itself, so that they now get double representation. It cannot be denied that this is double representation. If it is not double representation, then I ask, what is double representation? In the case of Labour they have no direct representation on the municipal corporation. Even the lowering of the franchise has not helped them, because the franchise has been given to those who pay ten rupees monthly rent and in the case of backward and working classes, they are residing in rooms for which they pay less than ten rupees rent and so they do not get the benefit of this lowering of the franchise. Taking the whole population of the City, namely 12 lakhs, only one lakh has been enfranchised and 11 lakhs have been left out. The result is that in spite of the lowering of the franchise only 4 or 5 members of the backward and working classes have been returned to the municipal corporation and these men, even if they join together, cannot send their representative to the Improvement Trust Committee.

[Mr. S. K. Bole]

Therefore, the working classes and the backward classes require direct representation on the Improvement Trust Committee, as they are not sufficiently represented on the Corporation. What I submit is that Government may increase the number by 2 and nominate 2 members from the backward and working classes. Much has been made of Capital. I humbly submit that Capital is useless without the co-operation of Labour. Labour, though it is humble, has its own importance, and in these democratic days, it is but fair that they should get just representation. Even some important Honourable Members of Government yesterday supported the case for the representation of Capital, and the same honourable members will, I hope, be gracious enough to support the claim for the fair representation of Labour. With these words, I submit that my amendment should be accepted.

Question proposed.

Sir VASANTRAO A. DABHOLKAR: Sir, I rise to oppose the amendment which has been moved by my honourable friend Mr. Bole. He says that the Bombay Corporation is representative of only the capitalists, but he forgets that the present members of the Corporation are not returned by the landlords, but by the rent-payers. May I know, under these circumstances, where he got the idea that the Corporation consists of members of the capitalist class. Again, there has been some misunderstanding in the mind of the honourable mover that there will be double representation given to these commercial bodies. It is not so. But, even assuming that there will be double representation given to these commercial bodies, they will be elected by their own bodies and not nominated. The honourable mover of this amendment has not shown to this House how Government can nominate these leaders of Labour, and from what organisation. Has the honourable member been able to give us to understand that there are any properly organised Labour associations, just as they exist in the case of the commercial bodies, namely, the Bombay Millowners' Association, the Indian Merchants' Chamber and the Bombay Chamber of Commerce? What organisations has Labour got, and how is it possible for Government to nominate? It would have been more reasonable on his part, if these labour organisations had existed, to ask for a representation so that they should return the leaders of Labour on the committee, but in the absence of any organised body, this Council should not take into consideration the amendment moved by my honourable friend Mr. Bole.

The honourable member further stated that Labour is humble. I do not agree with him at all as regards that. On the contrary, I think Labour is powerful, and that is why they can go on strike during a month when the wages are not deducted. They are getting more than what they require, they do not want to work more as all their wants are satisfied.

Mr. R. S. NEKALJAY: I rise to a point of order. Is that relevant to the issue under discussion?

The Honourable the PRESIDENT: Why is it not relevant? Will the honourable member point that out? The honourable member Sir

[The President]

Vasantrao is trying to make out a case as to why representation by nomination proposed by the amendment is, in his opinion, not necessary, and should not be allowed.

Sir VASANTRAO A. DABHOLKAR : The bogey of the honourable member saying that Labour is humble is groundless.

Then, coming to the question of franchise for the Bombay Municipal Corporation, he says that the franchise is given to those who pay a rent of Rs. 10 and not less than Rs. 10. But, Sir, many members of this House must have come across the report that appeared in the Bombay Chronicle as regards the grievances of the millhands, and one of the grievances is that they have to pay a high rent of Rs. 10 per month. If that statement is taken as correct, in that case the statement of the honourable member who has moved the amendment is incorrect. Does the honourable member expect us to take his statement that the millhands pay less than Rs. 10 rent as correct, or are we to accept the statement of the millhands that they pay rent of Rs. 10 as correct? I am disposed to believe the latter. If the millhands are paying Rs. 10 as rent, as has been reported in the statement of the millhands, then leaders of Labour have 2,50,000 voters in the city of Bombay, and if they cannot take advantage of that, I should think Labour has got no confidence in their leaders. Under these circumstances, I oppose the amendment.

Mr. R. S. NEKALJAY : Sir, I rise to support the amendment, not on the ground that because certain commercial bodies are given special representation, therefore Labour should also be given separate representation, but on the grounds that Labour should have some voice in such bodies. The question of labour in Bombay city is quite different from that of labour in other cities, because Bombay city consists of a larger number of labourers than other cities and are more concerned with such bodies. My honourable friend Sir Vasantrao Dabholkar says that the labourers should have confidence in their own representatives. Certainly, they have more confidence in their real representatives, but their real representatives are not returned in sufficient numbers. The franchise has been widely extended, as far as Rs. 10 monthly rental, and much has been made about the same. May I know how many members of the labouring classes are paying Rs. 10 rent per month? I think there will be very few of them, and hence it is not possible for them to send their own representatives, and advantage is taken by landlords like Sir Vasantrao Dabholkar who may be owning a number of houses and who may be having their own tenants as their voters. Advantage is taken by these people, the landlords, in Bombay and hence the claims of Labour are left out. I therefore strongly support the amendment.

Mr. A. N. SURVE (Bombay City, North) : Sir, the honourable member to my left (Sir Vasantrao Dabholkar) has challenged the proposition that the Corporation is not a body consisting of capitalists. Though I am not a member of the Corporation, yet what another honourable member who is a member of the Corporation has written in his minute of dissent I might read to this House. The honourable member says :

"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 a member, representing them in the corporation."

In spite of this emphatic statement the honourable member to my left doubts the statement that the Corporation is a capitalist body.

Another point is that he raises the difficulty of how the Government is going to nominate these representatives of Labour. I think Government are quite capable of taking care of themselves. May I just remind him that to the Legislative Council the Government nominate a member from the labouring class? In doing that Government never find any difficulty. Similarly in the case of the Corporation Government appoint a member by nomination to represent Labour. Even in that case Government do not find any difficulty in selecting the right man. Therefore, may I ask why in the case of this committee there should be any difficulty? I do not see any reason. The grounds advanced against the amendment are futile grounds.

MOULVI RAFI UDDIN AHMAD (Central Division): Sir, I rise to support the motion, because I do feel that representation should be given to Labour. Firstly, I will take the argument of the Honourable the Finance Member. He argued yesterday that the Improvement Trust handles crores of rupees and therefore rich people who are accustomed to deal in large amounts are qualified to serve on this committee. This would put an embargo upon persons who are unhappily the children of the poor. I think such a punishment of the poor would not appeal to the House. If this argument prevailed the Cabinet should consist of none but the capitalists, because Ministers have to handle enormous amounts of money. In these days every class wants to be represented. The depressed classes were hitherto represented by middle class members. They now disown those members and want direct representation from their own class and refuse to have vicarious representation. If want of the qualification of handling money stood in the way of giving representation to Labour on the Improvement Trust let me remind the Honourable the Finance Member that the British Labour party in the House of Commons not only handled large amounts of money but wielded the destiny of the British Empire. One or two representatives of Labour on this committee will not be so useless as the honourable member seems to imagine.

It has been already pointed out that the Improvement Trust deals with chawls and dwelling houses for the poor, and an appeal has been made to the House to grant some representation of Labour on this committee in order to enable labouring classes themselves to help in fixing the rate of rent for the benefit of the labouring population. I think the House will not be so deaf as not to appreciate the reasonableness of this demand. Rich corporators thrive on the labour of these men and indeed where will Bombay be without Labour? I submit that the argument of the Honourable the Finance Member is too feeble to stand. It is true Labour is not yet organised. It is also true that once organised it will be a force in the city. They will agitate for representation and Government will be compelled to satisfy their demand. Is it not better

[Moulvi Rafiuddin Ahma-1]

gracefully to grant a moderate demand now instead of making heavy concessions later to avoid agitation. If Government only knew when to make concessions gracefully they would spare themselves many a trouble. It was time for Government to win the good will of Labour by showing them timely consideration. With these remarks I strongly support this amendment.

Mr. R. D. SHINDE (Nasik District) : Sir, I rise to support this amendment. I think the honourable mover of this amendment will not in the least be surprised by the opposition which the honourable member Sir Vasantao Dabholkar has made. Sir Vasantao has made a complaint that the remarks of the honourable mover of the amendment were a little uncharitable as regards the present composition of the Bombay Corporation. I may point out to the House that out of 110 members only two members from the labour classes could get in by election. Especially in a city like Bombay, where the labouring population numbers about 5 or 6 lakhs, only two persons could get direct representation on behalf of Labour. As a matter of fact we found yesterday that a special effort was made by the select committee to give representation to the capitalist classes—the Indian Merchants' Chamber, the Millowners' Association and the Chamber of Commerce. A similar provision should have been made by the select committee for the representation of the labouring classes whose interests are usually affected by the activities of the Improvement Trust. Vast schemes of building chawls for Labour are undertaken by the Improvement Trust and it is only in the fitness of things that the labouring class should have a voice on the committee. With these remarks I support the amendment.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce) : Sir, I rise to oppose the amendment. Honourable members who have spoken on behalf of the amendment have rather confused the issue. They have put forward the argument that because the mercantile associations have representation on this committee, then Labour also must be represented on this committee, because the Improvement Committee deal largely in schemes for the construction of chawls for housing the labouring class. They have further suggested that the commercial associations ask for direct representation solely to protect capitalist interests. Nothing, Sir, could be further than the truth and no argument could be more dangerous or misleading. The mercantile associations want to have direct representation on this committee because they are the custodians of the trade and industry of the city, which after all provides work for the working classes, and because they wish to prevent schemes being adopted by the Improvement Trust, such as have been adopted by the Municipal Corporation, which may lead to increased taxation, a taxation which the trade of the city cannot bear. I submit that a representation of the kind they ask is entirely different from that which has now been asked for by the honourable member Mr. Bole. The arguments that have been advanced by the honourable member Sir Vasantao Dabholkar are very cogent. The municipal franchise has been widened and the labouring

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classes are in a position to return their own representatives to the municipal corporation in large numbers. They can, if only they organise themselves, return a very large number of their representatives; whereas the mercantile associations cannot return more than three members in a body of 120 members. Further, the working classes are not an organised body which can return one from among themselves. That fact we must take into consideration in connection with a body like the Improvement Committee. The decisions arrived at by this body must be binding on the bodies that are represented on it, especially as this committee is of an executive nature. The representatives on this committee must present the views of their respective associations with their full mandate and discretion and the decisions arrived at must be binding on the respective associations. We know from experience that the mercantile associations do give a full measure of discretion to their representatives, but we also know that in the past the representation of labour has not been such as to be thoroughly representative of labour, and that views expressed by these representatives have not been backed by the labouring class. In short labour has on many occasions gone back on the views expressed by its so called representatives. I sympathise with the amendment moved by the honourable member Mr. Bole; but at the same time I submit that the present representatives of labour do not represent the view of the working classes to the extent of being able to enforce their vote. They can express their personal views as to what the working classes should have or want and no more. Until labour is in a more organised condition I cannot support this amendment.

Mr. N. E. NAVLE (Ahmednagar District): Sir, I rise to support the amendment moved by my honourable friend Mr. Bole. My reason for supporting it is this. Though we are mofussil members and though we know little of Bombay and its conditions, still we are aware of one fact, and that is that labour in Bombay is an important factor and requires recognition at the hands of the public and of Government. When provision has been made for the representation of the industrial and commercial classes, it is but proper that some representation should be allowed to these working masses. One honourable member said in his speech—I think it was Sir Vasantao—that there are no organised bodies of labour. Though an outside member, I know one association, the Kamgar Hitavardhak Sabha, which is fully and adequately representative of labour. I do not mean to say that this body alone should be recognised by Government for the purpose of nomination. Government should be left to choose their own methods of finding out proper representatives of labour. It is not a fact that labour is not organised at all. Labour is being organised in its own way, and it would not be difficult for Government to find out their representatives from Bombay.

Mr. J. BAPTISTA (Bombay City, North): Mr. President, I find myself impaled on the horns of a dilemma. Personally I am opposed to all direct representation on the executive body of the corporation of any capitalistic association. To be consistent, therefore, I must oppose all

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representation of labour in the same way. But I must say that the arguments that have been advanced in opposing the representation of labour, are rather fallacious, and I should like to criticise one or two of them. In the first place, the honourable member Mr. Grantham asked "what is the truth" and himself answered it by saying that the representatives of Commerce are not there for the purpose of promoting their own interest, but for promoting the general interest. I believe Pilate once asked:—"What is truth?" and somebody said that truth would be found at the bottom of the well. So far as the capitalists are concerned, I do not believe that they demand seats on the Board to promote the general interests of the City. They will use their powers chiefly to safeguard or promote their own interests—Mr. Grantham claims that Capital finds employment for workers. This is true, but he forgets the compensating advantages. Where would be the Wealth of the capitalists without Labour? The capitalists cannot do without the workers and without the profits which they enable them to earn. It is absolutely useless to talk about the altruism of Capital. As for selection of representatives of Labour, I do not think it would be a difficult task for Government to select from many available. They can select the right or wrong men. No doubt they usually select wrong men, but that must not stand in the way of the proposal. I am convinced that the Government in Bombay is a friend of Labour. I think Labour would do well to repose confidence in Government in matters which affect them. I am thoroughly convinced that no one is more anxious to promote the interests of labour than Government of Bombay. But unfortunately in this Council we are reduced to dependence on Government votes. In another walk of life it is said that man proposes and woman disposes. In this House member proposes and Minister disposes. If the Minister says "Yes" it is all right, and if he says "No" it is all wrong. I do not know what the Minister is going to do, but I hope he will say "Yes".

Mr. S. K. BOLE: Sir, I was not surprised to see this amendment opposed by my honourable friend Sir Vasantao Dabholkar. Sir Vasantao Dabholkar is nothing if he does not come forward to oppose the interests of labour. He is ever ready to crush the working classes and their interests. Here, when members on behalf of the working classes come forward to ask for representation on the Improvement Trust Committee, Sir Vasantao comes forward to oppose them. Why is it? It is because all this while Sir Vasantao has enjoyed the monopoly of representing all the interests on the Improvement Trust, and he does not want the working classes to come there. He will not help them; he likes that they should remain as working classes. Had the working classes been powerful, Sir, they would not have remained quiet during these days of strike. They would have marched to the mills and bungalows owned by the millowners. They are powerless, humble and law-abiding men, and they have therefore remained quiet. There are organisations of these working classes. But looking to the number of these classes, Sir Vasantao does not think that these organisations properly represent them. Sir Vasantao cannot expect to have a big

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organisation covering all these 150,000 men all at once. As time goes on, he will see the strength of labour growing, and when labour comes into its own, I do not know what will be the position of Sir Vasantao. When they will ask for equal distribution of wealth and ask for socialism.

The Honourable the PRESIDENT: The honourable member need not go exhaustively into the question.

Mr. S. K. BOLE: As he has introduced the strike matter into this question, I am obliged to deal with it.

The Honourable the PRESIDENT: I said that the honourable member need not go exhaustively into it.

Mr. S. K. BOLE: As regards the franchise, Sir Vasantao said that it is wide. If, instead of sitting in the Orient Club, he will come with me to the Parel area, I will show him the chawls the rent of which is less than Rs. 10 and even Rs. 7. Even if you take the chawls built by the Improvement Trust what is the rent for them? Less than Rs. 10. Then, what is the rent of the chawls built by the Development Department? There are several thousands of rooms which are let for less than Rs. 10. How can he expect all working classes to rise at once and send their representatives to the corporation? Labourers are after all labourers; they are servants of their masters. My honourable friend Mr. Baptista will tell you how at the time of the Legislative Council election mandates were issued to labourers that they should give their votes to the nominees of their employers and not to men like Mr. Baptista and myself. The men were forced to come to the mill, and they were taken,—in spite of the rules regarding motors and motor lorries,—they were taken in motors and motor lorries to the polling stations, and they were made to vote for the nominees of the employers of labour. The landlords did the same thing. They asked their tenants to vote for certain men and not for others, and the poor tenants were obliged to do so. What are they, the poor tenants, to do? So tenants are hopeless in this matter. As regards nomination by Government we are told that there are difficulties in the matter. But when Government can nominate representatives on this Council and in the Legislative Assembly, I don't think it would be difficult for Government to nominate representatives of labour on the Improvement Trust Committee. The reason why labour wants representation on these bodies is that the interests of labour are not properly watched. Some of the representatives of the capitalists go there just 15 minutes before the closing time and do not take any interest in the proceedings. They do not care for the interests of the working classes. They are busy with their rupees, annas and pies and even in the Corporation they don't take any interest. They are often found creating noise there, and the President has very often to call them to order (Laughter). That is how some of these representatives of capital do their duty, and the labour interests go unrepresented. Under these circumstances I submit, Sir, that this House should agree to give representation to labour. It is not much; I ask for only 2 members,

[Mr. S. K. Bole]

and I hope that Government would not be guided by capitalistic influences. I trust that my amendment will be accepted.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, there are many practical difficulties in the way of my accepting the amendment. The Bombay Corporation, which is a representative body of the city of Bombay, had made no recommendation to that effect. The question of the representation of labour was considered by the select committee, which was a representative committee. They did not favour it. Further, Sir, there is the difficulty that if we allow labour to be represented on the Improvement Trust, I am afraid that will make other bodies also claim representation. Besides, if labour organize themselves, they will be able to return larger numbers. Even at present, the number of voters under the Rs. 10 franchise has increased by nearly 33 per cent. from 70,000 to over a lakh and a half. Moreover, Sir, in a short time, the Rent Act will disappear, and then every labourer will have the right of vote. (Hear, hear). In that case, they will be returned in very large numbers to the Corporation. The Corporation now returns 11 members, and I am sure that out of these 11, 5 or 6 will be representatives of labour. The mover wants only 2 members to be nominated. I am afraid they will feel sorry for it when they will be able to return much larger numbers later on. As regards nomination, whenever I have nominated anybody, I have required representatives from members of that community that that man does not represent them. That shows that labour is not organized. Their nominee does not represent them. Whenever I tried to nominate "A", I have received representations that "A" does not represent the community. Similarly with regard to "B". They say that "B" is not their representative, but "C" is their representative. I am sorry I cannot find out who is their real representative. So I also nominate members at random. (Laughter). I think it would not be wise to accept the amendment. After the restriction of the Rent Act is removed, there will be more than sufficient representatives of theirs on the Improvement Committee.

Question put : House divided : Ayes 17, Noes 40. Motion cost.

Division No. 10.

Ayes.

ADDYMAN, Mr. J.
AHMAD, MOULVI RAFIUDDIN
ANGADI, Mr. S. N.
BOLE, Mr. S. K.
COOPER, Khan Bahadur D. B.
KALBHOR, Mr. G. M.
MANSURI, Khan Saheb A. M.
NAVLE, Mr. N. E.
NEKALJAY, Mr. R. S.

NOOR MAHOMED, Mr.
OWEN, Mr. A. C.
PATEL, Mr. A. E.
PATHAN, Mr. A. F. I. K.
PATIL, Mr. D. R.
SHANKARRAO JAYARAMRAO ZUNZARAO,
Mr.
SHINDE, Mr. R. D.
SURVE, Mr. A. N.

Tellers for the Ayes : Mr. S. K. BOLE and MOULVI RAFIUDDIN AHMAD.

Noes.

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
BHURORI, Mr. J. M.
BJARANI, Khan Saheb SHEH MAHOMED
KHAH

BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.

Noes—contd.

DELVES, Mr. R. H. A.
 FERNANDEZ, Dr. COSMAS
 FRAMJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan
 Bahadur SHAIKH
 GRANTHAM, Mr. V. A.
 HAMID M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOSSACK, Mr. W. B.
 JEHANGIR, the Honourable Mr. COWASJI
 KANGA, Mr. J. B.
 KAZI INAITULLAKHAN.
 KHURO, Mr. M. S.
 KOKANI, Mr. G. J.
 LALJI NARANJI, Mr.

LAWRENCE, the Honourable Mr. H. S.
 MASTER, Mr. A.
 MCKEE, Mr. W. G.
 MEHTA, the Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 PAINTER, Mr. H. L.
 PATHAN, Khan Bahadur JAN MAHOMED
 KHAN
 SAYED GHULAM NABI SHAH.
 SAYED SHAHJADR SAHEB HAIDAR SAHEB
 THAKOR of Amod, the
 THOMAS, Mr. G. A.
 WADIA, Mr. C. N.
 WILES, Mr. G.
 WOODS, Mr. E. E.

Tellers for the Noes: Sir VASANTRAO A. DABHOLKAR and Mr. V. A. GRANTHAM.

Mr. A. MASTER: Sir, I beg to move that

In clause 10 (1) (b), *delete* the word "Corporation" and *insert* "Board".

The amendment is purely verbal. The Corporation has no standing as such, but only as a Board of Trustees.

Question put and carried.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move the following amendment:

Clause 10 (1) (c).

Add the following para.:

"(v) persons belonging to and working in the interests of the poorer and working classes".

The effect of the insertion of this additional paragraph would be as follows. At present Government have retained the power of nominating three members only out of a panel of four officers. I suggest that a fifth paragraph should be added, so that, if Government find that it is worth their while to give representation to labour, then they may have the power to do so. The honourable member to my left (Sir Vasanttrao Dabholkar) had yesterday stated that Government may find that out of the four officers some may be busy. Let us suppose for instance, that two are busy; then only two remain, and the third vacancy will have to be filled up. Let that vacancy be filled up from a person belonging to the labouring classes.

Question proposed.

The Honourable the PRESIDENT: I call upon the Honourable Minister to reply.

The Honourable Sir MAURICE HAYWARD: I suggest, Sir, that this may be postponed to give the Honourable Minister time to consider it.

The Honourable the PRESIDENT: I have already called upon the Honourable Minister to reply, and if in his reply he asks that the question be held over I will consult the House and give him the time he wants.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, as this is a very important question, I request that I may be allowed some time to consider it. After the recess I shall probably be ready with my reply.

Question put and leave granted. (Consideration of the amendment was postponed till after tea interval).

Mr. A. MASTER : Sir, I beg to move that

In Clause 10 (1) (d) delete the word "Corporation" where it appears in two places and insert "Board".

This amendment is similar to the one already accepted.

Question put and carried.

The Honourable the PRESIDENT : As the consideration of clause 10 has been postponed till after tea interval, I will now proceed with clause 11.

Clause 11 (*Chairman of the Committee*).

(1) The Committee shall at their first meeting in each official year, appoint one of their own number being a member elected by the Board to be their Chairman until their first meeting in the next following official year.

(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 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.

Mr. HOSENALLI M. RAHIMTOOLA (Bombay City) : Sir, I beg to move that

In Clause 11, sub-clause (3), substitute the words "being a member elected by the Board" for the words "not being an ex-officio member".

Sir, the object of this amendment is to bring this sub-clause in line with sub-clause (i) of clause 11.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I accept it, Sir.

Question put and carried.

Clause 11, as amended, ordered to stand part of the bill.

Clause 12 (*Members of the Committee to retire by rotation*.)

12. (1) 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.

(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.

Mr. A. MASTER : The amendment which I beg to move reads thus :—

Clause 12 (2), between the words "Committee" and "shall" insert the words "elected by the Board".

Question put and carried.

Clause 12, as amended, ordered to stand part of the bill.

Clause 13 (*Appointment of members to replace those who retire*) ordered to stand part of the bill.

Clause 14 (*Casual vacancies in the Committee how to be filled up*).

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 Mill-owners' 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.

Mr. A. MASTER: Sir, I beg to move

In Clause 14, substitute the word "Board" for "Corporation".

This amendment is similar to other amendments which have been carried.

Question put and carried.

Clause 14, as amended, ordered to stand part of the bill.

Clause 15 (*The Committee to continue in office till a new committee is appointed*) ordered to stand part of the bill.

Clause 16 (*Member of Committee to vacate office if absent for three successive months*) ordered to stand part of the bill.

Mr. J. BAPTISTA (Bombay City, North): Sir, I beg leave of the House to move the amendments of which I have given notice, inserting a new clause (Clause 16A) after clause 16. The Honourable Minister in charge has agreed to accept the amendment. Therefore I ask you Sir to condone the delay in giving notice of the amendment.

The Honourable the PRESIDENT: I have already decided to allow the amendment. There is one point to which I should like once again to invite the attention of the honourable members, both on the non-official side and on the Government benches. Many honourable members have got into the habit of sending amendments at the last moment. The Rules and Standing Orders are meant to be observed, and while in the matter of legislation I have tried to extend indulgence in very many cases, I wish again to give warning to honourable members that if they do not conform to rules strictly, and unless it is a very exceptional case, I propose not to admit amendments which are not sent in time.

Mr. J. BAPTISTA: The amendment which I beg to move runs as follows:

After clause 16, insert clause 16A as follows: "The powers conferred by, and the duties imposed under this Act on the Committee shall be exercised and performed by the Committee subject to the general control of the Board".

I do not wish to speak at length upon this amendment as the Honourable Minister has been kind enough to accept it. I wish to submit, however, that it is a fundamental principle of the transfer of the duties and powers of the Board to the Corporation. As a matter of fact I may mention that when Government made up its mind to transfer the powers and duties of the Board to the Corporation, there was a committee appointed to draft a bill and that bill was re-committed to the committee. Then, the Committee appointed a sub-committee consisting of Mr. Turner who was then chairman of the Improvement Trust and myself, and we

[Mr. J. Baptista]

laid down four principles for the acceptance of the Corporation. We said that if they accepted those principles the drafting of the bill would be facilitated. The Corporation unanimously accepted those principles, and the first of them was that the Corporation shall be absolute master in its House, and able to control every operation of the Improvements Committee. But I was rather surprised and almost shocked to hear the Honourable Mr. Cowasji Jehangir say yesterday that this Committee is not an executive body of the Corporation. When I went through the bill, I found there were some sections which supported that view, and there were other sections which supported the contrary view. I therefore thought it desirable, to make matters clear, so that there may be no dispute upon this point, to move this amendment. I communicated with the Honourable Minister, and though he was not prepared to go to the fullest extent, he agreed to the present amendment which is quite sufficient for purposes of general control. This fundamental deviation from the four principles would not have occurred had Mr. Turner not gone on leave, and myself absent from the Corporation to represent Labour at Geneva. In our absence Mr. Delves took charge of the bill and skilfully made the Committee really master of the situation. The Honourable Mr. Cowasji Jehangir told us distinctly that the Corporation now steps into the shoes of Government. I do not know how far it is correct, because I find provisions requiring the sanction of the Corporation, and after the Corporation's sanction, the further sanction of Government. Therefore, if the Corporation has become the Government, then Government has become the Government of India. Be this as it may, my object is to make it legal and clear that the Board can control this Committee. I hope the House will accept the amendment.

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I do not want to go into all the questions raised by the honourable mover, but simply desire to know what happens in the case of a conflict between the Executive Committee and the Corporation. The new clause proposed to be inserted clearly indicates that the committee can only go to the Government through the Corporation.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, if we look to some of the other sections in the bill, it will be seen that the budget is to be prepared by the Committee, and will be sanctioned by the Board; so also with regard to all schemes of improvement. In fact, under the Act, the Committee has to work under the general control of the Corporation, but I have no objection to accept the amendment proposed.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce): Sir, I feel some doubts about this amendment by the honourable member Mr. Baptista. I quite sympathise with the object of the honourable mover. The Improvement Trust is being transferred to the Corporation and will logically, therefore, be under the control of the Corporation, but, at the same time, the committee is an executive body, and has got to

[Mr. V. A. Grantham]

exercise certain functions very often without having the time to refer to the Board. If it were to refer all questions to the Board, the business of the committee would be held up. Under some of the clauses which follow, the committee has the power, for example, to compound or to come to a compromise in certain cases. They have also to come to decisions in minor matters. While I recognise that there may be something to be said for the general control of the Board, I feel that it is undesirable that the Board should step in and reverse the decisions of the committee which it has come to under the following sections of the Act. I cannot see how the particular clause moved by the honourable member Mr. Baptista is in consonance with the clauses which follow.

Mr. J. BAPTISTA (Bombay City, North) : Sir, general control does not mean that the committee must come to the Board on every occasion ; the Committee may decide whatever matters are within their powers, but in case they come to some decision which is not approved by the Board, the Board may give directions which the Committee are bound to carry out. At present the committee can accept the direction of the Board or reject it. If they do not accept it, the Board can make itself felt by dismissing them at the next election. But in practice we feel that certain duties are statutorily imposed upon the committee, and if they are not made statutorily subject to the control of the Board, then the Board is not in a position, in a legal sense, to control them. The committee itself would contend that they are bound to act as they do under the Act, and would be pleased to carry out the directions of the Board if they were equally free to do so. It is for this reason that I move this amendment. It makes it clear that the committee is an executive body of the Board. It does not mean that for everything they want to do they must go to the Board for sanction before they do it. This is not easy as the committee will meet once a month, and I do not want to obstruct their business in any way. My amendment will not obstruct the business of the committee ; it will give the Board power to control them, if they differ from the Board. When the committee differs from the Board, the Board should be powerful enough to control the committee, and not the committee powerful enough to control the Board. The committee is a committee of the Corporation, though outside members are nominated on it. That is the constitutional position I wish to make clear, and it is for that purpose I move this amendment.

Mr. V. A. GRANTHAM : Sir, may I ask the honourable member one question? Does this clause give power to the Board to upset a decision or a contract that may be entered into by the committee? The committee may enter into a contract in perfect good faith, but the Board may not approve of that contract. If this clause is put into the bill, will the Board have the power to get out of that contract in accordance with the law, in spite of the committee having entered into it? I should like that point to be made clearer.

Mr. J. BAPTISTA : Any contract already legally entered into cannot be upset by the Board under their powers of control. If they do

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they will be liable to pay damages. Control does not mean previous sanction. It does not mean that no contract can be entered into without sanction. A legal contract is enforceable in a court of law, and it cannot be upset by the Board after it is entered into under the power of control.

Mr. V. A. Grantham *rose*.

The Honourable the PRESIDENT : This cannot go on. The honourable member has replied.

Mr. V. A. GRANTHAM : My point was this. Anybody may enter into a contract with the committee. Under this clause, the Board would appear to have the final right of confirming this contract. The honourable member has not answered that point.

Mr. J. BAPTISTA : I have answered it as well as I can. A layman may not understand it. I cannot make it clearer. The committee has power to enter into a legal contract. If they do so within the powers they possess it would be a legal contract enforceable in a court of law, and the Board cannot upset it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I have nothing more to add.

Question put and carried.

Clause 16A ordered to stand part of the bill.

Clause 17 (*General disqualification for being a Trustee of a Member of the Committee*).

(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—

(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 such as is described in the proviso to sub-section (1).

Mr. A. MASTER : Sir, I beg to move :

" In clause 17 (3) add :

' or in which he is interested either professionally on behalf of a client or as agent for any person '."

Sir, this sentence was in the original draft bill ; but it was deleted in the select committee. It seems desirable that these words should be restored, because as the paragraph stands anybody professionally employed on behalf of a client can take part in the discussion in any matter in which he is so interested. It seems undesirable that it should be so, and therefore this amendment has been moved.

Question proposed.

Mr. HOOSENALLY M. RAHIMTOOLA : There is one difficulty with regard to this. I want to know from the honourable mover of the amendment the meaning of the word " agent ".

MOULVI RAFIUDDIN AHMAD : It was decided in the select committee. " Agent " means representative of the principal.

Mr. R. H. A. DELVES : These words, Sir, are to be found in section 17 of the present Act. This was included in the original draft of the bill ; but when the bill was discussed in the select committee, they stated that this portion of the section was redundant, and these words were struck out. But they did not consider the contingency in the absence of this provision. A member may be an agent managing a property on behalf of anybody ; but when that property is acquired by the board, it would be improper for him to speak or to vote when that matter is discussed in the committee.

Mr. A. MASTER : I have little more to add.

Question put and carried.

Clause 17, as amended, ordered to stand part of the bill.

Clause 18 (*Fees*) ordered to stand part of the bill.

Clause 19 (*Provisions concerning proceedings of the Committee*) ordered to stand part of the bill.

Clause 20 (*Appointment of sub-committees*) ordered to stand part of the bill.

Clause 21 (*Mode of executing contracts*) ordered to stand part of the bill.

Clause 22 (*Signature of Chief Officer may be engraved, etc., on coupons of debentures*) ordered to stand part of the bill.

Clause 23 (*The Committee may compromise claims by or against them*) ordered to stand part of the bill.

Clause 24 (*Power of Government to call for extracts from proceedings, etc.*) ordered to stand part of the bill.

Clause 25 (*Appointment of Chief Officer*).

The Chief Officer shall be appointed by the Board, subject to confirmation of Government, for a renewable period of three years; provided that he 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.

Mr. J. BAPTISTA: I desire to know whether it is too late to move an amendment, because this section is not in conformity with the section relating to the removal of the commissioner.

The Honourable the PRESIDENT: I should like to inform the honourable member that at this stage he can only speak if he wishes to propose the amendment.

Mr. J. BAPTISTA: Then, I can explain the defect.

The Honourable the PRESIDENT: If the honourable member wishes to oppose the question proposed that clause 25 stand part of the bill, he is entitled to do so and give his reasons in support of that view.

As the honourable member will take some time and as it is now 2 minutes to four, I will adjourn the House till 4-30. The honourable member can make his speech after tea interval.

(*After recess.*)

Clause 25 ordered to stand part of the bill.

Clause 26 (*Remuneration of Chief Officer*) ordered to stand part of the bill.

Clause 27 (*Right of Chief Officer to attend meetings. Duties of Chief Officer*) ordered to stand part of the bill.

Clause 28 (*Leave of absence of Chief Officer*) ordered to stand part of the bill.

Clause 29 (*The Committee may make improvement schemes*) ordered to stand part of the bill.

Clause 30 (*Particulars to be provided for in an improvement scheme*) ordered to stand part of the bill.

Clause 31 (*Considerations which shall prevail in making a scheme*) ordered to stand part of the bill.

Clause 32 (*Procedure on completion of the scheme*) ordered to stand part of the bill.

Clause 33 (*Right of owner to demand acquisition on issue of notification when building operations are in progress*) ordered to stand part of the bill.

Clause 34 (*Right of owner to demand acquisition or withdrawal by the Board after the lapse of one year from the date of the notification*) ordered to stand part of the bill.

Clause 35 (*The Committee to forward the scheme to Government for sanction after approval by the Board*) ordered to stand part of the bill.

Clause 36 (*On receipt of sanction the Chief Officer to publish the declaration and the Committee to proceed to execute the scheme*) ordered to stand part of the bill.

Clause 36-A (*If the Board fails to acquire land within three years from the date of the declaration of the Scheme, the owner may call upon the Committee to acquire such land or withdraw from the proposal.*)

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.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move:

In clause 36A, line 1, substitute "two" for "three".

Under the clause as it stands buildings and lands when they are once notified remain tied down and they cannot be mortgaged or sold. It therefore follows that if the period is fixed at 3 years, the owner will be put to great inconvenience and also to loss. If the period is curtailed it will be in the interest of the private land-holders, and I think the Committee will not be seriously inconvenienced. For these reasons I have proposed this amendment and I trust that it will be accepted.

Question proposed.

Mr. R. H. A. DELVES: Sir, I rise to oppose the amendment. So far as I know this is the only clause in the bill limiting the time within which the property must be acquired. There are two other clauses in this bill which have already been passed, one relating to the period within which land must be acquired after its notification under section 32, and the other limiting the period within which it must be acquired if buildings are in course of construction. When the land is actually notified I think the owners of property under these two sections can get their grievances remedied.

Sir VASANTRAO A. DABHOLKAR: Sir, I do not agree with the honourable member who preceded me. The honourable member says that this is the only clause in the bill for the purpose of acquisition, limiting the time within which the lands must be acquired. The House must not have forgotten the sins of the City Improvement Trust in 1898; it notified the wholesale acquisition of all lands in Schemes V and VI in 1898, and for more than ten years it failed to acquire them, which resulted in great hardship to the owners, as neither could they develop their properties, nor on account of the notification could any one buy them. This Council should be very cautious in giving wide powers in this respect to the City Improvement Trust. Sir, the two years' period is not a short one for the Trust to make up its mind whether to acquire the notified properties or not. Public Bodies, like the Trust in Bombay, take undue advantage of this section under the Land Acquisition Act, which must be stopped by this House. I am citing to the House a ease

[Sir Vasantao A. Dabholkar]

how the public bodies harass the public. This month there was a memorial submitted to the Bombay Corporation by the owners of properties on the DeLisle and Tulsi pipe roads whose properties were notified but not acquired for more than three years. During this period, the owners of properties whose estates were encumbered could not pay their creditors by selling the properties and the interest went on increasing. In some cases the owners could not effect any substantial repairs and the tenants refused to pay the rent. Sir, every one is aware how the relations between landlords and tenants are strained in these days of the Rent Act. The Corporation realizing the difficulties of the owners in this case, passed a resolution that either the acquisition proceedings should be cancelled at once by the Commissioner or the Scheme should be cancelled. When these are the facts before us, is it wise for us to give wide powers? Even in the select committee I was one of the members for reducing the period to two years, but my suggestion was thrown out and 3 years' period was adhered to. I would, therefore, support the honourable member's amendment. I do not think it will be a hard thing for the Improvement Trust to accept it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, it is very clear that the honourable member, Sir Vasantao, confuses notification with declaration. Within 3 years after declaration, they must come to a decision. This question was carefully considered by the select committee, and we came to the conclusion that 3 years was the proper time. In these circumstances I oppose the amendment.

Question put : House divided.

Ayes 5 : Noes 30 : Amendment lost.

Division No. 11.

Ayes.

DABHOLKAR, Sir VASANTAO A.
MANSURI, Khan Sahab A. M.
NAVLE, Mr. N. E.

RAHIMTOOLA, Mr. HOOSENALLY M.
SURVE, Mr. A. N.

Tellers for the Ayes : Sir VASANTAO A. DABHOLKAR and Mr. A. N. SURVE.

Noes.

ADDYMAN, Mr. J.
BEDREKAR, Khan Bahadur I. M.
BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DADACHANJI, Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
DELVES, Mr. R. H. A.
FRANJL, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
GRANTHAM, Mr. V. A.
HAMID M. ABDUL ALL, Mr.
HATCH, Mr. G. W.
JADHAV, the Honourable Mr. B. V.
JRHANGIR, the Honourable Mr. COWASJI

KANOA, Mr. J. B.
KUTHERO, Mr. M. S.
LAWRENCE, the Honourable Mr. H. S.
MASTER, Mr. A.
MCKEE, Mr. W. G.
MEHTA, the Honourable Sir CHUNILAL
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
PAINTER, Mr. H. L.
SARDESAL, Mr. S. A.
SAYED SHAHJADE SAHEB HAIDAR SAHEB
TRAKOR of Amod, the
THOMAS, Mr. G. A.
WILES, Mr. G.
WOODS, Mr. E. E.

Tellers for the Noes : Mr. J. ADDYMAN and Mr. E. E. WOODS

Mr. A. MASTER : Sir, I beg to move that—

In clause 36-A, delete the words " of the scheme " and insert " of any scheme notified after this Act comes into force ".

The reason for this amendment is that it is considered that the expression " of the scheme " is somewhat vague and it is intended to make it more definite.

Sir VASANTRAO A. DABHOLKAR : Sir, are we to understand that this Act will only apply to the new schemes that will be undertaken, and it will not apply to the old schemes which have been passed by the present Improvement Trust ? If that is so, I think this House will greatly object and this ought to have been discussed in the select committee. If you are going to transfer the whole of the Improvement Trust to the Corporation, can you make a division like this, that this Act will apply only to any other schemes formed hereafter ? And what about the old schemes ? Some of the old schemes are unfinished and if in the opinion of the Corporation any old scheme is found to be disadvantageous and if the Corporation wants to cancel it, what will happen ? Corporation cannot cancel the old schemes which are not completed, though financially they may be a loss. I should like to know from my honourable friend the General Secretary to what schemes this Act applies.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I rise to oppose the amendment. Government are accepting the principle for the first time that there should be a limit within which property notified under any scheme should be acquired. If they are accepting this principle, why should it apply to only new schemes and not to the old schemes ? It was because the old schemes have caused hardship to many people, as the Improvement Trust for a considerable number of years has not acquired property which has caused trouble and inconvenience to people, that this clause was inserted. And, therefore, to restrict it only to new schemes that will be formed hereafter will be no good. The schemes at present undertaken by the Improvement Trust are so very large that it is very doubtful whether any large scheme will be undertaken in the future for a number of years. For instance, the Dharavi Scheme has been declared and notified for a number of years, but the Improvement Trust has not done anything. If the principle is accepted, it should apply to all schemes. Either Government should accept the principle or they should not accept it. I, therefore, oppose the amendment.

Mr. R. H. A. DELVES : Mr. President, this clause, as I said a few minutes ago, is a new clause. Now, Sir, there is a considerable amount of land which was notified three years or upwards ago which has not yet been acquired for one reason or another, and I believe that the liability outstanding for acquisition is somewhere round one crore of rupees. Now, Sir, in this section if it is proposed to include land notified three years ago, the liability will be very considerably increased, because if the Board fails to acquire the land, the owner has the power to call upon the Committee to acquire the land or withdraw from the proposal. The amendment is that it should be made plain that the clause applies only to schemes which may be notified after this Act comes into force.

Mr. A. MASTER: Sir, I have nothing to say.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I too have nothing to say.

Question put. House divided. Ayes 23: Noes 3: Amendment carried.

Division No. 12.

Ayes.

ABDUL LATIF HAJI HAJRAT KHAN, Mr.	HAYWARD, the Honourable Sir MAURICE
BEDREKAR, Khan Bahadur I. M.	HOSSACK, Mr. W. B.
BUNTER, Mr. J. P.	JADHAV, the Honourable Mr. B. V.
DADACHANJI, Dr. K. E.	JEHANGIR, the Honourable Mr. COWASJI
DEHLAVI, the Honourable Mr. A. M. K.	MASTER, Mr. A.
DELVES, Mr. R. H. A.	MONTGOMERIE, Mr. A.
FRAMJI, Mr. K. S.	MOUNTFORD, Mr. L. J.
GHOSAL, Mr. J.	OWEN, Mr. A. C.
GHULAM HUSSAIN, the Honourable Khan	PAINTER, Mr. H. L.
Bahadur SHAIKH	SARDESAI, Mr. S. A.
HAMID M. ABDUL ALI, Mr.	SAYED SHAHJADE SAHEB HAIDAR SAHEB
HARRISON, Mr. R. T.	THOMAS, Mr. G. A.

Tellers for the Ayes: Mr. J. ADDYMAN and Mr. A. C. OWEN.

Noes.

DABHOLKAR, Sir VASANTRAO A.	SURVE, Mr. A. N.
RAHIMTOOLA, Mr. HOOSENALLY M.	

Tellers for the Noes: Sir VASANTRAO A DABHOLKAR and Mr. HOOSENALLY M. RAHIMTOOLA.

Clause 36-A, as amended, ordered to stand part of the bill.

The Honourable the PRESIDENT: I will now revert to clause 10.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I want still further time to be ready to go on with clause 10.

The Honourable the PRESIDENT: I understand that Government are not yet prepared to discuss clause 10, and I trust the House will have no objection to delay its consideration a little longer. I will, therefore, proceed with clause 37.

Clause 37 (*The Committee on being satisfied by official representation of unhealthiness of an area to make scheme for its improvement*) ordered to stand part of the bill.

Clause 38 (*The Board may direct the Committee to make a scheme*) ordered to stand part of the bill.

Clause 39 (*Meaning of "official representation"*) ordered to stand part of the bill.

Clause 40 (*Application by employer of Poorer Classes' Accommodation Scheme*) ordered to stand part of the bill.

Clause 41 (*Land on which dwellings may be constructed*) ordered to stand part of the bill.

Clause 42 (*Procedure on completion of the scheme*) ordered to stand part of the bill.

Clause 43 (*Procedure when dwellings are to be constructed on Schedule C land*) ordered to stand part of the bill.

Clause 44 (*Deposit and notice*) ordered to stand part of the bill.

Clause 45 (*Term of lease and amount of rent*) ordered to stand part of the bill.

Clause 46 (*Provisions as to lease*).

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) The lessee shall be liable for the payment of all rates and taxes.

(d) 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) 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) 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) 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.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move the following amendment—

In clause 46 (e), after the word "Committee" in line 15, add the words "subject to revision by the Board if necessary".

Clause 46 (e) contemplates two things. It contemplates, in the first instance, the fixing of the initial rate of rent. The second thing it contemplates is the alteration in the rent once fixed. To begin with, the Committee is to fix this rent after consulting the lessee, who is always an employer of labour. Therefore, I submit that if the employer of labour is to have a voice in getting this rent fixed, it is highly desirable that, if any dispute arises, the right of finally determining the rent should rest with the Board. At present, as the clause stands, the Board will have absolutely no voice whatsoever. The matter will be decided by the Committee, and it will be final. It is never in the interest of labour that the Committee should have the final say in the matter. I appeal to the members of this House who are in favour of labour to accept my amendment, which is in the interest of the labouring classes.

Question proposed.

Mr. S. K. BOLE: Sir, I support the amendment. I think the final right of determining the rent should rest not with the Committee, which will consist mainly of employers of labour and vested interests. There will be no representative of labour there. It is therefore necessary that the final right should rest with the Board and not with the

[Mr. S. K. Bole]

Committee. Sir, to give one instance, the Standing Committee of the Corporation is authorised to fix some rents, and they fixed the rents of the stalls in the Crawford Market.

The Honourable Mr. COWASJI JEHangIR: To whom does the Crawford Market belong?

Mr. S. K. BOLE: It belongs to the municipality.

The Honourable Mr. COWASJI JEHangIR: To whom do these buildings belong?

Mr. S. K. BOLE: They belong to employers of labour. I want to show that in the case of Crawford Market stalls, the right of determining the rent rested with the Standing Committee, still the Corporation took up the matter for reconsideration when an appeal came from the tenants. In this case, therefore, it is much more necessary that the final right of determining the rent should be vested not in the Committee, but in the Board, as the Committee will be mainly constituted of vested interests and representatives of capital. Under these circumstances, I hope that the amendment will be accepted.

Mr. R. H. A. DELVES: Sir, I rise to oppose the amendment. It seems to me that the Committee will be the proper body to fix the rents. They will have the management of a very large number of tenements, and they know what the people can afford to pay and what they cannot afford to pay. As regards the employers of labour, it is only fair that they should be consulted, because, after all, they have got to pay due regard to the amount spent on the erection of these buildings. The employers of labour have got to pay the whole of the interest and sinking fund charges in 30 years. But the Committee may be relied upon to fix a rent which is well within the means of the persons who are likely to inhabit the chawls. The Improvement Trust at present has fixed rents for similar kinds of buildings carried out under the various accommodation schemes, and so far as I am aware there has been no complaint whatever. I therefore oppose the amendment.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, the honourable mover of the amendment has appealed to members of this House who have supported the cause of labour to support him. But we have already provided that the Board should have general control over the Committee; the Board has therefore the right to be consulted every now and then. The best course would, I think, be for representatives of labour to ask the committee to consult them, that is, regarding matters affecting them, and I do not doubt the committee will in all such matters consult the representatives of the working classes.

Mr. S. K. BOLE: They will not be there on the Committee.

MOULVI RAFIUDDIN AHMAD: But the executive committee has power to consult members outside the committee. I hope in this matter the committee will give consideration to the views of representatives of the labouring classes. If there arose any serious misunderstanding, the Board has the power to control the committee, the Board

[Moulvi Rafuiddin Ahmad]

could lay down instructions to the Committee which the committee was bound to obey. The honourable member has requested that all those members who have supported the claims of labour should accept this amendment, but I hope he does not expect that they should support almost every detail so far as the complaints of labour are concerned.

The Honourable Mr. COWASJI JEHangIR : Sir, may I just explain the position ? The Improvement Trust Act was amended to enable the owners of factories to build chawls for their workmen. It was felt that there were not sufficient chawls in Bombay, and Government were anxious that more accommodation should be provided. They therefore hit upon a method by which the Trustees could finance the millowners to construct the chawls. The ultimate owners of these chawls will have to pay off the capital expenditure both on land and buildings within 30 years. They pay the interest, and sinking fund charges and these chawls become their property in 30 years. Now, Sir, while these chawls still technically belong to the Trust, the Trust have the power of fixing the rents in consultation with the lessees, who are the ultimate owners. Surely, Sir, that is enough control. It is the owners of factories who finance the whole scheme. As a matter of fact, you would expect that they would be the people to fix the rents as they liked, but as they are being financed by a semi-government body, that body, under this bill has been given the power of fixing the rents in consultation with the lessees. In order to see that the millowners do not take advantage of this provision and do not charge more than what the workmen can afford to pay, a check is embodied in this clause by giving the committee the right of fixing these rents during the period the capital expenditure is being paid off. I think the safeguards provided are quite sufficient. My honourable friend who gives the analogy of the municipal stalls in the Crawford Market rather confounds the issue. Those stalls belong to the Bombay municipality, they are the property of the municipality. In the present case, these properties do not absolutely belong to the Improvement Trust. These chawls are being built on behalf of private owners. The private owners are paying interest charges and are getting rents. The Improvement Trust are merely financing private owners of factories.

Mr. A. N. SURVE (Bombay City, North) : Sir, to begin with, the demand made on behalf of labour to give it a representation on the committee has not been fully accepted. There may be a representative or there may not be a representative. It will depend on the choice of Government. If there is no representative, then matters will go by default and the interests of labour will suffer.

Another point is that even though the buildings are not to be the absolute property of the Trust, still for the first 30 years they are to be under the control of the Trust. The money in the first instance is to come out of the public funds. The millowner or the builder will repay the amount in instalments. In order that the full money should be paid off the Trust will not give him the full control over the chawls. If this point is concealed

[Mr. A. N. Surve]

then the Honourable the General Member is not quite correct in his statement that the building is not the absolute property of the Trust. Till the money is fully paid off, it will remain the property of the Board. Again, the rate of rent once fixed may be subsequently altered, if conditions change. There is a provision in the clause that the rate may be altered. For this reason, it is necessary that the power of fixing the rent should vest finally with the Board. You have the experiment of the Development chawls before you. You fixed the economic rent; but when you found that there were no tenants, then you went on decreasing the rent.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, in this case the tenements belong to the Improvement Trust in the first instance, and ultimately it is the property of the owners at whose instance they are built by the Improvement Trust. These owners will have to pay all capital expenditure as well as interest, while what we wish the committee to do is to fix the rent in consultation with the lessees. It is not the lessees that will fix the maximum rent. Who are the members of this committee? They are members of the corporation returned by the ordinary ratepayers. I am sure that they will be as anxious to safeguard the interests of labour as any one of us here. I am confident that the interest of labour will be quite safe in their hands. Further, Sir, this committee will only fix the maximum rent. If the rent is very high, nobody would occupy the tenements. Naturally, the owners would not be exorbitant in their demands and thus allow their tenements to lie vacant. The committee will be impartial both to the owners and labourers. Suppose we accept this amendment. There are nearly 20,000 tenements. The whole time of the Trust will be taken up in deciding appeals. The Improvement Committee is an important body, and we may leave this small matter to that body.

Question put and lost.

Clause 46 ordered to stand part of the bill.

Clause 47 (*Lessee may commute the rent*) ordered to stand part of the bill.

Clause 48 (*Lessee not to make alterations so as to reduce the accommodation*) ordered to stand part of the bill.

Clause 49 (*Default and determination of the lease*) ordered to stand part of the bill.

Clause 50 (*The Board to have power to make a police accommodation scheme*) ordered to stand part of the bill.

Clause 51 (*Procedure on completion of a scheme*) ordered to stand part of the bill.

Clause 52 (*Vesting of land in board*) ordered to stand part of the bill.

Clause 53 (*Provision as to schemes hitherto sanctioned*) ordered to stand part of the bill.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move :

After clause 53 add the following as clause 53A :—

“ The Board shall take over such of the development schemes of the Corporation as the Corporation may decide to transfer to the Board subject to such financial adjustments and conditions as may be agreed upon and on such decision being communicated to the Board all the formalities required under this Act before a scheme can be undertaken by the Board shall be deemed to have been observed.”

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I rise to a point of order, Sir. My point of order is that this amendment is outside the scope of this bill. The bill contemplates the transfer of the Improvement Trust to the corporation ; but the property and finances of that body will have to be kept apart. The existing schemes will be transferred to the corporation and if any new scheme is to be initiated certain preliminaries will have to be observed. My honourable friend wants that the schemes started by the corporation should be taken over by the Improvement Trust Committee. Some of these schemes are already in progress.

And my next point is, that my honourable friend wants to take away the power of sanction given under the bill to the Improvements Committee as well as to Government. Therefore, I submit that it is out of order.

The Honourable the PRESIDENT : There are one or two points on which I should like to get some more light before I decide this point of order. The first point is whether the Improvement Trust is proposed to be transferred to the Corporation and is for all practical purposes to be worked by a committee of that body. If it is to be worked by a committee of the Corporation, then the power of entrusting further work to be undertaken by the committee must rest with the governing body and that must clearly be regarded as one of the principles of the whole Act. Unless it is contended that the Improvements Committee is not a committee of the corporation and that the work of carrying on the duties of the Improvement Trust are not being transferred to the Corporation, the point of order can hardly arise. If the bill and the amendment which has been accepted to-day vest the general control over the Improvements Committee in the corporation, and if the Improvements Committee is a committee of the Corporation, I cannot see what objection there can be to the House deciding whether the right proposed in the amendment should be conceded to Corporation or not. Whether the House will accept or reject the amendment is a question to be decided by itself. I do not understand why honourable members should be prevented on a point of order from discussing the matter when the kind of work which the Corporation is now doing as a separate body and that which the Improvement Trust has been doing is identical. The provision of finance is already made in the amendment. I will allow the Honourable Minister another opportunity to remove my doubts. I for one cannot see any force in the point of order. I want the Honourable Minister to bear in mind this. If the Improvements Committee is a committee of the Corporation, if the officers are appointed by the Corporation, if the work is municipal work, if the whole object of the

[The President]

measure is to transfer what has been contended for many years to be municipal work to the Municipal Corporation, why should not the Corporation be allowed to effect economy in municipal expenditure by calling upon its committee to do the work for which it is being constituted—work of the same or of identical character? I cannot see how the point of order arises. Of course it is the business of the Legislative Council to decide as they like on the merits of the question. (After a pause.) If the Honourable Minister has nothing further to say.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I have to say a good deal. I have even consulted the Legal Remembrancer on the point. There are two distinct bodies here. Nominally we are transferring the Improvement Trust to the Corporation, but, as I stated before, the properties and finances will be separate. The Improvements Committee has to deal with certain schemes of the Improvement Trust, and not with the schemes or the property of the Corporation. Further, Sir, after the schemes of the Improvement Trust are over, then all the properties of the Improvement Trust, as well as its finances, will merge into those of the Corporation, but not till then. Again, Sir, in the case of the schemes of the Improvement Trust, every scheme will come before the Improvements Committee first, and will then be sanctioned by Government. But the schemes of the Corporation, which are proposed to be transferred by the amendment, do not now require any such sanction. That means that the amendment is outside the scope of the bill.

The Honourable the PRESIDENT : The Honourable Minister has not. I think, answered my point. My point is, so long as additional financial obligations are not imposed, why should not the Corporation have the power to entrust to its own committee work of a kind similar to and identical with what it is proposed to entrust to that committee by this bill? The Honourable Minister says that these are two distinct bodies. All the speeches I have heard upto now on the bill and on the amendment moved now, show that the work of the Improvement Trust is being transferred to the Corporation and has to be carried out by the Corporation. I can quite understand that if this amendment contemplated imposing additional financial burdens on the committee it would be for consideration whether it is in order. I am not dealing with merits, but with the point of order raised. Most of the arguments advanced by the Honourable Minister are arguments on merits. But I am dealing with the legal question, which is, why should not the Corporation as the governing body, as the board of trustees, without imposing any financial obligations upon the Improvements Committee, entrust the committee with the carrying out of similar kind of work and thus get their work done by an expert body more efficiently and more economically? It is not my function to deal with the merits of the case, but I do not see how it is not within the scope of this measure. I hold the amendment in order.

Mr. E. CLEMENTS : Sir, I should like to.....

The Honourable the PRESIDENT: The honourable member is too late now.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): Sir, the Corporation when they sent their report on the bill asked Government to provide a similar clause in the bill to enable them to transfer their present development schemes, all or any of them, to the Improvement Trust. Government have not done so. The Improvement Trust and the Municipality will be carrying out similar work in relation to the development of the city, and it is very desirable that the same kind of work should be done by one agency in the interests of economy and of co-ordination. That was why the Corporation recommended to Government that they should embody a clause of this kind. I hope, as the point of order has been settled, Government will see their way to accept this clause.

Question proposed.

Mr. R. H. A. DELVES: Sir, I rise to oppose the amendment. I do not think that the transfer of the work can be carried out to the satisfaction of the corporation as the amendment is worded. Now, Sir, it was as long ago as February 1924 that a special committee was appointed by the corporation to consider the draft of the bill. That committee were asked to consider and submit definite proposals as to the ways and means how the corporation work can be transferred to the new Board and what alteration should be made in the Municipal Act and the Improvement Trust Transfer Bill for the purpose. The committee that submitted a report on the bill stated :

"The Committee are awaiting a report on the question from the Commissioner, and will submit their recommendation on receipt thereof. In the meantime the Committee consider it advisable to make a provision in the new bill enabling the Corporation to effect such a transfer, if they so choose, and therefore recommend that Government be requested to insert a section in the Bill so as to provide as follows....."

Well, Sir, I submit that that does not go enough into the detail bearing in mind the fact that the finances of the Corporation and the Trust are separate. In various clauses in this bill the Board's powers are strictly limited, and I think that more than one clause is necessary. I have given a good deal of thought to this and it has occurred to me that if any clause in this bill which has been passed calls upon the Board to make schemes, that might embarrass any of their schemes. All the formalities laid down in the bill should be gone through and the new Board and the Corporation must have a chance of knowing as to what the financial effect of taking over such schemes must have on their finances. This is an important point which has not been provided for in the amendment. Therefore, Sir, I oppose the amendment.

Sir VASANTRAO A. DABHOLKAR: I rise to support the amendment. I do not agree with the honourable member the Chairman of the Improvement Trust that the amendment as worded would not work well. In the Committee's report to which the honourable member the Chairman had attested his signature the wording is the same as in the amendment. The Committee decided to await the Commissioner's report only on the

[Sir Vasantao A. Dabholkar]

question whether this department can be transferred. At the foot of the paragraph the Committee was emphatically of opinion :

"In the meantime the Committee consider it advisable to make a provision in the new Bill enabling the Corporation to effect such a transfer, if they so choose, and therefore recommend that Government be requested to insert a new section in the Bill so as to provide as follows :—

The Board shall take over such of the development schemes of the Corporation as the Corporation may decide to transfer to the Board subject to such financial adjustments and conditions as may be agreed upon and on such decision being communicated to the Board all the formalities required under this Act before a scheme can be undertaken by the Board shall be deemed to have been observed."

That is exactly the amendment which has been moved. The Chairman of the Improvement Trust approved of his recommendation at the Committee meeting of the Corporation, and I do not understand why he is raising objections to it now. Further, Sir, in the bill the work of the Improvement Trust is to be transferred to the Corporation and as the Corporation has got general control over the Improvement Trust the Corporation can transfer all their development schemes to the Improvement Trust; this is merely giving and taking responsibility for the amalgamation of the development department of the Corporation with the Engineer's department of the Trust. The amendment as at present moved is based on the report of the Committee of the Corporation which is signed by the honourable member the Chairman of the Improvement Trust. In fact the wording is exactly the same and I do not know why the Chairman of the Improvement Trust objects to the amendment now.

MOULVI RAFI UDDIN AHMAD (Central Division) : What the House would like to know is whether this Improvement Committee is the Committee of the Corporation as the Honourable Minister has announced, and as the two Committees have different finances. Moreover the difficulties pointed out by the Honourable the President have not been answered. It is exceedingly difficult for us to vote one way or the other in the absence of this information. I hope my honourable friend the Legal Remembrancer will explain the legal technicality involved in the question.

Mr. A. N. SURVE : Sir, as a disinterested party I think that there is great force in the amendment that has been moved. Why should there be a duplication of agencies to carry out the same object? I do not see why the municipality and the Improvement Board should execute their improvement schemes separately. Such a procedure makes the administration expensive and less efficient. On the ground of economy it would be far better that, if the Corporation is of opinion that its improvement schemes should be executed by the Improvement Committee, it should be at liberty to transfer to the committee of the Improvement Board.

The Honourable Mr. COWASJI JEHANGIR : Mr. President, I am afraid that there is some confusion and I will try to explain the position as clearly as I can. I will ask honourable members not to hesitate to interrupt me if they do not understand any point. The original Improvement Trust Act brought the Board into existence. The Trustees

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were a body quite independent of the corporation, but the corporation were given representation on this body of Trustees. It has all along been contended that the creation of this Trust infringed the privileges and interfered with the functions of the corporation, and there was consistent agitation inside and outside the corporation that the work of the Trust should be handed over to the corporation. Now, Sir, during the 30 years of the existence of this Trust honourable members will realise that the Trust did not sit idle. Large improvements were effected and huge financial responsibilities were incurred; and when it came to thinking out a method of handing over to the Corporation....

Mr. HOOSENALLY M. RAHIMTOOLA : May I know, Sir, whether all this past history is relevant ?

The Honourable the PRESIDENT : Yes, it is quite relevant.

The Honourable Mr. COWASJI JEHANGIR : And when it came to thinking out methods of handing over the responsibilities of the Trust to the Corporation, I can assure my honourable friend that it was not an easy matter. The Corporation agreed to the following main principles : That for the purposes of the Improvement Trust they should form themselves into another body called the Board of Trustees. That is to say, that all the members of the Corporation should be the future Trustees. When the Corporation sit to transact the work of the Improvement Trust, they will not call themselves the Corporation; but they will call themselves the Board of Trustees. They will be presided over by the President and they will have with them the Chief Officer, instead of the Municipal Commissioner, as the executive head of their department. Now, Sir, this large body of 106 members cannot naturally do the work of the trustees, nor have they the time to do it. Therefore, the Act provides that they shall have a committee, which is called "the Committee," under this new legislation to do the work for them and they will delegate a large number of their powers to this committee. All the provisions are in this Act and they clearly show what powers are being delegated by the Board of Trustees to this new committee. The Board is formed merely to carry out the work that is now carried out by the Improvement Trust and, naturally, the powers of delegation are merely powers to do the work that is now being done by the trustees. My honourable friend desires to move an amendment that this board of trustees should be able to ask the new committee, which is a committee of the trustees to carry on the schemes that have been initiated by the Corporation and which are now being carried on by the officers of the Corporation.....

The Honourable the PRESIDENT : May I draw the attention of the Honourable the General Member to the fact, that the title of the bill under consideration, is "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" ? I merely draw his attention to it.

The Honourable Mr. COWASJI JEHangIR: Yes. This is the title of the Act. The constitution which I have just outlined is the constitution in the bill. Therefore, when my honourable friend desires to give the power to the Corporation to entrust this committee with the work of completing schemes that the Corporation are themselves carrying on at present, he will find that it is really against the spirit of the constitution that the Corporation themselves have suggested. But the Chairman of the Improvement Trust has suggested a very good remedy. He says that, if the Corporation desire that any of their present existing schemes should be brought to completion by the Committee all they have got to do is to ask the president to call a meeting of the trustees and then to resolve that the committee shall bring up recommendations for a new scheme which shall embody one or more of the Corporation's existing schemes. In this way the Corporation can ultimately make the committee carry on the work of any of their existing schemes. But, if you give this power direct to the Corporation, I do not see how it will work. The Corporation as trustees can pass any resolution, can ask the committee to bring up any scheme, but the Corporation as the Corporation cannot ask this committee to bring up any scheme. Thus the Corporation sitting as trustees alone can dictate to the committee and as trustees they can ask them to bring forward any scheme embodying any other schemes that may be in existence provided the procedure laid down in the bill is followed. I think that will solve the difficulty. If there is any difficulty that still strikes honourable members, and if I am able to explain it, I shall be very pleased to do so.

Mr. J. BAPTISTA: Sir, I beg to support the amendment that has been moved by my honourable friend. No doubt, juridically speaking, the corporation is a distinct entity from the Board that is now created. But, practically speaking, it is not distinct, as it is composed of the very same Councillors. But the juridical idea has been so very predominant in the minds of the Honourable Minister and the Government that the bill actually provides that if there be any difference between the Commissioner and the Board, it shall be referred for decision to the corporation, though the corporation and the Board consist of the very same persons. This is nonsense, but the same nonsensical idea is contained in the argument of the Honourable Mr. Cowasji Jehangir when he says that the corporation cannot pass a resolution, but the Board can, to transfer Development Schemes from the corporation to the Board. Evidently, this is a distinction without a difference. It seems to me, Sir, that he is making too much of the juridical notion without realising the practical effect. At present the Committee is given the power of making a scheme and the matured scheme will come before the Board. Of course, the Board can control the Committee. The board may pass a resolution asking the committee to carry out a scheme which the Corporation has already undertaken, but it will have to be notified, and it will have to comply with the laborious procedure obligatory in improvement schemes; why not dispense with all this and enact that the resolution of the corporation would suffice for the transfer of schemes in progress? The process

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suggested by my honourable friend the mover of the amendment is a very simple process. The cost will have to be adjusted. Now there is less difficulty on this point as this property of the corporation is now given to the Board absolutely. Formerly it was temporarily. Now it is absolutely. Besides the financial burden is entirely imposed upon the corporation. No additional burden would be imposed by transfer under a resolution of the Corporation. But if the Minister and Mr. Delves prefer the circumlocutory and cumbersome process, the corporation will have no option. But it will be unnecessarily expensive. We shall have to notify the schemes over again. They have been already notified under the Municipal Act and the cost which we shall have to pay will be considerable. If a fresh notification is to be given, we shall have to rescind the old notification, and probably the prices of land, etc., may be different. It may be less or greater. If after notification we find that the prices have fallen a lot of difficulty will be created. The proposed procedure is very simple and I would suggest to the Honourable Minister not to be guided by the honourable member Mr. Delves in this matter. Mr. Delves is one of those persons with economic consciences, who are all for grabbing and never for giving. The honourable member Mr. Delves is afraid that the object of the amendment is to relieve the burden of the corporation by transferring it on to the shoulders of the Board. Nothing of the kind is intended. We shall make ample provision for the cost thereof. I think Mr. Delves would be justified in insisting that when any transfer is made that due provision will also be made for the cost thereof. It is absurd to have all this overlapping of business after the transfer of Trust to the corporation. What has been happening in the corporation in the past is this: This Board was distinct from the corporation: whenever the corporation wanted to get any schemes carried out they had to make a representation to the Improvement Trust. You know very well, Sir, what happened about the Fort area. The corporation represented that the Trust should make an improvement scheme for the Fort area. But the Board declined because priority had to be given for three or four other areas far more insanitary than the Fort area. Then came the short lived boom. The Corporation undertook partially to do what the Board hesitated to do. They imagined that they were going to make a large profit but times have changed and profits have vanished. Economy will be secured if we entrust all improvement schemes to one Body. I do not think that we should refuse this amalgamation merely on theoretical ground that the corporation is one entity under the law and that the Board is another entity. The corporation and not the councillors in their individual capacity are to be the trustees and the corporation shall be known as the Board, and therefore there is no fear that the Improvement Trust will be burdened with the cost of the development work which the corporation may ask the Improvement Trust to undertake on its behalf. I hope the Honourable Minister will accept the amendment.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce): Sir, I oppose this amendment. I have listened with very great care to the

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ingenious arguments put forward by the honourable member, the president of the municipal corporation. It seems to me that in spite of his ingenious arguments he has not succeeded in making out a case in favour of the amendment. The effect of it would simply be, after all, that we should permit the municipal corporation to insist on the Improvement Trust, which is, we believe, a solvent body, taking over certain development schemes about the solvency or otherwise of which the citizens of Bombay have considerable doubt. As I understand this matter, the municipal corporation will be the sole and final arbiters as to what schemes should be taken over. In my opinion the Improvement Trust must have the right to reject any kind of gift of this sort that may be offered to it and which may effect its solvency. I oppose the amendment as being quite unreasonable.

Dr. COSMAS FERNANDEZ: Sir, I do not see why the last speaker should oppose the amendment because there is a provision made under which if there is any loss, such loss will be borne by the corporation. Proper financial arrangements will be made by the corporation in respect of works which it may entrust to the Improvement Trust. That point has already been made very clear and the honourable member Mr. Baptista has suggested another clause to put matters beyond doubt.....

Mr. V. A. GRANTHAM: I cannot see that the amendment says that "subject to such financial adjustment and conditions as may be agreed upon".

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City): Sir, I expected opposition from the honourable member, the Chairman of the Improvement Trust (Mr. Delves). I will now go into the history of this question. The corporation asked their committee to prepare a bill and they also asked the committee to consider the question whether, when the Improvement Trust was transferred to the corporation, it would be advisable to transfer the present development schemes to the Improvement Trust to be administered by one and the same body. The committee of the corporation referred both these questions to a sub-committee and Mr. Delves was asked to draft this bill on behalf of the sub-committee. It seems that Mr. Delves forgot that the sub-committee had decided to avoid legal difficulty that such a clause should be put into the bill to enable the corporation if they came to a decision later on that it was desirable to transfer their schemes to the Improvement Trust. When the sub-committee's bill was finally prepared, this clause was not put in by Mr. Delves. When the report came before the committee my attention was drawn to it and I asked the Municipal Secretary to write and ask Mr. Delves to bring a draft clause for the purpose. Here is a copy of the letter which the Municipal Secretary wrote to Mr. Delves:—

"No. 4923.

Municipal Secretary's Office,
Bombay, 13th August 1924.

Dear Mr. Delves,

"My attention has been drawn by Mr. Hosenally Rahimtoola to the fact that the Sub-Committee had decided to insert a clause in the draft Bill for making a provision in

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the Bill, to enable the Corporation, if they so desire, to transfer the Development Department *under the Special Engineer* to the Improvement Trust. It seems by oversight you have omitted to put in this clause. May I therefore request you to draft a necessary clause and send it to me by Friday morning to enable me to place it before the Committee on Friday.

"Yours Sincerely,

"(Signed) A. A. MORLVI.

"To

"R. H. A. Delves, Esq."

Mr. Delves did not bring this clause. Therefore, as the bill was already printed the committee decided to recommend to the corporation that they should move Government to put in this clause when they published the bill. That was the recommendation of the committee and Mr. Delves signed that report. The corporation approved of the report and requested Government to put in a similar clause because the bill was already printed and there was no time to insert the clause which would have caused a lot of trouble and expense. But Government evidently forgot to do so.

Now, let us see what the attitude of the Improvement Trust is on this question. Here I have got the report of the committee of the Improvement Trust which considered this bill. The report says :

"We observe from the Corporation Committee's Report that they are anxious that the development schemes of the Municipality should be taken over by the Board. We consider, however, that as far as the Schemes now in progress are concerned, the Board should not agree to do more than undertake the administration of the same, the Corporation remaining liable for finance."

This is the recommendation of the committee of the Improvement Trust Board and the resolution of the Board on that is that they accept the report of the committee. That means they accept this recommendation of their committee. That is the history of the question.

Sir, what do the corporation want? They have not yet decided whether it would be desirable to transfer their Schemes to the Improvement Trust, and whether to do so would lead to economy and efficiency. They, however, feel that to carry out development schemes under one agency might make for economy and efficiency.

And what the Corporation want to be done is what the recommendation of the Improvement Trust is : they want that the Improvement Trust should carry out to completion the present schemes of the Corporation as agents of the Corporation and nothing else, without going into the formalities of notification, declaration, and so on. There will be two departments of the Corporation, one the Development Department under the Special Engineer, the other the Improvement Trust, doing the same kind of work. Is it not in the interests of the Corporation to see that this work should be done by one department? It is co-ordination, efficiency, economy, and it is in the interest of the tax-payers. Even the Board of the Improvement Trust wanted it. We do not want to throw the loss of the schemes on the Improvement Trust, nor do we want to give them the profit. We want them to complete these schemes as agents of the Corporation, and we will pay them for it.

An Honourable MEMBER : What are the schemes?

Mr. HOOSENALLY M. RAHIMTOOLA : One is the Mahim scheme, which the Corporation had recommended the Improvement Trust to take up, but they refused to do so. I am told that Government refused to take up the scheme, because of the loss of revenue they would suffer on account of the removal of the toddy palm trees. Then there is the Hornby Road Ballard Pier Scheme; because the Improvement Trust refused to take it up, the Corporation had to take it up. All that we want is that the Improvement Trust should carry them out as our agents, as the agents of the Corporation; we will pay them for it. That is the object of the amendment, to enable them to do it; otherwise they will say they cannot do it: Notification, declaration, publication, and taking sanction of Government—the Board will not have to do all this again under my amendment. Government have already approved of the schemes, because they have sanctioned our loans. We have borrowed from the public for financing these schemes. Why should there be any objection on the part of Government? Where is the insolvency? Government had appointed a special committee of experts to go into the development schemes of the Corporation, and they came to the conclusion that financially they were all right. That was two years ago.

MOULVI RAFIUDDIN AHMAD : Government has advanced loans to the Corporation?

Mr. HOOSENALLY M. RAHIMTOOLA : Yes, crores of rupees. Recently we got Rs. 50 lakhs from them.

Now, what does this amendment say? It recommends the insertion of a clause which was recommended by the committee and approved by Mr. Delves, because he has signed the report of the committee without any minute of dissent. The amendment is that the Board shall take over such of the development schemes of the Corporation as the Corporation may decide to transfer to the Board. It is only if the Corporation decide it that it will be done. The amendment is moved so that it may not be necessary to amend the Act again, if the Corporation decide to do so in future. That is why I say “.....transfer to the Board subject to such financial adjustments and conditions as may be agreed upon.....”.

The Honourable Mr. COWASJI JEHANGIR : Can it be done under the Municipal Act?

Mr. HOOSENALLY M. RAHIMTOOLA : Why not? I will give one example....If a work was to be carried out, one part of which belonged to the Improvement Trust, one to the Municipality and one to the Port Trust, only the agency carried out the work and the cost was shared by all. Very often the Improvement Trust carries out works for us and we pay them for doing so. In the case of the Kasheli bridge, we made the road for Government, and Government paid us.

To me it appears, Sir, that the whole question is that if these two departments are combined, there will be a reduction of certain officers. That will be the necessary result, because this duality and the extra number of engineers will not be necessary afterwards. Duplication of staff

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will not be necessary, and some people will have to go as a natural consequence. That is where the shoe pinches and that is why the chairman of the Improvement Trust takes objection to it.

Mr. R. H. A. DELVES: Sir, may I rise to make a personal explanation? It has been stated that the Municipal Secretary wrote to me on a certain date in August 1924 asking me to submit certain sections—to whom? I do not know, because I did not hear.....

Mr. HOOSENALLY M. RAHIMTOOLA: The letter was written to Mr. Delves.

Mr. R. H. A. DELVES: To whom was I to submit the sections?

Mr. HOOSENALLY M. RAHIMTOOLA: May I offer you, Sir, a copy of the letter which I got from the municipality?

The Honourable the PRESIDENT: The honourable member Mr. Delves can see it, because he is making a personal explanation.

Mr. R. H. A. DELVES: It is a demi-official letter, dated the 13th of August 1924, and not 1925.

Mr. HOOSENALLY M. RAHIMTOOLA: I said 1924: I was reading from the letter.

The Honourable the PRESIDENT: I should like the honourable member to proceed with his explanation.

Mr. R. H. A. DELVES: All I can say is that I have no recollection of having received this letter. It is dated the 13th of August 1924, and no reminder has ever been sent. I have no idea of the committee referred to here.

Mr. HOOSENALLY M. RAHIMTOOLA: May I explain, Sir, that no reminder was sent, because the committee met on the Friday following, and decided the question. There was no necessity therefore to make a draft clause. That is why no reminder was sent.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, it is admitted by all that the Corporation and the Board of trustees are two distinct bodies. The finances, for the purposes of the Improvement Trust, of the Board of trustees are distinct from those of the Corporation, and this bill deals only with the improvement schemes. The amendment proposes to transfer the municipal schemes to the Improvements Committee. Now, Sir, I do not think that could be done without amending the Bombay City Municipal Act.

Further, under this bill, in the case of every scheme of the Improvement Trust, certain preliminaries are to be observed. The scheme has to be formulated by the Improvements Committee, and sanctioned by it: then the sanction of the Board is required: and lastly the sanction of Government is required, because Government are responsible for the finances of the Improvement Trust. Now, what does this amendment propose to do? It seeks to transfer the schemes which belong to the Corporation and which have nothing to do with the Improvement Trust, to the Improvements Committee. This bill has nothing to do with those

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schemes, and it is proposed to transfer those schemes, so that they may be carried out without observing any of the preliminary formalities. At present Government have to sanction the improvement schemes, because they are responsible for the finances of the trust.

Again, the amendment proposes that the Board shall take over such of the development schemes of the Corporation as the Corporation may decide to transfer to the Board, that is to say, whether the schemes are good, bad, or indifferent. If the Corporation thinks that any scheme is not paying to them, then they will transfer it to the Board which consists of the members of the Corporation. The Corporation may hand over schemes which are not paying to them, and thrust them on the Improvement Trust, without the schemes being examined by the public, or the Improvements Committee, and without obtaining the sanction of Government. The members of the Corporation are members of the Board, and every scheme that may not be paying to the Corporation may be transferred to the Improvement Trust, without any of the preliminaries being observed, or without obtaining the sanction of Government. There lies the defect of the amendment.

Again, Sir, as far as I know the finances of the Improvement Trust are not equal to all these schemes that the Corporation is going to thrust upon them, and they will have to borrow money, and so far as borrowing is concerned, it is clearly provided that they cannot borrow except for Improvement Trust schemes. This amendment thus upsets all the principles underlying the Improvement Trust Bill. It does away with the preliminaries that are prescribed with regard to Improvement Trust schemes. No doubt, the corporation can get the work done by the Improvements Committee provided they keep separate accounts for both, but not otherwise. The members of the committee are members of the corporation. After a few years the Corporation may say that the Improvement Trust is a useless body, and has run its affairs at a great loss, without telling the people that they have thrust all the corporation schemes on them. I therefore strongly object to this course. The Corporation may, if it cares, employ the Improvements Committee for doing the corporation work, but they should keep separate accounts. With these words I oppose the amendment.

Question put and lost.

The Honourable the PRESIDENT: I take it now that the Government are ready to proceed with the consideration of clause 10.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I am prepared to give representation to labour, but in the following way: We may retain the number 18 here and take away the municipal commissioner as *ex-officio* member. Instead of three by nomination, we can have four by nomination, of whom three will be representatives of the three associations and one will be chosen by Government to represent labour. I would like also to insert a new sub-clause instead of clause (c) thereby enabling the municipal commissioner to be present at the meetings of the Improvements Committee but without a vote. These

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changes would require an amendment. Shall I read out my amendment, Sir?

The Honourable the PRESIDENT: I want to ascertain what will be the best procedure. The amendment before the House is: "After clause 10 (c) add the following clause: '(d) two members belonging to the backward and working classes shall be appointed by Government to represent Labour.'" Does the Honourable Minister accept the amendment?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I oppose the amendment.

The Honourable the PRESIDENT: I understand that the Honourable Minister opposes the amendment that has been moved, and that he has got some other amendment by which he wants to give representation to labour. With the consent of the House, I may allow the Honourable Minister to move his amendment.

I will now put the amendment before the House to vote.

Question put and lost.

The Honourable the PRESIDENT: The Honourable Minister may now submit the amendment of which he wishes to give notice to the Council Secretary. I am quite prepared to condone the delay in giving notice but it will depend on the House whether they will agree to consider that amendment.

Clause 54 (*Municipal street required for scheme and vacant municipal and required for street to be vested in the Board*).

(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 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.

Sir VASANTRAO A. DABHOLKAR : Sir, I beg to move the following amendment that stands in my name :—

“In clause 54, delete the words ‘for the purpose of this section vacant land shall mean land not built upon’ at the end of clause 54.”

At present, vacant land is interpreted to be land not beneficially occupied and the Trust have in the past actually paid to the Corporation the value of such land even though it was the fact that the land was to be incorporated in a road which was to be handed back to the Municipality. There was a reason for this as certain lands have to be kept unbuilt upon e.g. road-metal depôts, public gardens, etc. If this Act be amended, as proposed, the Corporation will receive no compensation in such cases. Though the Improvement Trust is to be transferred to the Corporation the accounts will be kept separately. If this proviso is introduced in the bill, it will mean that the municipality will be a loser as far as their open spaces are concerned and the corporation will get no compensation for their lands taken by the Improvement Trust. Under these circumstances I hope the Honourable Minister will accept my amendment.

Question proposed.

Dr. K. E. DADACHANJI (Bombay City, South) : Sir, I rise to support the amendment. If this amendment is not accepted there will be a great loss of revenue. As pointed out by Sir Vasantao, if this clause as laid down is accepted the corporation will not get any compensation for the lands that would be taken by the Improvements Committee for the purposes of storing road-metal and laying out gardens. If the amendment is accepted we will get our usual revenue. I heartily support the amendment.

Mr. R. H. A. DELVES : Mr. President, the honourable mover has omitted to give the history of this section. Possibly, you know, Sir, what happened when the Act of 1898 was passed. Under the provisions of that Act, the Improvement Trust were allowed to utilise any vacant land of the corporation free of cost but they were to return the same to the corporation after their work was over. The matter came up when the Act was amended in 1913. This section was amended then and unfortunately they went to the other extreme. Then they said if the Board wanted any vacant land from the Corporation for the purpose of making roads, etc., they could take it free of cost. What have they done? “Vacant land” was interpreted as land which is absolutely unoccupied, not land

[Mr. R. H. A. Delves]

that was not built upon. We cannot take land where municipal road metal is kept without paying the full cost. So, I thought it would simplify matters if I approached the select committee and got them to agree to define "vacant land". They have agreed to define it thus: "For the purposes of this section 'vacant land' shall mean land not built upon." If, after this explanation, my honourable friend wishes to press his amendment, I have nothing further to say.

Mr. J. BAPTISTA (Bombay City, North): Sir, the difference is that "land not built upon" would include land on which road-metal is kept. Such land was paid for in the past, but if "vacant land" is described as "land not built upon" they will not have to pay for it in future. "Land not built upon" would naturally include land on which metal is kept or land devoted for some other purpose, such as recreation. Personally I do not see that it makes much difference for the Corporation. After all the capital of the Corporation and the capital of the Board are in practice the same, though in theory for the purpose of keeping accounts they are different. The Honourable Mr. Cowasji Jehangir has laid stress upon the fact that theoretically they are two distinct entities, and the Honourable Minister just now stated that their finances have to be kept separate. If they want to keep separate accounts, I do not see why they do not want to pay for the land that they take from the Municipality. I think the amendment is a reasonable one, and I hope the Honourable Minister will accept it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I accept it.

Question put and carried.

Clause 54, as Amended, ordered to stand part of the bill.

Clause 55 (*Cost of acquiring such land when to be repaid to the Corporation*) ordered to stand part of the bill.

Clause 56 (*The Board may in respect of land vested in the Board exercise certain powers conferred upon municipal authorities in regard to public and private streets*) ordered to stand part of the bill.

Clause 57 (*Powers and liabilities of the Board as to gas-pipes in land vested in the Board*) ordered to stand part of the bill.

Clause 58 (*The Board may exercise certain powers under the Bombay Tramway Act, 1874*) ordered to stand part of the bill.

Clause 59 (*Minimum width of new streets*) ordered to stand part of the bill.

Clause 60 (*The Board may acquire land by agreement*) ordered to stand part of the bill.

Clause 61 (*Extent to which Land Acquisition Act shall apply to acquisition of land otherwise than by agreement*).

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 A A.

(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.

Mr. A. MASTER: Sir, I beg to move:

In Clause 61 (3), line 3, delete the word "or" and insert a comma between "36" and "42", and insert after the figures "42" the word "or" and the figure "51".

The reason of this amendment is that section 51 which relates to the police accommodation scheme was left out and it has to be inserted.

Question put and carried.

Mr. A. MASTER: Sir, with your permission, I will take the next two amendments together, as they are subject to the same explanation. I beg to move:

In clause 61 (3), in line 2, substitute the word "notification" for "declaration" and in line 6, delete the figure "6" and insert "4 sub-section (1)".

Sir, under the Land Acquisition Act as now amended the value of the property to be taken for acquisition should be taken as at the time of notification, and not as at the time of declaration. Declaration is under section 6, and notification is under section 4, sub-section (1).

[Mr. A. Master]

Therefore it will be necessary to change the wording of this sub-section.

Question put and carried.

The Honourable the PRESIDENT: The next amendment is from the honourable member Sir Vasantao A. Dabholkar.

Sir VASANTAO A. DABHOLKAR: Sir, I request you to allow me to move this amendment after the amendment to the schedule of which I have given notice. This amendment is consequential to the amendment of the schedule A of Part III. I have given notice of an amendment to that schedule that 15 per cent. ought to be given for compulsory acquisition, and in this proviso they have given compensation on some other basis. This is a consequential amendment, and therefore I request to be allowed to move this if my amendment to the Schedule A of Part III of which I have given notice is carried.

The Honourable the PRESIDENT: It is suggested that consideration of sub-clause (6) should be postponed. That will mean that the whole clause will have to be postponed. It has been suggested that clause 61 should stand over till the schedule is disposed of, as it has a direct connection with the schedule which is proposed to be amended by the honourable member. I take it there is no objection to complying with his request. (After a pause). There seems to be no objection. Clause 61 will stand over as suggested.

Consideration of clause 61 postponed.

Clause 62 (*Special provision as to compensation*).

In determining the amount of compensation to be awarded for any land or building acquired under this Act, 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.

Sir VASANTRAO A. DABHOLKAR : I beg to move the amendment which stands in my name :

In clause 62, *delete* sub-clause (5).

Sub-clause 5 runs thus :—

(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 ;

Sir, this clause if allowed to stand will hit very hard upon the small landlords, the value of whose properties will come to about Rs. 10,000. It does not matter to me if this clause were allowed to stand as far as rich landlords were concerned. But, Sir, what is the meaning of the expression "defective sanitation". Suppose a house has been built 75 years ago according to the then by-laws which may have existed or in the absence of any by-law such houses may have been constructed ; but if such houses are inhabited, why should not the Improvement Trust pay on the income of that property? If the house was uninhabited certainly I agree with the clause in the bill. Now for instance if Kamatipura is notified, there are such small houses and these houses have been fully occupied. There is a source of income out of these properties. You want the owners to put the houses in a sanitary condition. First what is the meaning of "sanitary condition"? The honourable member the Chairman of the Improvement Trust may say apply 60 degrees and half rule. If this rule is applied to these premises the claimant of these properties would get nothing for the house but for the land. Then it is said "good repair" What does it mean? If the house is tenanted the house must be in good repairs ; if not, nobody would occupy it. Therefore, Sir, this clause will hit hard the small landlords of Bombay and I hope the Honourable the Minister will accept the amendment.

Question proposed.

Mr. S. K. BOLE : I rise to support the honourable mover of the amendment. (Hear, hear). There are premises which the Improvement Trust as well as the Corporation have declared to be unfit for human habitation. But after acquiring the same, people are allowed to occupy these houses for several years, and in spite of petitions from residents asking the Improvement Trust to put them into other quarters as the houses were in a dilapidated condition, they never took any action. It was after some years that they built new quarters at Byculla and these men were shifted there. This is the way how poor house owners are deprived of their proper value and how poor residents of these houses

[Mr. S. K. Bole]

are put to great hardships. I think therefore that this clause should be *deleted*.

Mr. A. N. SURVE (Bombay City, North) : Sir, the rule laid down in the clause is merely an artifice to reduce the compensation which is paid to the landlords. Sanitary improvements are never made by the Trust, and yet the poor landlords are made to pay for them. I can cite one instance which I personally know, Sir. In scheme No. 29 there was one building which had an attic about 6½ feet in height. According to the ideas of the Improvement Trust valuer that attic was uninhabitable, and therefore for these 5 rooms not a single pie was given as compensation to the owner.

Mr. J. BAPTISTA : How many pies did you spend to buy it!

Mr. A. N. SURVE : All the same when the property was taken away from the owner, the Improvement Trust went on recovering rent for these rooms in the attic and that too not for one or two years but for over 11 years, i.e., from about 1912 to 1923. If the Trust authorities would say that those rooms were uninhabitable, why were they not kept vacant, why the Trust let them out at rent. I therefore submit that these clauses are only mere artifices to reduce the amount of compensation which is to be paid to the landlord. It is very unfair to the landlord. I hope therefore that the amendment will be accepted.

Sir VASANTRAO A. DABHOLKAR : Sir, on this point I had expected the honourable member the chairman of the Improvement Trust to say a few words. I am sorry to see his guilty silence. Sir, it is not only that the Improvement Trust reduces the amount of compensation to be paid to the claimants under this clause, but that it profits itself. It takes the full rent when such properties are taken possession of; not only that, but when the Rent Act was recently amended and more percentages were allowed to be charged on the rent to the landlords, Improvement Trust took advantage of the amended Rent Act, and increased the rents of the so-called insanitary houses for which the owners were paid reduced compensation under this clause. If the houses were insanitary and defective in repairs, was the Trust justified to increase the rent on such buildings. Particularly, I should like to mention the properties in Guzari Bazar and Memon Wada. If I am wrong, the chairman of the Trust, I hope, will correct me. Not only were these percentages taken advantage of by the Improvement Trust, but at the same time they had deprived the claimants of these properties of their just dues. When the landlord is to be paid the question is that the building is defective and insanitary and the poor landlord is deprived of his dues. I do not think the Council will allow such injustice to be done. I trust the Honourable Minister will accept my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: All along we have been hearing of the poor masses, but now for the first time I hear of "poor landlords". Now, Sir, what does the clause say! It says:

[Khan Banadur Shaikh Ghulam Hussain]

"If in the opinion of the court the building is in a state of defective sanitation, or is not in reasonably good repair, etc."

The question whether a house is in good repair or not is left to the court and not to the Improvement Trust to determine. This clause is absolutely necessary. Otherwise, there will be a premium on insanitary conditions.

Question put and lost.

The Honourable the PRESIDENT: We are now getting on to some very controversial amendments of which notices have been received to-day. I propose now to adjourn the House to 2 o'clock to-morrow Wednesday, the 28th October 1925.

Wednesday, the 28th October 1925.

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Wednesday, the 28th October 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
 ABDULPURKAR, Mr. N. A.
 ADDYMAN, Mr. J.
 ADWANI, Mr. D. B.
 AHMAD, MOULVI RAFIUDDIN
 ANGADI, Mr. S. N.
 BAPTISTA, Mr. J.
 BFDREKAR, Khan Bahadur I. M.
 BHURGRI, Mr. J. M.
 BHUTTO, Khan Bahadur S. N.
 BIJARANI, Khan Saheb SHEER MAHOMED KHAN
 BOLE, Mr. S. K.
 BUNTER, Mr. J. P.
 CHAUDHARI, Mr. L. S.
 CLEMENTS, Mr. E.
 COOPER, Khan Bahadur D. B.
 DABHOLKAR, Sir VASANTRAO A.
 DEHLAVI, the honourable Mr. A. M. K.
 DELVES, Mr. R. H. A.
 DESAI, Rao Saheb D. P.
 DEV, Mr. S. S.
 DIXIT, Dr. M. K.
 FERNANDEZ, Dr. COSMAS
 FRAMJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
 GRANTHAM, Mr. V. A.
 HAJI ABDULLAH HAROON
 HAJI KHAMISO GUL MAHOMED
 HAMID M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOSSACK, Mr. W. B.
 HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JAYAKAR, Mr. M. R.
 JEHANGIR, the Honourable Mr. COWASJI

JOG, Mr. V. N.
JOSHI, Mr. P. G.
KALBHOR, Mr. G. M.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
KAZI INAITULLAKHAN
KHURO, Mr. M. S.
KOKANI, Mr. G. J.
KOTHARI, Mr. V. R.
LALJI NARANJI, Mr.
LALLJEE, Mr. HOOSEINBOY A.
LAWRENCE, the Honourable Mr. H. S.
MANSURI, Khan Saheb A. M.
MASTER, Mr. A.
MAVALANKAR, Mr. G. K.
MCKEE, Mr. W. G.
MEHTA, Dr. M. M.
MEHTA, the Honourable Sir CHUNILAL
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
MUJUMDAR, Sardar G. N.
MUKADAM, Mr. W. S.
NANAL, Mr. B. R.
NARIELVALA, Mr. H. H.
NARIMAN, Mr. K. F.
NAVLE, Mr. N. E.
NEKALJAY, Mr. R. S.
NOOR MAHOMED, Mr.
OWEN, Mr. A. C.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PATEL, Mr. A. E.
PATEL, Mr. D. N.
PATEL, Mr. G. I.
PATHAN, Khan Bahadur JAN MAHOMED KHAN
PATHAN, Mr. A. F. I. K.
PATIL, Mr. D. R.
POWAR, Mr. M. B.
PRADHAN, Mr. R. G.
PUNJABHAI THAKERSI, Mr.
RAHIMTOOLA, Mr. HOOSENALLY M.
SAHEBA, Mr. H. D.
SAPTARSHI, Mr. C. M.
SARDESAI, Mr. S. A.
SAYED GHULAM NABI SHAH
SAYED SHAHJADE SAHEB HAIDAR SAHEB
SHINDE, Mr. R. D.
SHIVDASANI, Mr. H. B.
SOMAN, Mr. R. G.
SURVE, Mr. A. N.

SURVE, Mr. V. A.

SWAMINARAYAN, Mr. J. C.

THAKOR of Amod, the

THOMAS, Mr. G. A.

WILES, Mr. G.

WOODS, Mr. E. E.

The Honourable the PRESIDENT: Questions.

MAHOMEDANS ON LOCAL BODIES.

*MOULVI RAFIUDDIN AHMAD (Central Division): (a) Will Government be pleased to state whether it is a fact that no Mahomedan members have been appointed by nomination in the several municipalities and district local boards recently constituted in the Presidency proper?

(b) Will Government be pleased to give the names of municipalities and District Local Boards to which no Mahomedan member has been nominated?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:
(a) Yes.

(b) The names of the municipalities and District Local Boards to which no Mahomedan member has been nominated are mentioned in the accompanying lists†.

MOULVI RAFIUDDIN AHMAD: I find from the list, Sir, that in the Poona Suburban Municipality no Mahomedan member was appointed and the reason given was that two Mahomedans were already elected. I find that three Parsis were elected and still one Parsi was nominated. May I know the reasons from the Honourable Minister?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:
Instructions are being issued to the Commissioners that in making nominations, they should take into consideration the claims of the various minorities in their divisions.

Mr. ABDUL LATIF HAJI HAJRAT KHAN: Will the Honourable Minister state the reasons? I did not hear him.

MOULVI RAFIUDDIN AHMAD: The Honourable Minister said that instructions are being issued.

DEPRESSED CLASSES BOARDING HOUSES.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) how many boarding houses are maintained by them for the benefit of the depressed classes;

(b) and what is the cost incurred in each case?

The Honourable Mr. B. V. JADHAV: Information is being collected.

* This question was asked at the meeting held in July-August 1925, when an *ad interim* reply was given.

† *Vide* appendix No. 17.

MOULVI RAFIUDDIN AHMAD : These questions were asked at the last meeting of the Legislative Council on the 8th July 1925, and other questions have already been answered by the Honourable Ministers or Members and these have not yet been answered.

The Honourable the PRESIDENT : The honourable member can only ask a supplementary question.

MOULVI RAFIUDDIN AHMAD : Yes ; my supplementary question is : Why has the information not yet been obtained though it is three months now ?

The Honourable Mr. B. V. JADHAV : The D. P. I. is collecting it.

MOULVI RAFIUDDIN AHMAD : Has the Honourable Minister asked the D. P. I. to hurry up and give the information to the Council ?

The Honourable Mr. B. V. JADHAV : Yes.

ENGLISH CLASSES IN PRIMARY SCHOOLS.

MOULVI RAFIUDDIN AHMAD (Central Division) : Will Government be pleased to state—

(a) how many English classes are opened by them in Marathi and Urdu primary schools in Central Division and in Southern Division ;

(b) what is the regulation which fixes the number of such classes for Urdu and Marathi schools ?

The Honourable Mr. B. V. JADHAV : Information is being collected.

ANGLO-URDU MIDDLE SCHOOL FOR MAHOMEDAN GIRLS, POONA.

MOULVI RAFIUDDIN AHMAD (Central Division) : Will Government be pleased to state—

(a) when the proposed Anglo-Urdu middle school for Mahomedan girls will be opened at Poona ;

(b) when the second year class in the Urdu girls' normal class attached to the Central Urdu girls' school, Poona, will be opened ;

(c) what amount of money has been sanctioned this year for locating the above institution in a more convenient building the necessity of which has been already recognised by the Educational Department ?

The Honourable Mr. B. V. JADHAV : Information is being collected.

URDU PRIMARY SCHOOL, NAGARDEOLA.

MOULVI RAFIUDDIN AHMAD (Central Division) : Will Government be pleased to state—

(a) whether it is a fact that the Educational Department had promised to erect a building for the Urdu primary school at Nagardeola in East Khandesh ?

(b) If so, why is it not erected as yet ?

The Honourable Mr. B. V. JADHAV : Inquiries are being made,

CONSCIENCE CLAUSE IN SCHOOLS.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) whether the conscience clause is strictly maintained in aided educational institutions belonging to Europeans and Anglo-Indians;

(b) whether there has been any complaint in connection with the subject;

(c) is there any change relating to the conscience clause and has there been any correspondence on the subject;

(d) If so, will Government be pleased to place it on the Council table?

The Honourable Mr. B. V. JADHAV: Information is being collected.

BUILDINGS FOR MAHOMEDAN EDUCATIONAL INSTITUTIONS.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) what amount is spent annually during the last three years for building purposes in connection with special educational Mahomedan institutions or aided schools in the presidency proper;

(b) what amount has been sanctioned by Government as a building grant for Islamia Urdu Aided School, Camp, Poona, and under what conditions?

The Honourable Mr. B. V. JADHAV: Information is being collected.

SUPERINTENDENTS OF JAILS.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) how many jails in the presidency are in charge of Indian Superintendents;

(b) whether there is any rule which limits the appointment of the posts of superintendents of jails to members of the Medical Department?

The Honourable Sir MAURICE HAYWARD: (a) A reference is invited to pages 273—275 of the Bombay Civil List for July 1925.

(b) As far as possible posts of Superintendent of Central Jails are filled from the members of the Indian Medical Service.

MOULVI RAFIUDDIN AHMAD: As a matter of fact, may I know if there is any member of the I.M.S. working as a superintendent of a jail?

The Honourable Sir MAURICE HAYWARD: Yes, several; one of them is an Indian.

CHRISTIANITY IN CRIMINAL SETTLEMENTS.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) whether Bible teaching or attendance at Christian prayer meeting is compulsory at any of the criminal settlements maintained by them;

(b) If so, do Government propose to take any action in the matter ?

The Honourable Sir MAURICE HAYWARD : (a) No.

(b) Does not arise.

MUKHTIARKARS.

Mr. J. M. BHURGRI (Thar and Parkar District) : Will Government be pleased to state—

(a) how many Hindu and Mussalman Mukhtiarkars have held the charge of Jamesabad Taluka.

(b) for what period and at what time has each Mussalman Mukhtiarkar held the charge of the taluka ?

The Honourable Sir CHUNILAL MEHTA : (a) Four Hindu Mukhtiarkars and one Mussalman Mukhtiarkar held charge of the Jamesabad Taluka during the last five years ;

(b) The one Mussalman Mukhtiarkar referred to held charge of the taluka from the 18th April 1921 to the 30th April 1922.

BHIKU AMBEKAR.

Mr. S. K. BOLE : Will Government be pleased to state—

(a) whether they are aware of the death of an agriculturist named Bhiku Ambekar whilst digging a well for the khot at Hedavi in the Chiplun taluka ;

(b) whether the owner of the well had taken due precautions in the matter ;

(c) whether the said agriculturist was subjected to forced labour ;

(d) what compensation his heirs have received from the khot ?

The Honourable Sir CHUNILAL MEHTA : Information has been called for.

BREAKING OF IDOLS BY KHOTS.

Mr. S. K. BOLE : Will Government be pleased to state—

(a) whether they are aware that some idols of Hindus were broken by the Khots at the village of Phurush, taluka Khed in the Ratnagiri district ;

(b) what steps Government have taken in the matter ?

The Honourable Sir MAURICE HAYWARD : (a) In the affirmative as regards the idols of Shri Kalika, but the villagers did not suspect the Khots.

(b) The police investigated the matter but no trace could be found of the offender or offenders. The temple is situated in a secluded place far away from the Hindu population of the village.

OPPRESSION OF AGRICULTURISTS AT KUTGURI PABHARE.

Mr. S. K. BOLE : Will Government be pleased to state whether they are aware of the oppression practised on agriculturists at the village

of Kutgiri Pabhare in the Chiplun Taluka by the khots with the assistance of Mahars ?

The Honourable Sir CHUNILAL MEHTA : Information has been called for.

PATHAN MONEY-LENDERS.

Mr. S. K. BOLE : Will Government be pleased to state—

(a) whether they are aware of the Pathan money-lenders' activities in the villages of the Ratnagiri district ;

(b) if so, whether they propose to take any steps in the matter ?

The Honourable Sir MAURICE HAYWARD : (a) and (b) Information has since been received and a reply will be given in due course.

Mr. S. S. DEV (West Khandesh District) : I do not put my questions.

The Honourable Sir MAURICE HAYWARD : I should like to read the answer to question No. 9* by the honourable member Mr. N. R. Gunjal in the public interest.

(The Honourable Sir Maurice Hayward then read the reply to Mr. Gunjal's question No. 9.)

PASTURE LAND IN MIRPUR BATHORO TALUKA.

MOULVI RAFIUDDIN AHMAD on behalf of HAJI ABDULLAH HAROON (Karachi City) : Will Government be pleased to state—

(a) what the quantity of pasture land available for the grazing of cattle in each of the villages of the Mirpur Bathoro taluka in Karachi District is ;

(b) what minimum of pasture land, according to the scale laid down by Government, is necessary for each 100 head of cattle in a village ;

(c) how many villages in the Mirpur Bathoro taluka have and how many have not the minimum quantity of pasture land necessary for their cattle ;

*The following question and answer were printed in the Seventh List of Questions and Answers.

ESTATES OF MINORS IN DISTRICT COURTS.

9. Mr. N. R. GUNJAL (Poona District) : Will Government be pleased to state—

(a) The amount of balances of the estates of minors in the several district courts of the Presidency ?

(b) Whether they have taken any precautions for safeguarding such estates and balances in view of the dacoity which had recently taken place in the district court of Poona ?

(c) Is there any audit of the accounts of such estates, and if so which of such accounts have been audited and with what results during the last three years ending 31st December 1924 and which are proposed to be audited during the year ending 31st March 1925 ?

The Honourable Sir MAURICE HAYWARD : (a) A statement† is laid on the table.

(b) Yes. Orders have been issued that valuables should be kept in the Collector's treasury.

(c) Orders are being issued for a regular audit of accounts. The accounts in Poona and Sholapur have been audited with the result that certain defalcations were discovered at the latter place.

† Vide Appendix No. 20.

(d) whether it is a fact that by Bombay Government Notification No. S. 35-20-43, dated the 20th January 1923, the pasture land available for the grazing of cattle of village Banno in Mirpur Bathoro taluka has been taken over by the Forest Department?

The Honourable Sir CHUNILAL MEHTA: (a) The appended statement* contains the required information.

(b) No minimum of pasture land necessary for every 100 head of cattle has been fixed by Government.

(c) As no minimum has been fixed by Government this question does not arise, but the Mirpur Bathoro taluka has no deficiency in respect of pasture land.

(d) An area of 280 acres of deh Bano which was available for free grazing has been included in reserved forest but the privilege of free grazing to the cattle of Bano and other surrounding villages over this land has been reserved.

Mr. W. S. MUKADAM: I do not put Mr. Karki's questions on his behalf.

DENOTIFICATION OF LANDS DURING 1924-25.

Mr. LALJI NARANJI (Indian Merchants' Chamber): Will Government be pleased to state whether they had to pay any amount for the denotification of lands for the period ending 31st March 1925?

The Honourable Mr. COWASJI JEHangIR: No.

ACQUISITION OF TROMBAY WEST FOR PORT TRUST.

Mr. LALJI NARANJI (Indian Merchants' Chamber): Will Government be pleased to state—

(a) whether they will recover anything from the Port Trust in the event of their requesting Government to acquire for their purpose land in Trombay West under Suburban Scheme No. 4;

(b) whether the Development Department will get anything if the said land is acquired for the Port Trust, and, if so, how much?

The Honourable Mr. COWASJI JEHangIR: (a) and (b) It is not known to what land the question refers.

The general practice in acquiring land for public bodies is to recover from them—

(1) the actual amounts paid to owners for acquiring private interests in the land,

(2) the market value of Government lands,

(3) the capitalised value of the loss of Government assessment, and

(4) departmental charges.

Item (2) is credited to the Development Department only when the land belongs to this Department. Item (4) is also credited to the Development Department when the acquisition proceedings are held by officers of the Department.

* Vide Appendix No. 21.

URDU CLASS IN MIDDLE SCHOOL, GODHRA.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(a) what is the population of Godhra according to the last census report ;

(b) how many of the population are Hindus and how many are Mahomedans ;

(c) whether they are aware of the fact that when Mr. Covernton, the Director of Public Instruction, visited Godhra in about 1919 he held out hopes to the Mahomedans of Godhra that either (1) a separate Urdu class will be opened for them, if there were 25 to 30 Moslem students in standard I English or (2) a Mahomedan graduate teacher will be assigned to the middle school, Godhra ;

(d) whether their attention has been drawn to the assurance which the Honourable Mr. Dehlavi, Minister of Excise and Forests, gave to the Mahomedans of Godhra in reply to an address given to him that he would bring the question of a separate Urdu class in the middle school, Godhra, to the notice of Government ;

(e) whether they intend to take any action in the matter ?

The Honourable Mr. B. V. JADHAV : (a) 26,979.

(b) Hindus 12,666 ; Mahomedans 12,820.

(c) On the recommendation made by the Director of Public Instruction in response to the request of the deputation received by Mr. Covernton in 1919 a Teacher in Urdu has been already appointed in the Telang High School, Godhra. There is no separate Government Middle School there.

(d) No.

(e) The question does not now arise.

Khan Saheb A. M. MANSURI : Is the Mahomedan teacher appointed a graduate ?

The Honourable Mr. B. V. JADHAV : If the honourable member gives me notice, I will find out.

Khan Saheb A. M. MANSURI : Why are these Mahomedan graduate teachers put in charge of Urdu or Persian classes and not ordinary classes ?

The Honourable Mr. B. V. JADHAV : Appointments are made and work assigned with an eye to efficiency and qualifications of each candidate.

Khan Saheb A. M. MANSURI : Is it because it mars the prospects of Mahomedan graduates ?

The Honourable Mr. B. V. JADHAV : No.

SLAUGHTER OF ANIMALS AT BANDRA.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state whether there is any truth in the report that about 300 to 400 pregnant animals are slaughtered daily at Bandra ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : The information has been called for.

Khan Saheb A. M. MANSURI : Does the Honourable the Minister know whether it is due to the corruption existing amongst the inspecting staff at the Bandra slaughter-house that pregnant animals are killed there daily ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : The duty of inspecting lies with the Bandra Municipality. If the honourable member will give me notice, I will make enquiries.

KAIRA FORGERY CASES INQUIRY.

* (i) Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities) : Will Government be pleased to state—

(a) how many forgery cases the Kaira police were specially deputed to investigate during the year 1924 by the District Magistrate of Kaira ;

(b) the number of cases in which information was received by the police during the course of their investigation ;

(c) the number of cases which were investigated on the strength of the information received by the police and with what result ;

(d) what expenses were incurred by Government in the said cases ;

(e) what steps have been taken by Government with regard to the rest of the cases in which information was received ?

(ii) Will Government be pleased to state—

(a) how many forgery cases were investigated by the C. I. D. during 1911 to 1916 in the Kaira district especially at Umreth ;

(b) with what result ;

(c) what were the expenses incurred ?

The Honourable Sir MAURICE HAYWARD : (i) (a) One ending in conviction.

(b), (c), (e) One withdrawn, two acquitted, three convicted and five still pending out of eleven sent up for trial out of sixteen investigated. The remaining nineteen were not investigated, as the time and labour involved in such enquiries is considerable and interferes with the investigation of cognizable crime by the District Police.

(d) Special expenses incurred were Rs. 300 special fees to expert in handwriting and Rs. 835 extra fees to the Public Prosecutor.

(ii) (a), (b) Three withdrawn, twenty acquittals, forty-eight convictions out of 71 sent up for trial out of 151 investigated.

	Rs.
(c) Pay and travelling allowance of Police	89,682
Fees and allowances of Public Prosecutor	23,499

* This question was asked at the meeting held in July-August 1925, when an *ad interim* reply was given.

STATISTICS REGARDING CERTAIN SCHOOLS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(i) (a) The number of students for whom accommodation is available in the R. C. High School and the Government Middle School at Ahmedabad, and the Sir Sorabjee J. J. High School at Surat;

(b) How many students there are at present in each of the above schools;

(c) How many boys applied for admission in the said institutions last year;

(d) How many of them were admitted, and how many were refused admission and on what grounds?

(ii) (a) Whether their attention has been drawn to the fact that some of the students, from the above high schools who appeared at the last school leaving certificate examination, after their failure applied for readmission and were refused admission on the ground of want of accommodation?

(b) Whether they are aware that this has caused great discontent and disappointment among the students?

The Honourable Mr. B. V. JADHAV: The information has been called for.

MAHOMEDANS IN REVENUE DEPARTMENT.

* Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state the total number of—

(a) deputy collectors,

(b) mamlatdars, and

(c) aval karkuns

in each division of this presidency and how many in each of them are Mahomedans?

The Honourable Sir CHUNILAL MEHTA: (a) and (b) Already answered.

(c) The total number of aval karkuns in each Division and the number of Mahomedans among them are as follows:—

Division.	Total No. of Aval Karkuns.	No. of Mahomedans.
Northern Division	52	1
Central Division	92	3
Southern Division	66	6

Khan Saheb A. M. MANSURI: Is the number of the Mahomedan Deputy Collectors considered to be satisfactory?

The Honourable Sir CHUNILAL MEHTA: The figures are given in answer to (c), which does not apply to Deputy Collectors.

* This question was asked at the meeting held in July-August 1925, when an *ad interim* reply was given.

MOULVI RAFIUDDIN AHMAD: With regard to (c) may I ask whether one Mahomedan aval karkun in the Northern Division out of the total number of 52 is considered to be satisfactory in view of a recent circular of Government regarding appointments to be given to Mahomedan and backward classes?

The Honourable Sir CHUNILAL MEHTA: Certainly not. Under the recent rules the number of Mahomedan aval karkuns will be increased.

Mr. N. E. NAVLE: Does that apply to the backward classes also?

The Honourable Sir CHUNILAL MEHTA: Yes.

CHECK ON EXCESSIVE SUB-DIVISIONS OF HOLDINGS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) whether the inam village of Pimpa'gaon Bhavala, taluka and district Nasik, has been selected for experiment in connection with the proposal to check excessive sub-divisions and fragmentation of holdings;

(b) if so, why an inam village is specially selected for the experiment and not a Government village?

The Honourable Sir CHUNILAL MEHTA: (a) and (b) Government have received certain proposals for the selection of this village for the experiment. They are still under consideration.

Sardar G. N. MUJUMDAR: From whom have the said proposals been received.

The Honourable Sir CHUNILAL MEHTA: I should like notice of that question. As these proposals were received in my absence, I should like to inquire into the matter.

REVISION OF BHONDAN-DIGAR, AN INAM VILLAGE.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) Whether it is a fact that original survey settlement was introduced in the year 1870-71 in the inam village of Bhondan-Digar, taluka Parola, district East Khandesh, and that the inamdar passed an agreement for the revision survey of the village on the 8th of November 1913.

(b) if so, who is responsible for the loss of proportionate increase of revenues caused to the inamdar so long?

The Honourable Sir CHUNILAL MEHTA: Inquiry has been made.

Sardar G. N. MUJUMDAR: The answer given is not a proper answer, Sir.

The Honourable Sir CHUNILAL MEHTA: The answer is that inquiry has been made, that is to say, inquiries have already been addressed to the officers and reports have been called for but they have not yet been received by Government.

Sardar G. N. MUJUMDAR : Am I then entitled to have a further reply to my question in future ?

The Honourable Sir CHUNILAL MEHTA : Yes, certainly.

TREASURE TROVE IN THE INAM VILLAGE OF SHIRASGAON-KATA.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) Whether it is a fact that nineteen gold mohurs were found in survey No. 24 of the inam village of Shirasgaon-Kata, taluka Sirur, district Poona ?

(b) what was the value of the mohurs and how was it shared by the tenants, the inamdar and the Government, and on what grounds ?

The Honourable Sir CHUNILAL MEHTA : (a) Yes.

(b) The value of the mohurs was Rs. 544. The question of sharing the treasure is under the consideration of Government.

CORRESPONDENCE REGARDING EXCHANGE OF LAND AND VILLAGES IN THE MULSHI PETA.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state whether it is a fact that there was some correspondence between the Collector of Poona and the Rayats and Inamdars in the Mulshi Peta regarding the exchange of Government lands and villages for those acquired for the Tata Power Company ?

The Honourable Sir CHUNILAL MEHTA : Information has been called for.

LISTS OF KHOTI, SARANJAM, IZAFAT, ETC., VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to supply lists of—

(a) Khoti villages,

(b) Saranjam villages,

(c) Izafat villages,

(d) Unsurveyed Sharkati Dumala villages, and

(e) Talukdari villages

in the Bombay Presidency with their talukas and districts ?

The Honourable Sir CHUNILAL MEHTA : Looking to the time and trouble involved in the collection of the required information without any commensurate public advantage being obtained, Government regret their inability to furnish the information.

Sardar G. N. MUJUMDAR : Sir, I do not know why Government should not supply this information when there are detailed lists in the Alienation office and in the Collectors' offices.

The Honourable Sir CHUNILAL MEHTA : The reason is given in the printed answer.

ALIENATED VILLAGES FROM THE REVENUES OF WHICH
PAYMENTS ARE MADE TO GOVERNMENT.

* Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to supply a list of alienated villages from the revenues of which amounts on account of the items Mokassa, Sardesh-mukhi, Babti, Sirpatilki, Kasar, Jamavasuli, Nim-chouthai, Farmas, Inam-Tijai, Sahotra, Foudari, Istmarar Judi, Zilbab, etc., are paid into the Government treasury as belonging to Government with the amounts so paid and the gross revenues of the villages?

The Honourable Sir CHUNILAL MEHTA: Statements † giving the requisite information are placed on the Council Table.

THARAVBANDS OF SHARKATI VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to place on the Council table the Tharavbands, and Kharch-tipans of the Sharkati Dumala villages in the Bombay Presidency for the year 1922-23?

The Honourable Sir CHUNILAL MEHTA: Looking to the time and trouble involved in the collection of the required information without any commensurate public advantage being obtained, Government regret their inability to furnish the information.

Sardar G. N. MUJUMDAR: Is not this information available to Government?

The Honourable Sir CHUNILAL MEHTA: Yes, it is available but Government do not see, unless it is pointed out by the honourable member, any particular reason why he wants the information. I may inform the honourable member that the information that he has asked for and has always been asking for has caused a very considerable amount of time and labour and the officers have reported to Government that they will have to ask for extra staff if these questions are to be answered.

Sardar G. N. MUJUMDAR: I wanted to ascertain whether these villages are really Sharkati villages or not, and for that purpose I had asked this information of Government. The papers which I have asked for relate to the years 1922-1923. So, there was no difficulty for Government to give the Tharavbands and Kharach-tipans of the villages asked for to me. I do not see the difficulty of Government.

The Honourable Sir CHUNILAL MEHTA: I have already explained the difficulty of Government. The honourable member, for this day alone, has put in 37 questions, and to several of these unfortunately answers have had to be given that the information asked for by him cannot be supplied as it takes an enormous amount of time and labour. If any public purpose is to be served by the honourable member, and if he explains to me what particular purpose he wants to be served, I shall endeavour to give him the information. But I cannot do it for a number of years and for the whole presidency.

* This question was asked at the meeting held in February-March 1925, when an *ad interim* reply was given.

† Kept in the Secretary's Office.

Sardar G. N. MUJUMDAR : It is only a question of the papers of 279 villages.

The Honourable the PRESIDENT : I cannot allow this sort of statements to be made. I have repeatedly pointed out that Government are not bound to answer questions. The only thing that the honourable member can do now is to ask supplementary questions, not to make statements.

INTRODUCTION OF SURVEY SETTLEMENTS IN INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state in the following tabular form the number of inam villages in every taluka of the Bombay Presidency in which the Original, Revision and Second Revision surveys have been introduced with the year of the commencement of each ?

No. of Inam villages.	Taluka.	District.	Year of introduction of Original Survey.	Year of introduction of Revision Survey.	Year of introduction of Second Revision Survey.
1	2	3	4	5	6

The Honourable Sir CHUNILAL MEHTA : Information has been called for.

LIST OF INAM VILLAGES LAPSED TO GOVERNMENT.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to supply a list of those inam villages, with their talukas and districts, which have lapsed to Government during the last 25 years, showing the year in which they lapsed with the reasons thereof ?

The Honourable Sir CHUNILAL MEHTA : Looking to the time and trouble involved in the collection of the required information without any commensurate public advantage being obtained, Government regret their inability to furnish the information.

Sardar G. N. MUJUMDAR : Will Government please at least advise me what books I should refer to for this kind of information ?

The Honourable Sir CHUNILAL MEHTA : I do not know that I can. If I was in a position to do so, I should certainly do so, and it would have been the simplest answer that Government could give. Here what is asked for is a list of those inam villages, with their talukas and districts, which have lapsed to Government during the last 25 years, showing the year in which they lapsed with the reasons thereof. The collection of this information will take an enormous amount of time. If for any particular year or for any particular purpose the honourable member asks this information I shall give it to him, but I cannot do it for 25 years and for the whole of the presidency.

COSTS AND RESULTS OF AGRICULTURAL RESEARCH.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to supply the following tabulated information showing the comparative costs and results of research during the last four years under the Agricultural Department out of the money allotted to it from the David Sassoon Trust Fund entrusted to Government?

Subject of research.	Period of working.	Costs.		Results obtained.
		Staff.	Other.	
1. Rice				
2. Cardamom				
3. Lovala				
4. Grass				
5. Bajri				
6. Jowar				
7. Potato				

The Honourable Mr. A. M. K. DEHLAVI: Information has been called for.

RESUMPTION OF SANADI INAM LANDS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state how many acres of sanadi inam lands in the different districts of the Bombay Presidency have been resumed by Government, during the last 25 years, showing the year in which they were resumed, with the reasons thereof?

The Honourable Sir CHUNILAL MEHTA: Looking to the time and trouble involved in the collection of the required information without any commensurate public advantage being obtained, Government regret their inability to furnish the information.

JAPTI VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) how many *japti* villages have been attached during the last 10 years?

(b) whether all or some of them have been restored to the khots or lapsed to Government?

The Honourable Sir CHUNILAL MEHTA: Information regarding attached khoti villages in the Ratnagiri and Kolaba Districts will be called for.

CHILHAR AND CASH ALLOWANCES IN INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) whether the orders in Government Resolution No. 4168 of 3rd June 1897 regarding chilhar and cash allowances in inam villages have been modified;

(b) whether orders have been issued to inquire into the claims of the inamdars to the chilhar, etc.;

(c) if so, in what districts such orders have been issued and whether all the inamdars have been informed accordingly?

The Honourable Sir CHUNILAL MEHTA: (a) Yes.

(b) Yes.

(c) The orders in question have not been applied to any particular district or districts. No inamdars have been informed by Government but the officers concerned take such action as may be required.

Sardar G. N. MUJUMDAR: Why are all the inamdars not yet informed of Government orders?

The Honourable Sir CHUNILAL MEHTA: The answer is that no inamdars have been informed by Government, but the officers concerned are expected to do their duty and to take such action.

Sardar G. N. MUJUMDAR: Are Government aware that those officers have not yet taken the necessary action?

The Honourable Sir CHUNILAL MEHTA: No. If the honourable member can give me a question to that effect, I shall enquire into the matter.

GOVERNMENT ORDERS AFFECTING INAMDARS' INTERESTS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) with reference to my questions and the replies thereto relating to Government Orders affecting inamdars' interests, how the necessity of complying with the orders of Government in the matter has been impressed on the officers concerned? (*Vide* page 36, Volume XII, of Bombay Legislative Council Debates);

(b) whether Government have issued any fresh orders regarding the same? If so, will they be pleased to place these orders on the Council Table?

The Honourable Sir CHUNILAL MEHTA: The necessity of compliance with the orders was impressed on the officers concerned by Government Resolution No. L. C. 1225 dated 31st July 1924. A copy of the Resolution is laid on the Council Table*. No further order has been issued.

Sardar G. N. MUJUMDAR: Are Government aware that Government officers do not give effect to this resolution of Government?

*Appendix No. 22.

The Honourable Sir CHUNILAL MEHTA : They are expected to do so. Government are sure that their officers respect the resolutions of Government.

Sardar G. N. MUJUMDAR : If I show them that the resolution is not respected by their officers, will Government take the necessary steps ?

The Honourable Sir CHUNILAL MEHTA : In the first place, it is a hypothetical question. It depends on whether the honourable member will show it or not, but if the honourable member does show it, we shall certainly inquire.

INAMDARS FINED UNDER SECTION 84 (4) OF THE LAND REVENUE CODE.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to supply a list of Inamdars in this Presidency who have been fined under section 84 (4) of the Bombay Land Revenue Code ?

The Honourable Sir CHUNILAL MEHTA : Looking to the time and trouble involved in the collection of the required information without any commensurate public advantage being obtained, Government regret their inability to furnish the information.

MISCELLANEOUS INCOME IN INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to place on the Council Table copies of the circular orders No. 13-A. M. S. N., dated 7th May 1915, both as originally issued and subsequently modified issued by the Collector of Nasik in respect of the miscellaneous income (Kirkol Utpanna) in Inam villages ?

The Honourable Sir CHUNILAL MEHTA : Information will be asked for.

INAMDARS RIGHT OF VOTING.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state whether it is a fact that Inamdar, whose Inam village or lands have been acquired for some public purpose and who is given compensation in cash, loses his right of voting and election in the Local Legislative Council, the Legislative Assembly and the Council of State, etc. ?

The Honourable Sir MAURICE HAYWARD : I am afraid I cannot give a direct reply to the question as it would involve giving an opinion on a hypothetical case. But I would refer the honourable member to rule 5 (1) and (2) of Schedule II of the Bombay Electoral Rules, rule 8 (2) of Part II of Schedule II of the Legislative Assembly Electoral Rules and rule 2 (b) of Part II of Schedule II of the Council of State Electoral Rules.

STYLE OF ADDRESSING INAMDARS IN OFFICIAL COMMUNICATIONS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state whether it is a fact that Sardars of the Deccan are addressed in official communications in a particular style? If so, will they be pleased to state why the Inamdars in this Presidency are not addressed in the same manner?

The Honourable Sir MAURICE HAYWARD: The Sardars of the Deccan are addressed as "Meherban". It has not been found necessary to prescribe any particular style of address for Inamdars.

RESUMPTION AND REGRANT OF SARANJAM.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) Whether it is a fact that resumption and regrant are the necessary conditions of succession to a Saranjam?

(b) If so, on what grounds are those conditions based and since when have they been imposed?

The Honourable Sir MAURICE HAYWARD: (a) Yes; Saranjams are resumed and regranted by Government at each succession under rule 4 of the Rules published in Government Notification, Political Department, No. 2942, dated the 17th May 1898.

(b) The Rules were framed on the authority of the following enactments:—

(1) Act XI of 1852,

(2) Act VII of 1863,

and are based on past practice in respect of Saranjams.

ABOLITION OF KHOTI TENURE.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state whether they intend to abolish the Khoti Tenure? If so, how and when?

The Honourable Sir CHUNILAL MEHTA: No.

Mr. S. K. BOLE: Are Government going to perpetuate the tenure as it is?

The Honourable Sir CHUNILAL MEHTA: At present they have no intention of abolishing it.

Mr. S. K. BOLE: Are Government going to allow the acts of oppression practised under this tenure by the khots on the agriculturists?

The Honourable Sir CHUNILAL MEHTA: The honourable member is aware of the reply which I gave to the House yesterday. I stated that the Commissioner was going to enquire into this question, and the honourable member is also aware that he is going to help the Commissioner in that enquiry.

Mr. S. K. BOLE: Will not Government be pleased to amend the Act in accordance with the suggestions of the Commissioners?

The Honourable Sir CHUNILAL MEHTA : The Commissioners have not made any suggestions yet.

Mr. S. K. BOLE : After the suggestions are made, will Government amend the Act ?

The Honourable Sir CHUNILAL MEHTA : Government will consider the suggestions.

DELAY IN RECORDING RIGHTS IN INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) whether they are aware of the fact that the work of writing the record of rights in many unsurveyed inam villages has been delayed for several years ?

(b) If so, what is the delay due to ?

The Honourable Sir CHUNILAL MEHTA : Information has been called for.

POST MASTER AT JEJURI.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) whether they are aware of the fact that the inhabitants of Jejuri taluka Purandhar, district Poona, are put to great inconvenience on account of the appointment of a postman as Postmaster in charge of the Branch Post Office there, who knows no English or even good Marathi ?

(b) when and why was the sub-post office there closed and branch post office ordered instead ?

The Honourable Sir CHUNILAL MEHTA : (a) The Post Office has received no such complaints. The official in charge of the branch post office knows Marathi sufficiently to cope with his present duties. He is not acquainted with English.

(b) Neither the work done nor the income earned by this post office justified its retention as a sub-office. It was therefore converted into a branch post office from 1st October 1923.

APPOINTMENT OF VILLAGE OFFICES WITHOUT INAMDAR'S CONSULTATION.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) whether it is a fact that the Inamdars of Bhuyar, taluka Indi, district Bijapur, were not consulted by the Assistant Collector, N. D., Bijapur, before the recent appointment of Patils in that village ;

(b) if so will they be pleased to state why they were not consulted and whether Government proposes to take any action in the matter ?

The Honourable Sir CHUNILAL MEHTA : Information will be asked for.

ANNEWARI IN INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): With reference to the reply given to my question No. 4, page 62, Second list, 2nd Session, 1925, will Government be pleased to place on the Council Table copies of the revised instructions which Government have issued in connection with the Annewari in Inam villages?

The Honourable Sir CHUNILAL MEHTA: Collectors have already been instructed by Government to communicate a substance of the revised instructions to the inamdars in their districts. Government do not consider it necessary to place a copy thereof on the Council Table.

GRANT OF FOREST AND WASTE LANDS AS INAM.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to supply a list of villages, with their talukas and districts, in the Bombay Presidency, in which forest and waste lands have been given as inam, with the area in each and names of the grantees as also the reasons for such grants, during the last twelve years?

The Honourable Sir CHUNILAL MEHTA: Information will be called for.

FORFEITURE AND RESTORATION OF INAMS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state the names of the villages, the inams in which were first forfeited and subsequently restored, in the Bombay Presidency, during the last twelve years?

The Honourable Sir CHUNILAL MEHTA: Information will be asked for.

WIDOW OF THE LATE BILGI CHIEF.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state the reasons for remitting annually Rs. 299 or so to the widow of the late Bilgi Chief? Who was this Bilgi Chief?

The Honourable Sir CHUNILAL MEHTA: Basalinga Raja was a descendant (by adoption) and the last scion of the old Palayagars of Bilgi in the Kanara District. His father enjoyed only a life pension from Government. On account of indigent circumstances of the Raja after his father's death, Government granted him exemption for his life from payment of land revenue for his lands in the Kanara District. This concession was further continued after his death in 1870 to his step-mother and two young widows for their life time only. The last survivor (one of the Raja's widows) died recently and the remission will cease.

GRANT OF INAM LANDS TO VILLAGE OFFICERS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state the names of the villages with their talukas and districts, in which new grants of inam lands have been made

to village officers showing the area in each and the conditions thereof for the last twelve years ?

The Honourable Sir CHUNILAL MEHTA : As the collection of the information will involve enormous trouble on the district staffs without any public benefit being obtained Government regret their inability to furnish the information.

AREA OF UNSURVEYED INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) whether it is a fact that the area of the unsurveyed inam villages the Bombay Presidency is treated as occupied area ?

(b) if so, on what grounds ?

The Honourable Sir CHUNILAL MEHTA : Information will be called for.

ALIENATED HOLDINGS IN GOVERNMENT VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) the names of the surveyed Government and rayatwari villages, with their talukas and districts, in which there are alienated holdings, with the number of such holdings in each, for the year 1922-23 ?

(b) whether it is a fact that detailed information about these holdings is not given every year in the Annual Land Revenue Administration Report of this Presidency ? If so, why ?

The Honourable Sir CHUNILAL MEHTA : Information will be called for.

SURVEY SETTLEMENT IN KADIM INAM LANDS IN INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) whether survey settlement has been extended to all the kadim inam lands in all alienated villages in this Presidency ?

(b) if not, will they be pleased to name the inam villages in which such lands have not yet been surveyed and settled ?

The Honourable Sir CHUNILAL MEHTA : Information will be called for.

GHASDANA AND RAJCHITTI CESSES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state separately the annual amounts levied on account of ghasdana and rajchitti cesses in the Panch Mahals and other districts of the Bombay Presidency ?

The Honourable Sir CHUNILAL MEHTA : Information will be called for.

INAM LANDS TAKEN FOR FOREST.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) whether it is a fact that some inam lands in the Bijapur District have been taken for forest during the last twelve years;

(b) if so, whether they are acquired and whether compensation for them has been given in land or cash?

(c) the names of the villages in which such lands have been taken for the purpose?

The Honourable Mr. A. M. K. DEHLAVI: Inquiry is being made.

ACCOUNTS IN INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state whether they are aware of the fact that due regard is not given by the officers concerned by giving full effect to the circular order issued by the Commissioner, C. D., dated 8th April 1909 with regard to the accounts in inam villages (*vide* page 1.4, R. B. Joglekar's Alienation Manual)?

The Honourable Sir CHUNILAL MEHTA: Government are not aware of the order in question being disregarded in any cases, but inquiry will be made.

RECORD OF RIGHTS BOOKS TO BE RETAINED BY INAMDARS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) whether the village form No. 6 in inam villages is not allowed to be retained by the inamdars?

(b) if so, why?

(c) whether the inamdars can be supplied with copies of the same on payment of reasonable charges for the printed forms required for the purpose?

The Honourable Sir CHUNILAL MEHTA: Information is being collected.

RECORD OF RIGHTS IN UNSURVEYED INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state whether they have passed any orders for filling in the columns No. 13 and 15 (New Edition, Columns 9 and 11) of the Record of Rights in unsurveyed inam villages in the Bombay Presidency, having regard to the Mirasi and Gatkuli relations between the tenants and Inamdars?

The Honourable Sir CHUNILAL MEHTA: Columns 13 and 15 are to be found in the old form of Record of Rights (1913). These were superseded by columns 9 and 11 in the Revenue Accounts Manual which are again superseded by columns 6 and 8 in the Maxwell System of Record of Rights. No separate instructions as to how these columns are to be filled in have been issued since the Chapter on Record of Rights of the Manual of Revenue Accounts is clear on the subject.

SARDARS AND INAMDARS AND SURVEY OPERATIONS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdar): Will Government be pleased to state—

(a) whether it is a fact that outside gentlemen are allowed to learn all the survey settlement procedure and operations along with several Government field parties?

(b) if so, will sardars and inamdar or their sons, be allowed similarly to learn them?

The Honourable Sir CHUNILAL MEHTA: (a) Certain representatives of some Indian States were given instructions in survey and settlement matters at the cost of the respective States.

(b) Government have no objection to Sardars and Inamdars or their sons learning survey and settlement procedure entirely at their cost, with the field parties.

Mr. W. S. MUKADAM: I do not put any of my questions.

FINANCIAL PROPOSALS BY PRIMARY EDUCATION COMMITTEE.

Mr. R. G. PRADHAN (Nasik District): Will Government be pleased to state whether they have considered the financial proposals made by the Compulsory Education (Chandavarkar) Committee, and the Excise Committee, and if so, what action they have taken or intend to take thereon?

The Honourable Mr. B. V. JADHAV: The financial proposals of the Compulsory Primary Education Committee contained in section I of Chapter VI of their report have been rejected by Government (*vide* section 10 of the Bombay Primary Education Act, 1923, and the proviso to rule 109 and rule 115 of the Bombay Primary Education Rules, 1924), while those in sections 3 and 4 of the chapter have been accepted (*vide* section 13 (1) of the Bombay Primary Education Act, 1923, and rules 109 and 114 of Bombay Primary Education Rules, 1924). The action taken or intended to be taken on the taxation proposals in section 2 of the chapter is explained in the accompanying memorandum*. As regards the Excise Committee the honourable member is referred to the Honourable the Minister for Excise.

THE SATHE-PARANJPYE SCHEME.

Mr. R. G. PRADHAN (Nasik District): Will the Honourable the Minister of Education be pleased to lay on the table a statement showing—

(1) the total number of municipalities and district local boards consulted on the question of raising the scale of salaries of primary school teachers in accordance with the Sathe-Paranjpye scheme;

(2) the total number of those that declared themselves in favour of that scheme;

(3) the total number of those that declared themselves against it; and

(4) the total number of those that suggested a modified scheme?

* *Vide* Appendix No. 27.

The Honourable Mr. B. V. JADHAV : (1) to (3) The honourable member's attention is invited to the reply given to parts (a) and (b) of the question on the subject put by the honourable member for the Panch Mahals Distr.ct.*

(4) One district local board and seven municipalities.

CORRESPONDENCE REGARDING RAISING STAMP DUTY AND COURT-FEES.

Mr. R. G. PRADHAN (Nasik District) : Will Government be pleased to lay on the table the correspondence between themselves and judicial and executive officers on the question of raising the stamp duty and the court-fees ?

The Honourable Mr. H. S. LAWRENCE : Government regret that the suggestion cannot be complied with.

TOTAL AMOUNT OF TAGAVI LOANS AND LAND REVENUE SUSPENSIONS OUTSTANDING.

Mr. R. G. PRADHAN (Nasik District) : Will Government be pleased to state the total amount of tagavi loans and suspensions of land revenue outstanding on 1st January 1925 ?

The Honourable Mr. H. S. LAWRENCE : Tagavi accounts are not kept according to the calendar year, hence it is not possible to give the figures showing amount of tagavi outstanding on 1st January 1925. The following table shows the outstandings on 31st March 1924 and 31st March 1925—

	Balance on 31st March 1924.	Balance on 31st March 1925.
	Rs.	Rs.
Advances to cultivators	123 lakhs	103† lakhs
Advances to Co-operative Credit Societies under the Land Improvement Loans Act granted by the Registrar, Co-operative Societies, through the Provincial Co-operative Bank	3 lakhs	3·4† lakhs

* The following Question and Answer were printed in the Seventh List of Questions and Answers.

THE SATHE-PARANJPYE SCHEME.

8. Mr. W. S. MUKADAM (Panch Mahals District) : Will Government be pleased to state—

(a) The names of the District Local Boards and Local Authorities and Municipalities which were consulted in connection with Sathé-Paranjpye Scheme ?

(b) What District Local Boards and Municipalities have voted in favour of Sathé-Paranjpye Scheme and what District Local Boards and Municipalities have voted against that scheme ?

(c) Whether they have selected for any part of the presidency the application of the Sathé-Paranjpye Scheme ?

(d) If they have, will they state what part ?

(e) If they have not selected any, will they be pleased to state the reasons why they have not done so ?

The Honourable Mr. B. V. JADHAV : (a) and (b) The accompanying two statements † give the required information.

(c), (d) and (e) The question of the pay of primary teachers is still under consideration.

† These figures are subject to modification pending closure of supplementary accounts.

‡ Kept in the Secretary's office.

As regards suspensions of land revenue the honourable member is referred to the Honourable Member in charge of the Revenue Department.

THEFTS AND BURGLARIES IN BOMBAY CITY.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Will Government be pleased to state—

(a) the number of thefts and burglaries that took place in the city of Bombay during the last three years, and

(b) in how many of these the offenders were caught and property recovered ?

The Honourable Sir MAURICE HAYWARD : (a) and (b) The information required will be found in serial Nos. 29, 34 and 38 and Nos. 29, 33 and 37 of Statements A, Part I of the Bombay City Police Reports, respectively, for the years 1922 and 1923. Reference is also invited to item I of statement C of those Reports. Copies of these reports have already been supplied. Copies will shortly be furnished also of the Report for the year 1924 to honourable members.

FOREST OFFICES, NASIK.

Mr. R. D. SHINDE (Nasik District) : Will Government be pleased to state—

(a) whether the Home School Building at Nasik which was recently purchased by Government for the use of forest offices is used at present solely for the offices ;

(b) if not, why it is occupied by some officers ;

(c) whether the officers in question are paying any rent ?

The Honourable Mr. A. M. K. DEHLAVI : (a) and (b) The Home School buildings have been assigned for the use of six offices of the Forest Department. As two of the offices are held at present in a bungalow the lease of which does not expire till the 31st October 1925, Government have permitted the Divisional Forest Officer, East Thana, to reside in the portion assigned to the two offices till that date.

(c) Yes.

HOUSING ALLOWANCE, NASIK.

Mr. R. D. SHINDE (Nasik District) : Will Government be pleased to state—

(a) whether a committee has been recently appointed by Government to consider the question of granting housing allowance to only gazetted officers residing at Nasik ;

(b) if so, who are the members of the Committee ;

(c) why are the subordinate officers, clerks and peons in all the departments residing in the city excluded from the consideration in view of the increasing rents of residential premises at Nasik ?

The Honourable Mr. H. S. LAWRENCE : (a) No.

(b) and (c) The questions do not arise.

Mr. R. D. SHINDE : Are the Government aware that the rents of residential premises have increased ?

The Honourable Mr. H. S. LAWRENCE : Government are not aware.

REPORT OF THE ANNEWARI COMMITTEE.

Mr. R. D. SHINDE (Nasik District) : Will Government be pleased to state—

(a) whether the report of the committee appointed to consider the question of annewari or anna valuation of crops has been submitted to Government ;

(b) if so, when will it be published ?

The Honourable Sir CHUNILAL MEHTA : (a) No.

(b) It will be published as soon as possible after it has been received.

TENURE OF LANDS AT COLEWADI, LOWER COLABA, BOMBAY.

Mr. A. N. SURVE (Bombay City, North) : (a) Will Government be pleased to state whether it is a fact that certain lands in the ancient village of Colewadi, Lower Colaba, in the City of Bombay, which were under the quit and ground rent tenure since 1838 and before were suddenly transferred to a tenancy-at-will tenure in 1919 and later on to yearly tenancy tenure in 1923 ?

(b) Were the parties concerned consulted or given an opportunity to defend their rights before the changes referred to above were made ?

(c) Is it a fact that in some of the transfers of properties the Collector of Bombay has certified these lands as quit and ground rent tenure lands ?

(d) Will Government be pleased to explain under what circumstances the changes in tenures referred to above were made ?

(e) Have Government received any representation from the landlords in this connection ?

(f) Will Government be pleased to place on the table copies of the Collector's orders issued from time to time and of the reply, if any, given by the Government to the representation referred to in (e) ?

The Honourable Sir CHUNILAL MEHTA : (a) The lands never were under quit and ground rent tenure. The fact that the rents were not enhanced since 1838 does not debar Government from revising the assessment.

(b) There was no question of depriving holders of their rights. The mere fact that the lands were entered in the quit and ground rent rolls does not limit the right of Government to assess.

(c) The Collector did certify in some cases that the deeds of transfer had been registered in the register book of the quit and ground rent properties ; but under section 35 of the Bombay City Land Revenue Act, 1876, this does not effect Government's right, title or interest in the land.

(d) The question arose in 1917 on what tenure the holdings should be recorded in the new survey register.

(e) Yes.

(f) Copies* of the Collector's communications and of the orders passed by Government on the representation are placed on the Council table.

Mr. A. N. SURVE: In part (b) of the answer it is stated: "The mere fact that the lands were entered in the quit and ground rent rolls does not limit the right of Government to assess." Is it to be understood that lands of other tenure are entered in those rolls?

The Honourable Sir CHUNILAL MEHTA: I should like to have notice.

Mr. A. N. SURVE: May I enquire whether an entry in the rolls does not imply that the land is of quit and rent tenure?

The Honourable Sir CHUNILAL MEHTA: No.

ANALYSIS WORK IN AGRICULTURAL COLLEGE AND VICTORIA JUBILEE TECHNICAL INSTITUTE.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) whether it is true that the College of Agriculture and the Victoria Jubilee Technical Institute though purely educational institutions accept work of analysis of and report on commercial samples, etc., as is done by the Chemical Analyser as mentioned in question No. 20;

(b) whether it is a fact that the Principal of the College of Agriculture (Dr. Mann) had put a stop to this practice in the said College;

(c) whether it is true that after his leaving the College the practice has been revived;

(d) whether Government have received any representation on this subject from the Secretary, Indian Merchants' Chamber, Bombay;

(e) if so, what action have they taken or intend to take on it?

The Honourable Mr. A. M. K. DEHLAVI: Information has since been received and will be supplied in due course.

THE BHATKAL HARBOUR SCHEME.

Mr. S. A. SARDESAI (Bijapur District): Will Government be pleased to state what stage the Bhatkal Harbour Scheme has reached?

The Honourable Sir CHUNILAL MEHTA: The scheme is no longer before the Government of Bombay.

IMPROVEMENT TRUST TRANSFER BILL.

(Further consideration of Bill No. XVII of 1925 (Improvement Trust Transfer Bill, resumed.)

Clause 63 (*Collector to take possession after making an award and transfer land to Corporation*) ordered to stand part of the bill.

Clause 64 (*Provision regarding pending cases*).

Notwithstanding anything contained in sections 60, 61, 62 and 63 in respect of all references and appeals made to the 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

* Vide Appendix No. 28.

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 preferred 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.

Sir VASANTRAO A. DABHOLKAR : Sir, I beg to move the following amendment that stands in my name.

In clause 64, delete old clause 64 and substitute the following :—

Clause 64. " Subject to the provisions made in sections 60, 61, 62 and 63 all references made to the Tribunal of Appeal under the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation and pending on the said date shall be tried and decided by the High Court and the said High Court shall perform the functions assigned to it under the said Act as if the said references were made to the said High Court on the respective dates on which they were made to the Tribunal of Appeal and notwithstanding anything contained in sections 60, 61, 62 and 63 in respect of all, appeals made to the High Court under the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation the said High Court shall continue to perform the functions assigned to it under the said Act and every such appeal shall be decided in accordance with the provisions of the said Act as if this Act had not been passed. "

Sir, in support of this amendment, at the outset I should like to draw the attention of this House to a letter that has appeared in the *Bombay Chronicle* of the 23rd instant headed : " The Tribunal of Appeal : Mockery of Justice : Abolition demanded, " by our honourable colleague Mr. Nariman. Sir, unfortunately, I do not appreciate the line of action he has taken by writing a letter to the Press. I wish that he had been present here to-day to support my amendment. The proviso that has been embodied in clause 64 runs as follows :

Provided that the certificate of the President mentioned in section 48 (ii) shall not be necessary for an appeal to the High Court preferred 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.

Sir, in the old days, you are aware, that when a reference was to be made to the High Court, the certificate of the President of the tribunal was necessary. When this proviso is made, no certificate is necessary from the President of the tribunal for an appeal to the High Court. The claimants of properties who are not satisfied with the awards will appeal to the High Court. Then, may I know where is the necessity of having a tribunal ? This clause will only lead to a double litigation both for the public and the City Improvement Trust. What would happen under this proviso is this : when any claimant is not satisfied with the award of the tribunal he will straightway go to the High Court. Why cannot Government give the same facility to the owners of properties as are given in the case of land acquired under the Land Acquisition Act for public purpose by other public bodies ? Now, what happens in the case of properties acquired by the municipality ? If the claimant is not satisfied with the award of the land acquisition officer he straightway goes to the High Court. If this facility is given to the claimants against the City Improvement Trust then there is no necessity for a reference to the Tribunal of Appeal ; hence less cost of litigation and the work of acquisition will be expedited.

Sir, I would further like to point out that there has been a great dissatisfaction in the city of Bombay as regards the decisions of the tribunal.

[Sir Vasantao A. Dabho'kar]

Instead of getting any justice to those who file a reference to the Tribunal of Appeal they have to pay the costs of the City Improvement Trust as their cases are dismissed with costs. I shall point out to you, Sir, from a statement which I have got from the Administration Report of the Bombay Improvement Trust, that in the year 1919-20 the cost of the tribunal to the City Improvement Trust was Rs. 7,381 and solicitors charges Rs. 6,618, that means about Rs. 15,000 in the year 1919-20. On account of more references, in the year 1924-25, the cost has come up to Rs. 64,537; I do not know what the solicitor's charges were. If we add the solicitor's charges to this sum of Rs. 64,000 it will come to about a lakh. Out of all these references made to the tribunal about 90 per cent. of the cases were dismissed with costs, and all those costs fell on the claimants who made the references to the tribunal. Sir, in the Administration Report of the Improvement Trust I have come across a reference which will show to this House how the affairs of the tribunal are carried on. In my opinion the tribunal is more or less callous to the claims of the claimants.

"Reference No. 114 of 1921 involved an issue of much greater importance. Formerly the land acquisition officer's awards in other cases were not admitted as evidence in enquiries before the tribunal, but in a later reference they were allowed to be quoted in spite of the Trust's opposition."

That shows that whatever awards the land acquisition officer made were never taken as evidence before the tribunal, but with a change of the President and the assessors those awards were taken as evidence. The admission of those awards as evidence was a thing never heard of ever since the tribunal came into existence in the year 1898. What happened in the year 1921? As soon as the Trust, which is a powerful body, raised an objection to admitting awards of the land acquisition officer as evidence the objection was upheld; and with your permission, Sir, I will read the extract from the Administration Report.

"The Trust strenuously contested the point and pointed out that the admission of the awards as evidence of market value of lands would lead to almost endless enquiries and necessitate an investigation of every award quoted, to determine its correctness or otherwise. The Trust counsel also argued at great length that awards were not admissible as they were mere offers and could not be looked upon as sales in the open market."

"In a lucid judgment the president decided not to admit awards as evidence of value of lands in the market."

The President had allowed such awards to be quoted when it suited the Improvement Trust, but as soon as those awards were quoted by claimants and the Improvement Trust found that it was against itself that the trust solicitors raised objection, the tribunal succumbed to the Improvement Trust and disallowed the land acquisition awards as evidence. Sir, the tribunal is appointed in to sit in judgment and safeguard the interests both of the claimants and of the Improvement Trust, but the tribunal sides with the Improvement Trust.

In the select committee it was stated that there were many references pending before the tribunal and it would perhaps be difficult to dispose of all those cases before the Trust was transferred to the municipality. But, the other day the Honourable Minister gave an assurance, when the honourable member Mr. Hoosenally moved an amendment, that instead

[Sir Vasantao A. Dabholkar]

of transferring the Improvement Trust to the Corporation on the 1st of January, he would transfer it on a later date, perhaps on the 31st of March. Therefore, if my amendment is carried, there will be five months for the tribunal to dispose of all the past heard and pending cases. That being the case, I do not understand why an extension for a period of 18 months should be granted to the Tribunal of Appeal. I think five months will be quite sufficient. There are not more than 60 references before the tribunal, some of which must have been decided. As regards the acquisition of Dharavi tanneries, I do not think the Improvement Trust is going to proceed with those acquisitions and so the references will not be more than 60. Out of these 60, 20 are past heard cases, some of them may be settled and some will be apportionment cases. Those that remain can be easily disposed of within the five months after which, as the Honourable Minister has promised, the Improvement Trust can be transferred to the Corporation.

Ever since this bill was drafted and the Corporation recommended that the tribunal should be abolished, there has been a tendency on the part of the public not to proceed with the cases before the tribunal, but to ask for postponements in the hope that when the tribunal is abolished the appeals can be filed in the High Court, because the public believe that they would not get justice from the tribunal and therefore they should rather wait and get the cases heard by the High Court. The tribunal is appointed partially by the Improvement Trust and partially by Government. I say partially because my information is that before the appointment of the President of the tribunal is made, Government consults the Chairman of the Improvement Trust over it. That is my information in Bombay. (Moulvi Rafiuddin Ahmad : That information is false.) I am open to correction. Why the Honourable member the Chairman of the Improvement Trust is silent ? Is it a guilty silence ? As regards the assessors, one of them is a Government servant, who would naturally look to the interests of Government than to the interests of the claimants. Whatever payment is made to the tribunal comes from the coffers of the Improvement Trust, and naturally the Improvement Trust is the master of the tribunal. The third assessor is appointed by the Corporation, and for the last three or four years he has been found always in a minority in the tribunal, as against the two others, the President and the other assessor. So, there has been no confidence to the public as far as the tribunal is concerned and in the judgments it gives. I hope the Honourable Minister will see his way to accept the amendment.

Amendment proposed.

Mr. J. BAPTISTA (Bombay City, North) : I should like to have heard the Honourable Minister on this subject before I spoke, but as he prefers silence, I have no alternative. I am not concerned with the allegations made by the honourable the mover ((Hear, hear). I do not wish to associate myself with them. I do not know whether the Chairman of the Trust recommends any one for this post on the Board. But I should like

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to point out that the litigation in the tribunal of appeal has always been very expensive. The counsel who appear before the 'ribunal of appeal charge very exorbitant fees compared with what is charged in the High Court. Formerly they used to charge heavy fees when the tribunal of appeal was outside the High Court. But when it was brought within the precincts of the High Court fees were reduced but they were still on a higher scale. Now this tribunal is again located outside the precincts of the High Court with the consequent increase in the fees and expensiveness. But my important objection is this. Under the provision now made no certificate whatever is necessary from the date on which this Act comes into force. Therefore if any one wants to go to the High Court he can do so. Under the original provision there was a restriction and the tribunal of appeal could refuse to give the requisite certificate and thereby prevent resort to the High Court. But now as the certificate is not necessary those who are dissatisfied with the tribunal's decision will go to the High Court. There will be double litigation and double expense to the Board and the parties concerned. I do not therefore see what object will be served by insisting upon this disposal of all pending references by the tribunal. All this preliminary, laborious and expensive investigation is so much waste of time and money and this is a point which requires an answer, and I should like to hear what the answer is. Then, Sir, it is said that the cases shall be disposed of within 18 months. What will happen if it is not finished within 18 months? This is based on the assumption that they will succeed in finishing within 18 months. I am afraid there is no likelihood of their finishing all the cases within that period. Another point is, why insist upon a preliminary investigation by a tribunal more expensive than the High Court. The President of the tribunal gets a salary of Rs. 2,500 a month. Considering he hears references only twice a week, the President of the tribunal gets a salary larger than the salary of the Chief Justice of the High Court. This seems to me absurd. The President of the tribunal is a qualified person; for the only qualification that is necessary is that he must be a barrister of 5 years standing. I think the 'ribunal is unnecessary and I should like Government to consult public opinion in this matter, and do away with the tribunal of appeal.

Mr. A. N. SURVE (Bombay City): I beg to support the amendment that is before the House. About the method that is adopted by the Improvement Trust very serious allegation is made against it by the honourable member Mr. Hooseinbhoj A. Lalljee who has written a minute of dissent. He says:

"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 induced the landlord to accept the Improvement Trust valuation."

Sir, this is a very serious allegation. It casts reflections on the Improvement Trust and I wish to have a denial of this. If it is not denied, I think there is good reason in asking that the tribunal should be abolished outright and the poor landlords should receive full justice in the High

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Court. Another difficulty is this. In the tribunal of appeal the claimants are compelled to be satisfied with a second or a third rate legal assistance, because talented counsel do not wish to lose their practice in the High Court in order to attend the tribunal. For these reasons I think it would be far better if the claimants are referred to the High Court and if the tribunal is abolished outright.

The Honourable Sir MAURICE HAYWARD: Mr. President, I am not concerned directly in this matter, but indirectly. Because if all the pending cases including part-heard cases of the tribunal are transferred, a large amount of extra work will be thrown on the High Court. I do not gather as regards part-heard cases the parties particularly desire to transfer them from the tribunal. Evidence has been heard and enquiry has been made and it would be a waste of time and money if we were to transfer them from the tribunal. It has already recorded evidence and there will be revision to the High Court. With regard to pending cases I am told that there is a large number still pending involving some 250 cases. Some are linked cases. There are 51 references involving 253 cases. In cases previously heard by the part-time president of the tribunal, very slow progress was made. And it was very unsatisfactory both to the applicants and to the Improvement Trust. It must have been very undesirable from the point of view of the applicants that they could not get an early decision. When they got it, it often involved exceedingly long judgments, most troublesome to those that had to examine them with a view to take them up on revision. It was exceedingly undesirable from the point of view of the Improvement Trust, because every moment's delay meant interest increasing against the Improvement Trust. I understand that until final decision and final settlement interest has to be paid by the Improvement Trust, and, as these cases involved claims of a very large amount a very great amount of interest was accumulating against the Improvement Trust. That was contrary to the public interests of Bombay. It was, therefore, decided to dispense with the part-time president, who was only able to give occasional attention to these cases, and a full time officer was engaged in order to work off the cases more quickly. As we had a full time officer, he had to insist on hearing the proceedings regularly, and no doubt he was not able to comply entirely with the convenience of those who had to appear before him. He had to proceed with these cases quickly in order to save the time and the money of the public, and possibly some discontent may have arisen from that procedure. But it was essential to get the work through as quickly as possible, and considerable progress has since been made by these subsequent full time presidents of the Tribunal of Appeal. It seems to me, therefore, that it ought to be seriously considered whether it would not be better to finish the great number of outstanding cases before throwing all this extra work upon the High Court. It may be said, with regard to pending cases which have not actually come up for trial, that they have not yet been considered by the Tribunal and, therefore, there would not be the waste of time which has been already spent in recording evidence and so on. But, on the other

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hand, it means that all that evidence would have to be recorded in the High Court and that would mean a very great addition of time and trouble to the Original Side of the High Court. I have no doubt that, if we do this, we shall receive applications for extra Judges on the Original Side of the High Court. It would surely be better to get rid of all the pending work and start afresh with work in the future and leave that to the High Court to decide pending cases by the present Tribunal and let the references in revision, if necessary, go to the High Court. The evidence would be recorded by the present Tribunal and then it would not take so much time for revisional references, if made, to be settled by the High Court. It takes a long time to record all this original evidence, and if it is recorded by an inferior court, it materially saves the time of the revisional or appellate court.

I should suggest, therefore, that this question may be very seriously considered from the point of view of the public convenience and economy, and should recommend that the part-heard and pending references should be settled by the present Tribunal before throwing this extra burden upon the Judges of the High Court.

MOULVI RAFIUDDIN AHMAD (Central Division): I rise, Sir, to support the views put forward by the honourable member the President of the Corporation. Serious allegations have been made against the Tribunal, and I regret to say that no reply has been made to any of them by any of the officers who administer the Trust. The Honourable the Leader of the House has made a very strong appeal for the continuance of the present state of affairs, but the only ground on which he has put it is public convenience and public economy. But more important than these is public confidence, and public confidence has been lost in the case of the Tribunal. The only remedy is the High Court. Even if it were necessary to have an additional Judge in the High Court to dispose of Trust suits which meant additional expense, the public would be willing to bear it. Certainly he would inspire more confidence, and no reasonable argument has been advanced against this proposal. I complain, Sir, of the complete silence on this question among the Government benches. The usual practice on a matter like this is for Government to put up some speakers besides the Honourable Minister to give the official view, because after the Honourable Minister's speech no person can speak and we have no opportunity to answer the arguments of Government. In this particular instance the silence of the officers behind the Honourable Minister clearly indicates that they have no answer. But, Sir, it is very difficult for members of this Council, who have an open mind upon the subject, to decide how to vote. Sir, Government have themselves to thank if the division went against them, although there was no probability in the present state of the Council of the division going against them. It is all the more necessary, I think, that they should satisfy the House, and I therefore appeal to the Honourable Minister not to carry this in a hurry or by a brute majority.

Dr. K. E. DADACHANJI (Bombay City, South): There is not the slightest doubt, Sir, that both in the Corporation and outside it opinion

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prevails that the Tribunal of Appeal must go. My difficulty, however, is this, as pointed out by the Honourable Leader of the House: What about the part-heard cases? Lot of expenditure has already been incurred on both sides in connection with these cases, and how can they be transferred to the High Court? This should be explained by the honourable mover of the amendment. One thing is certain, Sir, that for these references we have extended the services of the Trust officer to finish his cases before the Tribunal of Appeal. We have given him extension specially and specifically because he must finish his work and then he must retire. We gave him that extension simply to carry on his cases pending before the Tribunal of Appeal. Now, what will be his fate? Under these circumstances, if the mover of the amendment explains how he can get over the difficulty of the part-heard cases, I shall be willing to vote for him.

Mr. E. CLEMENTS: I have been asked, Sir, to say something on the legal points involved, and that is whether we can transfer all these pending cases to the High Court. That involves two questions. One is whether the High Court themselves would object to the jurisdiction so thrust on them, and the other is a point of order, that is, whether this amendment is in order.

The Honourable the PRESIDENT: Is the honourable member raising a point of order?

Mr. E. CLEMENTS: I do not know whether Government raise that point of order, but I have been asked to explain what the legal position is. It has some bearing on that point and on the point whether the High Court would object to the jurisdiction given them.

The Honourable the PRESIDENT: If a point of order is specifically raised, I will have to deal with it.

The Honourable Sir MAURICE HAYWARD: I should like that point to be considered, because if the amendment is out of order it would, if passed, seriously inconvenience the working of the Act. If the effect of the amendment would be to increase the jurisdiction of the High Court, then I think it would not be possible for us to proceed with it without the sanction of the Government of India. To bring the provision into force earlier, that is to say, at once, so as to transfer all pending cases, I think would be increasing the jurisdiction of the High Court. I take the present provision only refers to new cases and no sanction has been received for old cases. If you go back and say "also old cases", I think that is distinctly a material increase in the proposed jurisdiction of the High Court, and I think that it would not be within our powers to pass that without previous sanction. If we did, the result would be that some party in the High Court would at once take exception and say that the High Court had no jurisdiction and that the provision was *ultra-vires* as it was passed without the sanction of the Government of India.

Mr. J. BAPTISTA: As it stands, all further references will be made to the High Court. The question is confined to the references already

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made to the Tribunal of Appeal. If there is authority to make all further references to the High Court, then I cannot see how the question of jurisdiction arises.....

The Honourable Sir MAURICE HAYWARD : Pending references ?

Mr. J. BAPTISTA : The point affecting further references would include the pending references. I believe this Council cannot deprive the High Court of jurisdiction, but it is not prevented from conferring jurisdiction on the High Court.

Mr. J. B. KANGA : Sir, if the section 80A of the Government of India Act is taken into consideration, it does appear that the bill, as it stands and as regards which the sanction of the Government of India is taken, stands this way. Sanction has been taken as regards future cases. But the bill as sanctioned states that pending cases will be heard by the Tribunal of Appeal. Now, what is attempted to be made by the present amendment is that not only future cases but also pending references, including probably part-heard cases, should all be transferred to the High Court. That, I submit, would come under 80A, (3), (f), "regulating any provincial subject which has been declared by rules under this Act to be, either in whole or in part, subject to legislation by the Indian Legislature in respect of any matter to which such declaration applies". If you, Sir, turn to Devolution Rule 17, page 120 of Bombay Legislative Council Manual, Vol. I, 1923, you will find it runs thus :—

"Administration of justice, including constitution, powers, maintenance and organisation of courts of civil and criminal jurisdiction within the province ; subject to legislation by the Indian Legislature as regards High Courts, etc."

Whenever any legislation is to affect Indian High Courts, it must be by the Indian Legislature except where previous sanction of the Governor General has been obtained, and therefore it does come to this, that though the Government of India has sanctioned that the High Court should entertain all new references which would be hereafter filed, no sanction has been given by the Government of India as regards references which are pending or part heard before the president of the Tribunal. That I submit appears to me to be so under section 80A.

The Honourable the PRESIDENT : I had known that this point of order was likely to be raised and I have, therefore, looked up all the authorities bearing on the subject. It appears to me that no further sanction of the Government of India is required for the passing of this amendment, and I, therefore, hold that the amendment is in order. I will give you reasons why I have come to this conclusion. The honourable member who has spoken on the subject in support of the point of order seems to have overlooked the fact that the Land Acquisition Act is an Act of the Indian Legislature, and that under that Act references in all land acquisition cases have been provided to the High Court. Therefore so far as such references are concerned, the duty of considering them has been already imposed upon the High Court by statute. All that this House is asked to do is to restore that position. The amendment is not making any departure from the principles underlying

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an Act of the Indian Legislature. The honourable member the Advocate General has relied upon section 80A, (3). The preamble of this bill says :

"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."

Let us now see the wording of section 64 which is now under consideration. It reads thus :

"Notwithstanding anything contained in sections 60, 61, 62 and 63 in respect of all references and appeals made to the 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 preferred 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."

This also indicates that the references are to be made to the High Court. The certificate from the President of the Tribunal provided in the Improvement Trust Act is to be dispensed with. Under the Land Acquisition Act passed by the Indian Legislature all references in regard to acquisition cases are to be made to the High Court. Even in the present bill all references from a subordinate court (if the Tribunal of Appeal is to be construed as a Court) are to be made to the High Court. The whole principle of this bill also, to which the sanction of the Governor-General has been given, is that all references shall be made in future to the High Court. All that is now at issue is the provision which makes a reservation to the effect that during an interval of 18 months such references shall only be made after the Tribunal of Appeal has decided the cases in the first instance. I think it is perfectly open to the House to say that this temporary provision should not be allowed. So far as the point of order is concerned, I hold that from all these points of view, and especially in regard to the provisions of the Land Acquisition Act, this House is perfectly entitled to consider the amendment which proposes to enact that all references shall be made direct to the High Court. In my opinion the amendment is quite in order. Whether the pending cases should be decided by the Tribunal or whether only part-heard cases should be disposed of by them, is a question of merit, and the House is quite competent to decide it for itself.

Sir VASANTRAO A. DABHOLKAR : Sir, I rise to thank you for ruling my amendment in order. I did not find any opposition to it from the official benches, but simply on technical grounds they wanted to throw out my amendment by raising the point of order. Sir, the honourable member the President of the Bombay Corporation has said that I have made some allegations. They are not allegations, but the fact is that the pay of the president and the assessors of the Tribunal is paid by the Improvement Trust, and as such the Improvement Trust is the master of these three officers. As regards the part-heard cases, the Honourable Leader of the House stated that there were 51 references and 250 cases. I fail to understand how, if there are 51 references,

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there can be 250 cases. Assuming that one reference has five cases, they must be pertaining to the same land. In one reference you cannot have several cases relating to lands in several parts of the island. If there is a reference about certain land in a certain locality, and if that case has reference to two or three minor cases, those cases must be about the reference to the same land, and as such the evidence is there. In fact, there are before the Tribunal 51 references out of which some which are part-heard can be disposed of by the time the Improvement Trust is handed over to the Corporation. The Honourable Leader of the House has said that interest would have to be paid if the litigation is prolonged and delayed. My submission is that if the awards are not increased in almost 90 cases out of 100, I do not know where the question of the payment of interest comes in. If the awards were increased by the Tribunal, then certainly interest will have to be paid over that amount which exceeds the awards of the land acquisition officer. But the awards are not increased at all, and so there is no interest to be paid. Out of 100 cases that come up before the Tribunal, there are hardly five cases in which awards are increased. On the contrary, as my honourable friend Mr. Baptista suggests, the amount that is deposited with the Tribunal receives interest from the banks. May I know whether in the year 1921, when a bill was referred to the Corporation by this Government, any provision was made in it about the retention of the Tribunal? Did not Government then think that if the Tribunal was abolished, the public would suffer, and economy would not be effected? It is only now that I find that Government think that if the Tribunal is abolished the public will suffer. Sir, from the Administration Report that I read out to the House it is clear that if the Improvement Trust is transferred to the Corporation, it will be to the advantage of the Corporation to pay the salary of an additional Judge (Rs. 4,000) than what the Trust is paying the Tribunal at the rate of Rs. 10,000 a month. I have pointed out that in 1924-25 the cost of the Tribunal came to Rs. 64,000. For the year not ending 1925 the cost of the Tribunal was Rs. 43,752, and including the cost of the solicitor, it came to Rs. 70,753; even taking the cost of the Tribunal alone, it was Rs. 43,752, which comes to nearly Rs. 4,000.

Then the Honourable Leader of the House has said that the President of the Tribunal is a whole time officer. I fail to understand the definition of the whole time officer; I should like to know whether the whole time officer means that he is supposed to attend the meetings of the Corporation and to attend the meetings of the Standing Committee and get the fees. During those hours, what Tribunal work he does? Does not the public suffer thereby? A whole time officer means that he devotes the whole of his time to the work of the Tribunal, but such is not the case.

As regards the question raised by my honourable friend the honourable member Dr. Dadachanji about part-heard cases: What happens in the High Court is that if some of the cases are to be heard by a certain judge and that judge goes on leave, those cases are heard by his successor. Even then, I do not want to interfere as far as part-heard

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cases are concerned. There is going to be a period of five months—there is no definite period, it may be eight months—before the time the Improvement Trust is handed over to the Corporation. As the Honourable Leader of the House has stated that the President of the Tribunal is a whole time officer, he can dispose of these part-heard cases during that time. Why should this not be done by him? As regards new cases, if the opposite benches are willing that the cases which are not opened should go to the High Court, I will not press my amendment. As regards the part-heard cases, I think within the time the Improvement Trust will be handed over, all those cases can be finished. With these words, I hope the Council will pass my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the principle that the Tribunal should be abolished has been accepted in this bill, in regard to all fresh cases. The difficulty is only about pending cases. The Tribunal is allowed to continue for 18 months to finish the pending cases. The number of such cases has been already given to this House, and in almost all these cases the Tribunal has already inspected the property, and has recorded a mass of evidence. Now, in that case.....

Sir VASANTRAO A. DABHOLKAR : On a point of correction, Sir. The Honourable Minister has stated that in all the cases which are before the Tribunal the Tribunal has inspected the property.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I said in almost all the cases.

Sir VASANTRAO A. DABHOLKAR : Very well, Sir, in almost all the cases they have done so. The cases in regard to which a reference has been made to the Tribunal are there for the last three years, and during those three years the presidents have changed three times. May I know whether Mr. Havelivala has seen the levels of the land at Dharavi, and whether Mr. Arbutnot has seen the levels of the lands in Dharavi?

The Honourable the PRESIDENT : The honourable member cannot make a second speech. He can only make a statement to the effect that the facts are not as stated.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I submit that the pending cases are actually proceeding; the properties have been inspected; notes have been taken; and a mass of evidence has been recorded. Now, Sir, suppose we transfer all these cases to the High Court. Then, in most of the properties in respect of which there was an inspection and notes were recorded, there have been changes. Now, if the High Court inspects those lands, it will not be able to differentiate between their present and previous conditions. In order to ascertain the pre-existing condition of the lands, a good deal of evidence will be required. Therefore, I think that it is in the interest of economy as well as in the interest of the parties concerned that the tribunal which has already heard the evidence, inspected the property and taken notes should complete the cases before them. The time allotted to it is only 18 months, which is not a very long time. The main difficulty, as I pointed

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out before, arises from the changes that have taken place in some of the properties since the last inspection. Therefore, I submit that it is in the interest of economy as well as of the parties concerned that the pending cases should be decided by the tribunal. If we transfer them to the High Court, we will require an additional judge, which will mean additional expense.

Question put and lost.

Sir VASANTRAO A. DABHOLKAR : Sir, I rise to move the following amendment that stands in my name :

Add the following proviso to clause 64.

Clause 64 : " Provided that no person who is a member of the Board or Improvements Committee or who under the Act is disqualified to be a member of the Board or Improvements Committee, shall be qualified to be a member of the Tribunal."

Under the existing Improvement Trust Act it is provided under section 48 :

" Provided that any person who is a trustee under this Act, or, who, by reason of the provisions of section 14, is disqualified to be a trustee, shall be disqualified to be a member of the tribunal."

The tribunal is at present composed of two members of the Corporation and they will be sitting in judgment over cases of properties which are to be acquired by the Board of which they are the members. Therefore, I say that the provisions of the existing Act should be embodied in this bill. I hope the Honourable Minister will accept the amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I accept the amendment.

Question put and carried.

Mr. A. MASTER : The amendments that are standing in my name relate to the same section and are necessary in order to bring it in conformity with the amendments that have been passed.

The Honourable the PRESIDENT : Will the honourable member please confine himself to the first amendment ? It will save a considerable amount of time if each of the amendments is put to the House separately.

Mr. A. MASTER : I beg to move my first amendment :

" In clause 64 before the word ' notwithstanding ' insert the figure ' 1 ' . "

Question put and carried.

Mr. A. MASTER : I beg to move, Sir :

" In clause 64, before the figures ' 60 ' add the figure ' 4 ' . "

The Improvement Trust Act has been repealed and it is necessary to mention here that it is kept alive for the purposes of this section.

The Honourable the PRESIDENT : That raises a question of order on which I should like to get some information. Under clause 4 the Improvement Trust Act is going to be repealed except certain obligations which have been taken under it. In some parts of this bill references are being made to sections of an Act which is going to be repealed. Would it not be better from the point of view of public convenience to bodily incorporate section 48, in this bill, so that the public may not have to look up an Act which has been repealed. I am merely making a suggestion with regard to the method of drafting.

The Honourable Sir MAURICE HAYWARD : Sir, I should like to suggest that clause 4 is merely what is called a saving clause. It saves anything that has been done under the old Act. The clause says :

" 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. "

In a saving clause it is unusual to repeat the law of the old provisions. It is considered sufficient to refer to the old Act. It would be cumbersome to embody the sections of the repealed Act in the new Act.

The Honourable the PRESIDENT : I wanted to place the question for consideration. A large number of people who may be interested in this legislation will have to look up an Act which will have been repealed. It would be a source of great inconvenience to them if they are obliged to do so. It is a mere question of drafting. It is for Government to consider what they should do. I would like to suggest to them to consider whether it would not be better to insert such sections in the bill itself, so that the public may have a complete Act to refer to instead of having to look up Acts which have been previously repealed. It is a matter of public convenience which I wish to bring to the notice of Government. They can do what they like.

Mr. E. CLEMENTS : May I suggest that the amendment as it is now worded may be put before the House, and any further amendments necessary may be made later.

The Honourable the PRESIDENT : Certainly. I have no objection. It is desirable to make the Act as complete as possible.

Question put and carried.

Mr. A. MASTER : Sir, I beg to move :

In clause 64, delete the proviso.

Sir, this proviso is covered by the amendment which I shall move later.

Question proposed.

Mr. HOOSENALLY M. RAHIMTOOLA : Mr. President, this proviso was specially inserted by the select committee to do away with the certificate.

The Honourable the PRESIDENT : I think it would be desirable if the honourable member moved this amendment along with the amendment by which he proposes to substitute some other proviso. Otherwise, honourable members cannot follow what the intentions of Government are in proposing the deletion of this proviso. At least an explanation from the honourable member is necessary as to what he proposes to substitute for it.

Mr. A. MASTER : Sir, I beg to move at the same time :

In clause 64, insert :

(2) For the purposes of this section the provisions of section 48, sub-sections 1 to 4, 6 to 10 and 12 and 13 shall with all necessary modifications apply for a period of 18 months after this Act comes into force within which period all references shall be disposed of.

(3) There shall be an appeal to the High Court from the award or any part of the award of the Tribunal.

Sir, section 48 (5) of the City of Bombay Improvement Act provides that members of the Tribunal shall be appointed for a term of one year. If during these 18 months a member were to resign or fall out for one reason or other, a new member will have to be appointed, and it would

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be extremely awkward if this sub-section were made to apply as we will have to appoint a member for one year. Sub-sections (6) to (10) of section 48 provide for the removal of members, vacancies to be supplied, remuneration of members, etc. Sub-section (11) of section 48, which is not mentioned in the amendment is the section that provides :

"In any case in which the President may grant a certificate that the case is a fit one for appeal, there shall be an appeal to the High Court from the award or any part of the award of the Tribunal."

It will be useless to change the procedure laid down in the other sub-sections although the Act is repealed.

Question proposed.

The Honourable the PRESIDENT: My suggestion to embody the clauses referred to in the bill itself applies to this also.

MOULVI RAFIUDDIN AHMAD: You might give Government some time.

The Honourable the PRESIDENT: I take it that it is agreed that if the Honourable Minister brings in any consequential amendments he will be permitted to do so.

Mr. J. BAPTISTA: Sir, I wish to call attention to the wording of the clause. It says "the said Tribunal of Appeal or the High Court, shall continue to perform the functions assigned to it under the said Act". That means that all those functions mentioned in the Act are to be continued. If that be so, I do not know if there was any necessity for this additional clause to enable them to perform those functions. The important thing is that the restraint under the present Act over appeals to the High Court should be clearly removed. I do not know if the wording "There shall be an appeal to the High Court....." will do that. Of course there is an appeal to-day, but that appeal is subject to a certificate.

The Honourable the PRESIDENT: May I make a suggestion for the consideration of the Honourable Minister? This is a very important part of the Act. We are very near tea time. The Honourable Minister, the R. L. A. and Mr. Baptista might sit together and draft the necessary amendments to make the intentions clear. There is no disagreement as to what is intended. It is merely a question of drafting. If the Honourable Minister will do that, I will put it off till after tea time.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I agree, Sir.

Consideration of clause 64 postponed.

Clause 65 (*Composition to Board on land resumed*) ordered to stand part of the bill.

Clause 66 (*Power to borrow from the Secretary of State for India in Council or other persons*) ordered to stand part of the bill.

Clause 67 (*Government to direct manner in which money shall be borrowed from other person*) ordered to stand part of the bill.

Clause 68 (*Provision for sinking fund to repay money borrowed*) ordered to stand part of the bill.

Clause 69 (*Dates fixed for investment of sinking funds in public securities*) ordered to stand part of the bill.

Clause 70 (*Period over which loans may extend*).

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.

Mr. J. BAPTISTA (Bombay City, North) : I should like to point out that this clause says in paragraph (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.”

But in clause 66 there is no provision made for that purpose. No power is given to borrow money for the discharge of a previous loan. It only says :

“ The Board may, from time to time, borrow or re-borrow, etc., etc., 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.”

In the Municipal Act the wording is “ any loan contracted, etc.” Consequential changes are required in the matter. I am only making a suggestion and if the Honourable Minister thinks it desirable he may introduce it. I am not opposing.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I will consider it.

The Honourable the PRESIDENT : Clause 70 should stand over till after tea time.

Clause 71 (*Form of securities*) ordered to stand part of the bill

Clause 72 (*Payment to survivors of joint payees*) ordered to stand part of the bill.

Clause 73 (*Power of one or more joint holders to grant receipts*) ordered to stand part of the bill.

Clause 74 (*The Board may take advances from Banks and grant mortgages*) ordered to stand part of the bill.

Clause 75 (*The Board to have power to borrow from banks against Government promissory notes or securities*) ordered to stand part of the bill.

Clause 76 (*Provisions for loans raised by the Board of Trustees under Bombay Act IV of 1898*) ordered to stand part of the bill.

(*After recess.*)

Clause 77 (*Transfer of Property to the Board*).

(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 land 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 subsection (2) 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 (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) 1 (e) to 1 (i) both inclusive and 1 (k) shall vest absolutely in the Board.

(3) The lands respectively referred to in Schedule C as the Cooperage 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 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 Committee shall have power to let the whole or any part of such area for any temporary purpose or sufferance lease, at such nominal or other rent as the Committee may approve.

(5) All the estate, right, title and interest of the Board to and in any land specified in Schedule 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 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.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move an amendment to clause 77, paragraph (2), sub-paragraph (b), line 5. It runs as follows:

In clause 77 (2) (b), line 5 omit the words "for the purpose of a race-course or" and add the words "excepting a race-course" after the word "amusements".

Sir, paragraph (b) of sub-clause (2) of clause 77 contemplates the reservation of plots of land for purposes of public recreation. The Board will have the power of letting these lands on small leases of one year, but it also reserves power of a longer lease subject to the sanction of Government. The only condition is that these plots should not be built upon, and the purpose is also fixed that the lands should be leased out for purposes of public recreation. But one objectionable feature of this provision is that it makes an exception in the case of a race-course. It authorises the Board, subject to Government sanction, to let the plot for a race-course for 30 years. Now, the idea underlying this clause is that plots are to be reserved for purposes of public recreation or amusement. But a race-course can hardly be called a public recreation or amusement. It is a place, as we all know, reserved for legalised gambling, and still Government desire that the Turf Club may become a lessee of such plots. Sir, there is a very strong feeling against gambling and its increase, and I am told that even the Municipal Corporation is not in favour of allowing the Turf Club to have any licenses within the city of Bombay. For this reason I submit that the Turf Club should not be given a lease in respect of these plots of land.

Question proposed.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I merely suggest to this House that the honourable member in his zeal is exceeding the limits of discretion. Why should this body not be given authority to decide its own affairs in such matters as the granting of a license to other parties? We have just passed legislation dealing with taxation on the race-course. I submit that the House would look foolish in the eyes of the public if, immediately after they have sanctioned that legislation, they were to accept an amendment of this character.

Mr. A. N. SURVE (Bombay City, North): Sir, the objection raised was that several buildings have been built and the lease has already been given. What I contend is that this clause will not refer to the existing lease. The terms of the existing lease will be regulated by the old Act but when the term of the lease will come to an end and the question of renewing it will come for decision, at that time the Turf Club should not be given a renewal of the lease. That is my suggestion.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I do not share the view of my honourable friend. As far as I am

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aware, a large section of the public consider races also as a recreation or amusement. Therefore, why should this body be debarred from letting out sites for race-courses when they can do so for other public recreations or amusements. Besides, the Improvement Trust has been spending large sums of money, and if we go on restricting their powers, it would be interfering with their rights. Therefore, it is for them to decide whether to let their plots for the purpose of race-courses or not. It is not for us to restrict their powers.

Question put and lost.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): Sir, the amendment which I wish to move to clause 77, sub-clause (5), reads as under:—

In proviso to sub-clause (5) of clause 77 substitute " 999 " for " 99 ".

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I rise to a point of order. At present Government have authorized the Improvement Trust to lease out Government lands for 99 years. After 99 years, those lands will revert to Government. The amendment proposes that the Improvement Trust be authorized by Government to lease out Government lands for 999 years. That means that the lands which are to revert to Government after 99 years will not do so for 999 years. That will naturally affect the revenues of this presidency, and my honourable friend cannot, therefore, move that amendment without the previous sanction of the Governor.

The Honourable the PRESIDENT: I am inclined to uphold the point of order. The amendment comes under section 80C of the Government of India Act, and therefore, it is out of order.

Clause 77 ordered to stand part of the bill.

Clause 78 (*Vesting of property in His Majesty and the Corporation on the termination of leases granted by the Board*) ordered to stand part of the bill.

Clause 79 (*Power to the Board to acquire and hold property*) ordered to stand part of the bill.

Clause 80 (*Power to apply certain lands vested in the Board to the purposes of any scheme under this Act*) ordered to stand part of the bill.

Clause 81 (*Provision for dissolving the Board and effect of dissolution*) ordered to stand part of the bill.

Clause 82 (*Amount of payment to be made by the Commissioner to the Board on the first day of May*) ordered to stand part of the bill.

Clause 83 (*Assessment of municipal taxes in respect of property of the Board*) ordered to stand part of the bill.

Clause 84 (*Payment to be made by Government*) ordered to stand part of the bill.

Clause 85 (*Accounts: Application of proceeds of sale and exchange of property*) ordered to stand part of the bill.

Clause 86 (*Application of moneys credited to Capital Account*) ordered to stand part of the bill.

Clause 87 (*Value of land in Schedules C and D to be included in the Capital Account*) ordered to stand part of the bill.

Clause 88 (*Capital Account*) ordered to stand part of the bill.

Clause 89 (*General Account*) ordered to stand part of the bill.

Clause 90 (*Charges to which moneys credited to the General Account shall be applied*) ordered to stand part of the bill.

Clause 91 (*The General Account to distinguish between items included in it*) ordered to stand part of the bill.

Clause 92 (*The cost of Management to be first debited to General Account and thereafter to be apportioned between Capital Account and General Account.*)

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.

Mr. A. MASTER : Sir, the amendment I beg to move to clause 92 (b) runs as under—

In clause 92 (b) add " and the Tribunal of Appeal ".

Question put and carried.

Clause 92 as amended ordered to stand part of the bill.

Clause 93 (*Procedure in event of default by Board in payment of interest or investment of sinking fund charges*) ordered to stand part of the bill.

Clause 94 (*Procedure in case of default by Commissioner*) ordered to stand part of the bill.

Clause 95 (*Certain sums to be a charge upon the property of the Board*) ordered to stand part of the bill.

Clause 96 (*Chief Officer to frame an annual estimate of income and expenditure*) ordered to stand part of the bill.

Clause 97 (*The Committee to sanction or amend such estimate*) ordered to stand part of the bill.

Clause 98 (*Estimate to be submitted to the Board for sanction*) ordered to stand part of the bill.

Clause 99 (*Latest Budget estimate sanctioned under Bombay Act IV of 1898 to be considered as sanctioned under this Act*) ordered to stand part of the bill.

Clause 100 (*Committee may prepare supplementary estimates*) ordered to stand part of the bill.

Clause 101 (*Sum not included in estimate may not be expended*) ordered to stand part of the bill.

Clause 102 (*Audit of Accounts*)—

(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.

Mr. HOOSENALY M. RAHIMTOOLA (Bombay City): Sir, I beg to move—

In sub-clause (2) of clause 102 substitute the words "both with their respective opinions" for the words "the Chief Officer who shall forward the opinion of the Chief Accountant together with his own".

Sir, a clause similar to that in the bill was submitted by the Chairman of the Improvement Trust to the sub-committee of the Corporation, and the sub-committee of the Corporation changed that wording to what I am suggesting now. It seems in the Improvement Trust they suggested the wording as now appearing in the bill, and Government have supported the Improvement Trust. The reason why the Corporation Committee suggested this change which I am now moving as my amendment is that our retrenchment adviser has recommended that in the municipality the chief accountant should be authorised and should have the power to report directly to the Corporation, and not to the Commissioner, though, for disciplinary purposes, he may be under the Commissioner. It has been recommended that he should have the power to report directly to the Corporation without the intervention of the Municipal Commissioner. On the basis of that recommendation, the Committee of the Corporation made the change. And therefore by my amendment I want the clause in the bill to be changed. I shall, Sir, quote from the report of the retrenchment adviser. He says:

"For disciplinary purposes, he, (that is the Chief Accountant), may be under the Municipal Commissioner, but he should have the privilege of making independent representations to the Corporation, whenever in his opinion sound financial practices or procedure are departed from.

Therefore, in view of the recommendations of the retrenchment adviser I have moved this amendment.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, sub-clause (2) of clause 102 provides that 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. The Chief Officer, being the superior officer, will forward the opinion of the Chief Accountant with his own to the Committee. The opinion of the Chief Accountant and of the Chief Officer will be before the Committee, and it is for the Committee to act upon the opinion of the Chief Accountant or of the Chief Officer whichever they prefer. The Chief Officer forwards the opinion of the Chief Accountant because he is a superior officer; he will in no way distort that opinion.

Again, Sir, looking to sub-clause (2) of clause 27 which we have already passed, it will be seen that it is provided that the Chief Officer shall 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. Now, if we accept

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this amendment, it will be inconsistent with clause 27 (2) which the House has already passed. Even under this clause, the Chief Accountant will give his opinion, which the Chief Officer will submit to the Board and the Committee, and it will be for the Board or the Committee to decide matters as they like. I think, in view of clause 27 (2) which we have already passed, it is necessary that the present clause should be retained as it is.

Question put and lost.

Clause 102 ordered to stand part of the bill.

Clause 103 (*Accounts to be audited and examined by auditors appointed by Government*) ordered to stand part of the bill.

Clause 104 (*All moneys to be deposited in Imperial Bank of India or other prescribed Bank*):—

(1) All moneys payable to the Board shall on receipt be forthwith paid into the Bombay Head Office of the 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 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, 1882.

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): Sir, I beg to move the following amendment:

In sub-clause (2) of clause 104, substitute the word "Board" for the word "Government".

This was how the clause was worded in the Corporation bill and the Improvement Trust Board did not raise any objection to it. Under the City of Bombay Municipal Act, the power of fixing the banks vests in the Corporation, and Government have got no say in the matter. As regards the Improvement Trust also, I think it is desirable that similar provision should be made. I therefore move my amendment.

Question proposed.

Mr. J. BAPTISTA (Bombay City, North): Sir, I would recommend the acceptance of this amendment. I cannot see why this trust should not be reposed in the Board. The Corporation deposit large sums of money in any bank they please, and I cannot see why the Board which is the Corporation cannot be trusted with depositing with the Banks they please the money of the Trust. The Standing Committee and the Corporation have at times got to deal with the matter immediately. Sometimes, their decision in the choice of banks depends on the interest they can get. Sometimes the deposit is for short term only. There would be no time to refer to Government. I think this distrust of the Board resembles the old distrust of the Corporation, when Government instituted the Improvement Trust Board.

Mr. G. WILES: Sir, I venture to plead for the retention of the clause as it stands. The honourable member is, I think, under a slight misapprehension as to the force of the clause. Government will not prescribe that such and such a bank only shall be selected. Government publish from time to time a list of banks—at present they are, I think, 13 in number—in which Trust securities may be deposited, so that there will be a considerable number of banks on the list from which the Board will

[Mr. G. Wiles]

be in a position to choose any bank they like. Government are not imposing any new restriction on the municipality, but they are simply exercising the discretion which is exercised in the case of trust securities. The municipality may choose any bank out of the list of banks prescribed by Government.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, this subject was very much discussed in the select committee. I should like to hear arguments from the opposite side of the House. Is the board likely to select any bank which was not sound or which was likely to be insolvent? Will the Corporation intentionally run serious risks? Has it done so in the past? Why should Government insist upon it to invest only in such banks as it would name from time to time? The corporation deals with crores of rupees and they are trustees of public money. They are as careful as Government, perhaps more, in this respect. In this little matter why should Government distrust the corporation when they have imposed so great a trust in them in matters far more important?

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce): I rise to oppose this amendment. In the case of the Improvement Trust Government have prescribed certain banks in which that body should invest its surplus funds. But in the case of the municipality they have not done so, because they do not take the same financial responsibility in the case of the Corporation as in the case of the Improvement Trust. That being so, I cannot understand why this section should not be accepted. There is no want of dignity in prescribing the list of banks in which the funds should be invested. It is no more an indignity than that trustees have to invest in securities prescribed by the Trustees Act. There are many cases of trust funds where such limitations have been imposed by Government. It does not mean any interference with the rights of the municipality; but the municipality has got to satisfy Government that the bank in which they wish to invest their money is sound and well managed. Government must have the power to see that the funds are not invested in banks which are considered by Government as unsafe. I think Government should have this power.

Sir VASANTRAO A. DABHOLKAR: Sir, it is surprising that this opposition should have come from the honourable member Mr. Grantham who had strongly and vigorously supported the representation of the commercial bodies on the Committee. He stated that if the representatives of these three associations were to be on the committee the financial interests of the Improvement Trust would be carefully watched. At the same time he now states that the Government should have the power to prescribe the banks in which alone the money of the Board should be invested. My honourable friend forgets the interest the corporation has got in the Improvement Trust to which the corporation has advanced large amounts of money during the last 20 years. Moreover, the Government are not responsible for the finances of the Improvement Trust. To the Improvement Trust, he has forgotten that the Corporation has advanced money to the tune of 2 crores and 57 lakhs. Is it possible that

[Sir Vasantao A. Dabholkar]

the corporation can neglect the financial interests of the Improvement Trust? Has the honourable member pointed out any instance in which the bank in which the corporation has invested its money has been objected to by Government?

Mr. V. A. GRANTHAM: Safety first.

Sir VASANTAO A. DABHOLKAR: Why should there be suspicion first? The corporation has been handling its finances for the last so many years without any cause for suspicion.

My honourable friend the Finance Secretary says that the funds should be invested in the recognised banks of Government. But he did not give any instance in which the corporation has committed great blunder in its investments. In the absence of any such information the amendment should be supported and I hope the Honourable Minister will accept it.

The Honourable Mr. H. S. LAWRENCE: Sir, it seems to me that there has been a certain amount of heat and violence imported into this very small technical matter. There is no question of dignity or indignity about this affair. It is only a question of the application of a regulation which is well-known throughout the business world. When you have trustees, they are bound by the terms of the Trust Act. Here you have a board of trustees for the Improvement Trust. What indignity can there be if such a board of trustees is obliged to conform to certain regulations which are considered necessary in every country in the world? This matter might conceivably, but unlikely, affect the financial interests of the country. I submit that Government have prescribed the banks for certain purposes and these regulations are very rightly made applicable to the funds of the Improvement Trust.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City): Sir, in the Municipal Act it is provided under section 122 (2):

"All such surplus moneys which it is necessary to keep readily available for application to such purposes, and all such surplus moneys which cannot in the opinion of the Municipal Commissioner, concurred in by the standing committee, be favourably deposited or invested as aforesaid, may be deposited at interest at any bank or banks in the City of Bombay which the standing committee may, subject to the control of the corporation, from time to time, select for the purpose."

There is no mention of Government there. I submit that the municipal corporation are also trustees of the public money. They are not individuals. According to the interpretation of the Honourable the Finance Member, the corporation also should come under the regulation of the Trustees Act. In what is well known now as the Turner-Cowasji bill the provision as regards banking is:

"All moneys at the credit of the Board which cannot immediately be applied in the manner or to the purposes specified in this Act shall be deposited in such Bank or Banks and subject to such conditions as may from time to time be prescribed by the Board with the approval of the corporation....."

In the present case the Board takes the place of the corporation and the Committee that of the Board of that bill. I submit even then it was not thought necessary to insert the word 'Government' in that bill.

[Mr. Hoosenally M. Rahimtoola]

As regards the financial position of the corporation and the Trust it cannot be denied that the Municipality deals with larger amounts of money than the Trust. The Municipality has actually received from Government over 8 crores of rupees by way of loans whereas the Improvement Trust has received something less than 8 crores, so that the municipality owes more to Government than the Improvement Trust. The Government does not think it necessary to have control in the case of the Municipality whereas they want control in the case of the Improvement Trust. Now, Government want us to invest the money in the banks prescribed by them. I want to know whether the Alliance Bank was on the list of Government banks. The Alliance Bank was never on the list of the Corporation. So far as I am aware, I have been informed by the Commissioner that all the banks that are on the list of the Corporation are on the list of the Government; but not all the banks that are on the list of Government are on the list of the Corporation. It shows how careful the Corporation is with regard to its investments. Under these circumstances I hope the Honourable Minister will accept my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
I have nothing to say.

Question put and lost.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move :

In clause 104, (2) line 3, substitute the words "decided by the board subject to the approval of" for the words "prescribed by".

Sir, my amendment is a compromise. Unfortunately the Board is indebted to the Government to the extent of several crores, and it is everyday experience that the debtor must submit himself to the conditions imposed by the creditor, whether they are mild or arbitrary, reasonable or unreasonable. Here at any rate Government have a show of reason on their side. They say that public money to the extent of 15 crores is at stake and therefore they are entitled to have the power of prescribing where the money shall be deposited. Sir, my amendment is a compromise between two opposing views. It secures self-respect to the Board and it also secures the public interests whose custodians are the Government. I therefore propose that the Board should in the first instance decide as to where they will keep the money and then should ask for the sanction of Government. In that case both the parties will be equally well protected. I hope that my amendment will be accepted.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir,
I accept it.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I oppose this amendment. I think this amendment has no sense at all. It is indeed against the dignity of the Board. The amendment presumes that they have no sense and that they should go to Government to learn it. I do not think it serves the object of the first amendment, and perhaps for that reason the Honourable Minister has accepted it. I, for one, am opposed to it.

Sir VASANTRAO A. DABHOLKAR : Sir, I am quite at one with the honourable member who preceded me.

The Honourable the PRESIDENT : If there is no other honourable member who wishes to speak, I will call upon the honourable mover to reply.

Mr. A. N. SURVE : Sir, there is hardly any reply to be given.

The Honourable the PRESIDENT : The honourable member's amendment has been opposed, and therefore I have to call upon him to reply. If he does not wish to do so, it is his business.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I find a certain amount of opposition to this amendment. Therefore, I leave it to the decision of the House.

Question put and lost.

Clause 104 ordered to stand part of the bill.

Clause 105 (*Mode of payment*) ordered to stand part of the bill.

Clause 106 (*Orders for making deposit, etc., by whom to be signed*) ordered to stand part of the bill.

Clause 107 (*Schedule of officers and servants of the Board*) ordered to stand part of the bill.

Clause 108 (*The Committee to frame regulations for regulating grant of leave, etc.*) ordered to stand part of the bill.

Clause 109 (*Appointments, etc., by whom to be made*),

(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 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 exercised by the Committee alone.

(4) In this section the word "Engineer" means the engineer of the highest grade on the Board's ordinary staff.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move :

In clause 109 (1), line 4, add the word "special" before the word "meeting".

Sir, this clause refers to appointments and dismissals of officers of the standing of Engineer, Estate Manager, Chief Accountant and others. The original provision was that these officers could be dismissed on the vote of 53 trustees present at the meeting. The House is aware that 106 is the total number of the Board, and if the original clause had stood then it would have been a reasonable thing. But unfortunately in the select committee the figure "53" was omitted and in its place was put "two-thirds of the trustees present at a meeting". Now, it is well known that some of the meetings of the corporation are not held at the appointed time because there is not a sufficient number to form the quorum though it is fixed at so low as 20. If at a meeting of 20 members

[Mr. A. N. Surve]

a proposition of this seriousness is disposed of, I think that in these days of party organisations no officer will be safe. For that reason I have suggested that if an officer is to be appointed or dismissed it should be done at a special meeting. The object underlying this suggestion is to draw the particular attention of the members to the business that will be transacted. When a special meeting is called, the members will pay their particular attention to it and make it a point to attend it. With this object I have stated that the word "special" should be added before the word "meeting".

Question proposed.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City): Sir, I rise to oppose this amendment. Under the Municipal Act certain officers of the municipality are removable at any meeting of the Corporation on the votes of not less than two-thirds of the members voting in that behalf. A similar provision was added in this clause in the select committee to bring it in conformity with the section of the Municipal Act. There is absolutely no reason why a different treatment should be given to officers of the same body working in different capacities, and that is why the select committee agreed to the amendment. My honourable friend is under a misapprehension. The quorum is not 20, but 30 in the case of the Improvement Trust. Further, the Corporation meetings are held every month, but the Board meetings will be held quarterly. The business that the Corporation has to do is very heavy, whereas the business of the Board will be very limited, because most of the work will be done by the Improvements Committee. As the Board meetings will be held quarterly a large number of members will be present. Further, whenever there is a motion of censure, there is a whip going round to all persons interested in the officer, and therefore my honourable friend need have no apprehensions on the score that an officer of the Improvement Trust will be dismissed or censured by a small number of the members of the Board. I therefore oppose this amendment.

Mr. A. N. SURVE (Bombay City): The honourable member who opposed this amendment has stated several facts: namely that the quorum is 30, and that the meeting is quarterly. But he loses sight of the fact that the Board meetings are only like the corporation meetings under a different name. If for the municipal meetings they do not muster in strong numbers there is chance of further default on their part in regard to attendance at the Board meetings because additional burden is cast upon them. For these reasons I think that my amendment should be accepted.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I oppose it.

Question put and lost.

Clause 109 ordered to stand part of the bill.

Clause 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 1924."

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): Sir, I beg to move :

Clause 109-A should be deleted.

I beg to draw your attention to clause 4 of the bill which says that all appointments, rules and orders, etc., shall be binding under the new Act. Even if clause 109-A is deleted these officers will enjoy all the benefit of the existing rules. If this is so, I think this clause is not necessary. If it is not, then the amendment is one of principle which should only have been moved at the first reading.

The Honourable the PRESIDENT: Is it a point of order that is raised ?

Mr. HOOSENALLY M. RAHIMTOOLA: Yes, Sir.

The Honourable the PRESIDENT: I have always had some difficulty in deciding whether an amendment is one of principle or of detail. The House was given an opportunity to amend the Standing Orders to remedy this defect which is constantly cropping up. The House refused to take that opportunity. It is very difficult for me to decide the question. On the present occasion I am inclined to rule that the amendment is in order. This amendment is not one of principle.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Mr. President, will you kindly allow this clause to be considered to-morrow ?

The Honourable the PRESIDENT: The consideration of clause 109-A is postponed till to-morrow.

Clause 110 (*The Committee may make by-laws*) ordered to stand part of the bill.

Clause 111 (*Approval and publication of the by-laws*) ordered to stand part of the bill.

Clause 112 (*Penalty for breach of by-law*) ordered to stand part of the bill.

Clause 113 (*By-laws to be printed*) ordered to stand part of the bill.

Clause 114 (*For being interested in contracts with the Board*) ordered to stand part of the bill.

Clause 115 (*For obtaining illegal gratification*) ordered to stand part of the bill.

Clause 116 (*For refusing or neglecting to appear before an auditor of accounts*) ordered to stand part of the bill.

Clause 117 (*Cognizance of offences under this Act*).

All offences against this Act or against any by-law made under section 110 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender shall be paid to the Board.

Mr. A. N. SURVE (Bombay City): I beg to move :

Clause 117, add the word " Stipendiary " before the word " Presidency ".

The object underlying this amendment is that the Presidency Magistrate is a term which includes stipendiary as well as the Honorary

[Mr. A. N. Surve]

Magistrates, but some belonging to the latter class will be members of the Board, and if any offence under this Act is to be tried by the honorary magistrates, I am afraid they would be interested in cases in which they are acting as judges. And I do not think the Council will allow such anomalies in the administration of justice. For this reason I have added the word "Stipendiary" in order to make it clear that the honorary presidency magistrates will not have jurisdiction. I trust that my amendment will be accepted.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I have no objection to this amendment. I accept it.

Question put and carried.

Clause 117 as amended ordered to stand part of the bill.

Clause 118 (*Provision when day appointed for any purpose is a Sunday or Public holiday*) ordered to stand part of the bill.

Clause 119 (*Measurement of distances*) ordered to stand part of the bill.

Clause 120 (*Limitation on suits*) ordered to stand part of the bill.

Clause 121 (*Repeal of Act XIV of 1904*) ordered to stand part of the bill.

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 (l) of section 4, section 6 and sub-section (2) of section 17.

Part III—Reference to Court 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.

Sir VASANTRAO A. DABHOLKAR : Sir, I rise to move the amendment that stands in my name, namely :

In Schedule A, Part III, delete the words "sub-section (2) of section 23 and".

Sir, sub-section (2) of section 23 of the Land Acquisition Act reads :

"In addition to the market-value of the land as above provided, the Court shall in every case award a sum of fifteen per cent. on such market-value, in consideration of the compulsory nature of the acquisition."

Sir, this is the sub-section in the Land Acquisition Act and I want it to be provided here, because under the acquisition proceedings for the Improvement Trust compulsory 15 per cent. is never given, while in the case of other public bodies where compulsory acquisition is made extra 15 per cent. is given. And why it should not be given in this case is a great surprise to me? When I had raised this question in the select committee, the select committee thought that for the last so many years great injustice was done to those people from whom the properties were compulsorily acquired, and it had agreed to give some percentage for the compulsory acquisition, so the committee admitted the principle, but it does not admit the whole of the principle altogether, namely, to give 15 per cent., as is done in the case of other public bodies. Sir, I should

[Sir Vasantao A. Dabholkar]

like to read to you from the reference to the Tribunal (No. 114 of 1921) what the award of the land acquisition officer, means. It says :

" The Trust Counsel also argued at great length that awards were not admissible as they were mere offers and could not be looked upon as sales in the open market. "

Sir, if these awards of the acquisition officers are considered as mere offers, I ask whether the claimants can accept or refuse them, as they like ; while, as a matter of fact, as soon as the award is made by an acquisition officer, it is binding on the owner whose property is being acquired. But if it had been any private contract, the owner of the property, unless he gets a suitable offer, would not part with it. But here it is not an offer but a compulsory acquisition. Whatever award is made by the acquisition officer, the owner whose property has been notified has to part with that property. When the compulsory acquisition is made, and the word " offer " is used, that itself proves that it is not the correct market value of the land, and therefore I maintain that 15 extra per cent. should be provided as is given in the case of other public bodies for the compulsory acquisition, and this is nothing extraordinary.

Question proposed.

Mr. J. BAPTISTA : I oppose the amendment.

The Honourable Mr. H. S. LAWRENCE : I certainly think this should be opposed, Sir. It means a very great tax on municipal revenues.

Sir VASANTAO A. DABHOLKAR : Sir, my honourable friend the Finance Member says, it will be a tax on Municipal revenues. Does he know that the municipality has been acquiring acres and acres of land in Bombay and paying 15 per cent. extra compensation to the owners for the compulsory acquisition ? Is it no tax on the municipality ? If the municipality is paying in one direction and is willing to pay, why should it be hard for the municipality to pay in other cases ? If the municipality had approached this House for amending the Land Acquisition Act so as not to pay 15 per cent. extra then the remarks of the Honourable the Finance Member were justified. For the triplication of Tansa and the widening of the DeLisle Road, properties worth lakhs and lakhs of rupees were acquired and 15 per cent. extra compensation was granted. (The Honourable Mr. Cowasji Jehangir : Why are you so modest ? Why not suggest 30 per cent. ?) Sir, my friend the Honourable the General Member asks why I am so modest and do not suggest 30 per cent., but he fails to understand that the Land Acquisition Act can be amended only by the Legislative Assembly and not by this Council.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the Improvement Trust was created for the purpose of clearing the slums. That is, it was a measure designed for the greatest good of the greatest number, and in the City of Bombay Improvement Act of 1898 absolutely no compensation was allowed, and this was based on the English Acts. Thus, under the English Act of 1919—the Assessments of Compensation Act—payment of compensation is barred in all cases where land is acquired for Government or public purposes by the local authorities, and is only allowed if the property is acquired for a company

[Khan Bahadur Shaikh Ghulam Hussain]

with a view to carry on some business, that is, where it is a profit-making undertaking. The Improvement Trust is not a profit-making concern. Moreover, Sir, in the Calcutta Improvement Act also no compensation is awarded. Further, look at the good that the Improvement Trust has done. It has provided better roads, better ventilation and better health to a very large number of people. Moreover, by removing slums and widening roads, the actual value of most of the properties is enhanced, and no betterment charges are levied under the Act. If owners are not given compensation for compulsory acquisition, the value of their property has considerably increased. Furthermore, Sir, I should like Sir Vasantao to look at the provision made in the schedule. We have allowed there 6 per cent. compensation on the market value, on the first 10,000 and then a sliding scale as shown in Schedule AA is followed. Sir Vasantao and other members should remember that this House is always anxious about the money of the ratepayers, and I trust they will be as anxious in this case also.

Question put and lost.

Schedule A ordered to stand part of the bill.

SCHEDULE AA.

(See section 61.)

Scale of Additional Compensation.

Market Value.	Rate of additional compensation.
Up to and including Rs. 10,000 ..	6% = Rs. 600.
Above Rs. 10,000 and not exceeding Rs. 50,000.	6% on the first Rs. 10,000 and 4% on the balance.
Above Rs. 50,000 and not exceeding Rs. 1,00,000.	6% on the first Rs. 10,000 and 3% on the balance provided that in no case shall the total amount be less than Rs. 2,200.
Above Rs. 1,00,000 ..	6% on the first Rs. 10,000 and 2½% on the balance provided that in no case shall the total amount be less than Rs. 3,300.

Mr. A. MASTER: Sir, I beg to move the amendment standing in my name, which is as follows:—

Substitute the Schedule AA as follows:—

SCHEDULE AA.

Scale of Additional Compensation for compulsory Acquisition.

Market Value.	Percentage to be allowed in addition under clause 61.
Not exceeding ten thousand rupees, or, if the amount exceed ten thousand rupees for the first ten thousand.	Six per cent.
Exceeding ten thousand but not exceeding fifty thousand, for the amount by which it exceeds ten thousand.	Four per cent.
Exceeding fifty thousand rupees but not exceeding one lakh, for the amount by which it exceeds fifty thousand.	Three per cent.
Exceeding one lakh, for the amount by which it exceeds one lakh.	Two per cent."

[Mr. A. Master]

I have to point out, Sir, that there is a mistake in the last-mentioned entry of "two per cent." as shown in the amendment here. It should be "two and a half per cent.". I do not know whether I have to ask the permission of the House to amend my amendment by changing "two per cent." to "two and a half per cent."

The Honourable the PRESIDENT: Has the honourable member the permission of the House to amend the last part of his amendment by changing "two per cent." to "two and a half per cent."?

Question put and leave granted to amend the amendment accordingly.

Mr. A. MASTER: Sir, there is another slight mistake in the heading in the amendment of Schedule AA. It should read "percentage to be allowed in addition under clause 61". I beg leave of the House to amend the amendment accordingly.

Question put and leave granted.

Mr. A. MASTER: I will now give the reasons for the re-drafting of the schedule. It was considered that the schedule as it stood was somewhat clumsy and that it would defeat its object, and therefore under legal advice Government have re-drafted the schedule so as to make it correspond with the schedule in similar Acts.

Amendment proposed.

The Honourable the PRESIDENT: I should like to draw the attention of the honourable mover that instead of the words "market value" used in the amendment the words "the amount of compensation awarded" might perhaps be more appropriately used. Market value is determined before compensation is decided and this percentage will be paid on the amount of the compensation. Is it not so?

Mr. J. BAPTISTA (Bombay City, North): So far as I can make out this schedule carries out the original intention of Schedule A itself. It is not intended to make any change. I should like to have it explained clearly that no deviation from the original intention of schedule A is contemplated by this amendment.

Mr. HOOSENALLY M. RAHIMTOOLA: Sir, may I point out that in the schedule which is recommended by the select committee it is put down as "above rupees fifty thousand and not exceeding rupees one lakh.... 6 per cent. on the first 10,000 and 3 per cent. on the balance provided that in no case shall the total amount be less than Rs. 2,200". This proviso and the proviso in the next item are not shown in the amendments moved by the honourable mover, with the result that if the amount of compensation is fifty thousand the man will get an extra six hundred for the first ten thousand and one thousand six hundred for the next forty thousand or in all rupees 2,200; but if the amount of compensation is 51,000, he will get six hundred for the first ten thousand and 1,230 for the next 41,000 or in all 1,830. That means that he will get less than what the man who was awarded compensation of fifty thousand would get. Therefore, this minimum was provided in the select committee.

The Honourable the PRESIDENT: It is clear from the amendment drafted that the owner gets 6 per cent. on the first ten thousand,

[The President]

4 per cent. on the next forty thousand, 3 per cent. on the amount up to next fifty thousand and $2\frac{1}{2}$ on any amount over a lakh of rupees. That is the intention and that is made quite clear in this amendment.

Mr. R. H. A. DELVES : Mr. President, I for one should be disposed to accept the suggestion which you made just now. The three per cent. shown in the schedule are really intended to cover the cost of the claimants before the Land Acquisition Officer. As the law stands at the present time, he does not get his costs when he appears before the Land Acquisition Officer, but he does if he wins his case before the Tribunal of Appeal. The heading to the first column of the schedule is "market value". I understand that to be the market value of the property, but that would not cover any amount that might be awarded as compensation. Therefore, I am going to accept your suggestion personally speaking and to allow this substitution of the words "the amount of compensation awarded". In that case I think the claimants will not have any grievance in future.

Mr. A. MASTER : Sir, I beg permission of the House to accept the suggestion which you have just now made and to substitute the words "the amount of compensation awarded" for the words "market value" shown in the amendment.

Question put and leave granted.

Amendment amended accordingly.

Mr. A. MASTER : I do not think, Sir, there is anything further for me to say on this amendment. Every point has been made clear; the amended amendment will result in some cases in an addition to the extent of compensation but I believe honourable members will not raise much objection to that.

Question put and carried.

Schedule AA (*Scale of additional compensation*) ordered to stand part of the bill.

Schedule B (*Form of Debenture*) ordered to stand part of the bill.

Schedule C.*

Mr. A. MASTER : Sir, I beg to move the following amendment :

In Schedule C, plot No. 1 (e), column 4, line 1, substitute the word "on" for "in"

Question put and carried.

Mr. A. MASTER : Sir, I beg to move the following amendment :

In Schedule C, plot No. 1 (j), column 4, line 1, substitute the word "on" for the word "in".

Question put and carried.

Mr. A. MASTER : Sir, I beg to move the following amendment :

In Schedule C, plot No. A, column 1, insert the figure "4" before the letter "A".

Question put and carried.

Mr. A. MASTER : Sir, I beg to move the following amendment :

In Schedule C, plot No. 6 (b), column 3, line 3, delete "1-439" and insert " $\frac{1}{2}$ ".

Question put and carried.

*For Schedule C, please see Appendices to this Volume.

Mr. A. MASTER : Sir, I beg to move the following amendment :

In Schedule C, plot 12 (G), column 5, delete the figures " 3,130 " and insert " 2,130 ".

Question put and carried.

Mr. A. MASTER : Sir, I beg to move the following amendment :

In Schedule C, plot 1 (B), column 3, line 1, delete the figures " 639 " and insert " 689 "

Mr. R. H. A. DELVES : Sir, I beg to propose an amendment to that amendment. The amendment proposed does not relate to Schedule C at all : It relates to plot 1 (B) in Schedule D.

The Honourable the PRESIDENT : The honourable member the Secretary of the General Department seems to have, by an oversight, made a mistake. I take it, in view of the mistake having been pointed out, he does not wish to move this amendment.

Mr. A. MASTER : I am willing to accept the amendment of the honourable member.

The Honourable the PRESIDENT : You cannot have any amendments to Schedule D at this stage. We are dealing with Schedule C, and I take it the honourable member does not move the amendment.

Mr. A. MASTER : Yes, Sir.

Schedule C, as amended, ordered to stand part of the bill.
Schedule D.*

Mr. A. MASTER : Sir, I beg to move the following amendment :

In Schedule D, plot 1 (B), column 3, line 1, delete the figures " 639 " and insert " 689 ".

Question put and carried.

Mr. A. MASTER : Sir, I beg to move the following amendment :

In Schedule D, plot 2 (B), column 2, add the figures " 4185 (6 to 8) ^h."

Question proposed.

Mr. J. BAPTISTA (Bombay City, North) : May I point out, Sir, that these amendments are taking away a good deal of our time. These are not really amendments, but verbal alterations. I think they can be easily done under the rule for making corrections. They are not really changing anything originally not intended.

The Honourable the PRESIDENT : The procedure followed is strictly in accordance with the Rules and Standing Orders. What the House is possessed of is the bill as is supplied to honourable members, and any change in the bill, however verbal it may be, can be made both when the bill is considered clause by clause and when it is considered at the third reading. This is the only procedure by which the bills as submitted to the House can be amended.

MOULVI RAFI UDDIN AHMAD : Can this not be done at the third reading ?

The Honourable the PRESIDENT : It may be done on both occasions. It will take the same amount of time then also.

Question put and carried.

*For Schedule D, please see Appendices to this volume.

Mr. A. MASTER : I beg to move :

"Schedule D. Plot 2 (B), column 3 : Add the figures " 1600 " and " 1601 "

Question put and carried.

Mr. A. MASTER : I beg to move :

"Schedule D. After item (B), column 8 : Delete the figures " 16,203 " and insert " 16,223 ".

Question put and carried.

Schedule D as amended ordered to stand part of the bill.

Mr. A. MASTER : I beg to move :

" Schedule E* Plot No: 2, column 4, line 26 : Insert the word " of " between the words " portions " and Fazil ".

Question put and carried.

Schedule E as amended ordered to stand part of the bill.

Schedule F* ordered to stand part of the bill.

The Honourable the PRESIDENT : There may be certain verbal amendments which may be necessary. Let us deal with the balance of the bill at one and the same time.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, clause 10 requires an amendment.

The Honourable the PRESIDENT : If the Honourable Minister is ready, he can go on with it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the amendment that I wish to move runs as follows :

In clause 10 (i) omit the words ' *ex-officio* member ' and substitute 4 for 3 in line† 30. Omit lines 32,33.

For (b) substitute (a) line 34.

For (c) substitute (b) line 40.

Line 42 after " and " insert " 3 of them ".

After ' District ' add and the fourth shall be chosen by Government to represent labour from among the members of the Board.

(d) Shall be changed to (c) in line 52.

In sub-section (2) omit the words from " not be at liberty " to the end, and substitute the words ' have the same right of being present at a meeting of the Committee or of a Sub-Committee, and of taking part in the discussions thereat as a member of the said Committee or Sub-Committee ; but he shall not vote upon or make any proposition at such meeting. He shall attend every meeting of the Committee unless prevented by sickness or other reasonable cause.

The object of this amendment is this : We keep the number of members on the Improvement Committee at 18, as provided in the bill. We do away with the municipal commissioner as an *ex-officio* member. We take power to nominate one more member over and above the three specified for the three mercantile associations ; and this additional member will be a representative of labour. In sub-section (2) we make it compulsory for the municipal commissioner to attend all meetings of the committee or sub-committee unless he is prevented by sickness or some such cause. I hope this will meet the wishes of the House. While we retain the same number of members, we give representation to labour. It was the desire of the corporation that 12 members should be elected from among the members of the corporation ; now we are giving them eleven members

* For Schedules E and F please see Appendices to this volume.

† The lines referred to here are as shown in the bill placed on the Council Table.

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by election and are nominating one member to represent labour. I therefore trust that this will meet the wishes of the House.

Question proposed.

Sir VASANTRAO A. DABHOLKAR : Sir, I beg to move :

In clause 10, after the word " Board " in line 10, add the following words : " or outside ". Sir, yesterday the Honourable Minister stated on the question of the representation of labour on the committee that it was very difficult for him to find a leader of labour. If he were to restrict his selection of a representative of labour to members of the Corporation alone, I think his difficulty will be increased. There may or may not be a representative of labour elected to the Corporation. If the words " or outside " are added, it will give him a wider circle for selection. If Government finds a representative in the Corporation well and good ; but if it does not, Government can go outside. Take for instance, Mr. N. M. Joshi, who is a representative of labour and who was sent by Government to Geneva ; he is not a member of the Corporation. If Government wants to nominate him, Government cannot do so, as Government proposes to choose from amongst the members of the Corporation. If Government wants to get a real representative of labour, there should be the words " or outside ".

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I am surprised that this amendment should have come from the honourable member who is a member of the Corporation. We want to give representation to labour from amongst its representatives on the Corporation. I am sure labour is now being returned to the Corporation. I might cite the name of the President of the Corporation (Mr. Baptista) who is also a representative of labour. There are others also. Besides, as we are transferring this control to the Corporation, it is necessary that labour should be represented by one of the gentlemen who is already on the Corporation. The amendment gives greater freedom of choice to Government, but Government prefer to confine the nomination to members of the Corporation. With these words, I oppose the amendment.

Question put and lost.

The Honourable the PRESIDENT : The next amendment is from the honourable member Mr. Surve. He will have to omit the word " or outside ", as that issue has been decided by the House. " Who belongs to the backward communities and identifies himself with the aspirations of—and works for the welfare of those communities " is all that I can allow now.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move the amendment standing in my name :

In clause 10, after the word " Board " in line 10, add the following words : who belongs to the backward communities and identifies himself with the aspirations of and works for the welfare of those communities ".

Sir, your suggestion has rather

The Honourable the PRESIDENT: But the House has decided that this member shall not be an outsider, and I cannot put the same question to the House again.

Mr. A. N. SURVE: All the same I shall move my amendment.

The point is that if Government is desirous of giving representation to labour, let the representative come from the ranks of the labourers themselves: let him be a person who knows their aspirations, who works for their welfare....

The Honourable the PRESIDENT: I am sorry to interrupt the honourable member. But I should like to point out to him that in the course of his observations he must confine himself to representation from amongst members of the Corporation, who may fulfil those conditions. He cannot say that Government should now go outside the Corporation for this representative. It would be perfectly relevant for the honourable member to suggest what special qualifications Government should require before they nominate a representative from the members of the Corporation.

Mr. A. N. SURVE: Sometimes the representation that is given is made on principles which are quite inexplicable to the outsider. I might cite the instance of the first Legislative Council. I am stating it only as an instance. In the first Legislative Council, because the rules provided that there must be a representative of labour, therefore Government did appoint one gentleman, but that gentleman happened to be a merchant and belonged to the Gujarati community. I am not casting reflections on anybody, but I am pointing out to this House that sometimes this power is not very wisely used by Government, and I want to direct their attention to this particular fact that if representation is to be given it should be given through a person who can command the respect and trust of labour. If it is given to an outsider, it will be giving representation with a vengeance. For that reason, I point out to Government that if their desire is to give representation—I am sure that their desire is sincere—then, when making the nomination, they should confine themselves to giving nomination to a person who really possesses the qualifications laid down in this amendment.

Question proposed.

The Honourable Mr. COWASJI JEHangIR: Mr. President, may I point out that under this amendment, my honourable friend will exclude some of our best leaders of labour? My honourable friend opposite (Mr. Baptista) will be excluded. I do not know whether my honourable friend Mr. Bole will not be excluded. (Sir Vasantao A. Dabholkar: He is included). I do not know whether the honourable member Mr. Surve himself would not be excluded. Messrs. Joshi, Ginwala, Jhabwala and Co. will be excluded. I do not think it is the intention of my honourable friend to exclude all these very worthy gentlemen from representing labour.

Mr. A. N. SURVE (Bombay City, North): Sir, the only point that is made is that a Christian or a Parsi or anybody can represent labour. I only ask one question, and that is, if anybody can represent labour, why

[Mr. A. N. Surve]

the member who represented labour in the first Council was not renominated. I think any further comment is unnecessary.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, my reply to that is, that labour seems to have a large number of representatives, and therefore Government do not like to confine their nomination to any single person because there will be bickerings and heart-burnings amongst other leaders of labour. As there is no other new point, I am not going to waste the time of the Council.

Question put and lost.

The Honourable the PRESIDENT : The Honourable Khan Bahadur Shaikh Ghulam Hussain's amendment.

Mr. J. BAPTISTA (Bombay City) : The Corporation recommended that the Commissioner should be *ex-officio* member of the Committee with the same rights as any other member. The bill made him member without the right to move resolutions or amendments and without the right to vote. It seems to me absurd to make him a member and then deprive him of the power of discharging his duties effectually. But now there is a further change. The amendment says that the Commissioner shall have "the right to attend", and in the same breath says that he "shall attend". The "right" has no meaning if it is obligatory to attend. They convey conflicting ideas. If the law says that he "shall attend", the result is that the Commissioner is bound to attend. Why should the Commissioner be compelled to attend? In matters relating to the functions of the Board, the Chief Officer occupies the same position as the Commissioner does in municipal matters. We do not want both the Commissioner and the Chief Officer at the same time. He would be useful as a member with full rights of a member as he is on the present Board of Trust. But if he is to be disabled in the way proposed, then I would not make it obligatory on him to attend, but leave it entirely optional. He can use his discretion in the matter. I do not know if I am at liberty to move an amendment; if I can, I should delete the words "He shall attend, etc., etc."

The Honourable the PRESIDENT : In view of the fact that this amendment is only proposed to the House to-day, I will allow any amendment of that character if the honourable member wishes to move it.

Mr. J. BAPTISTA : I move —

Delete the words "He shall attend every meeting of the Committee unless prevented by sickness or other reasonable cause".

Question proposed.

The Honourable Mr. COWASJI JEHANGIR : May I just explain this question? The wording in this amendment has been taken bodily from clause 27 of the bill where it says that the Chief Officer shall have the right of attending and shall attend. This phraseology appears in other Acts besides this one. We first give a man the right to attend and then make it compulsory on him to attend. There is nothing strange or inconsistent in it. Now, Sir, it is necessary for the Municipality that the Commissioner should attend. That is the main point of the argument.

[Mr. Cowasji Jehangir]

May I point out that considerable amount of discussion took place as to what co-ordination there would be between the work of the Corporation and the work of the Board in the future, and the question was decided by making the Commissioner *ex-officio* member of the Committee, so that he will attend this Committee and will give such advice and effect such co-ordination as may be necessary. As far as I recollect it was the opinion of those interested in this transfer that the Commissioner should be present at every meeting of the Committee. It will also be recollected that the Municipal Commissioner is now an *ex-officio* member of the present Trust. The work of the Corporation and the work of the Board is of a similar character and, therefore, Government in the old days thought it very desirable that the Commissioner should attend every meeting of the Trust to give his advice. Now, if you exclude him from the Committee he may not attend as there is nothing to force him to attend. He may say "the work is very heavy, I do not want to attend". The change that has now been made is that he is not being appointed an *ex-officio* member of the Committee. He is not entitled to any fees. Now if he is excluded from the Committee and it is laid down that he will have the right to attend without fees, then the Commissioner in future might not attend as there is nothing to compel him to attend, and there is no temptation to attend because there will be no fees. I would, therefore, respectfully suggest that the words be allowed to remain.

Mr. J. BAPTISTA (Bombay City): I rise to a point of order. I should like to point out that in the Municipal Act the Commissioner is bound to devote his whole time to the affairs of the municipality. Now this bill seems to modify the Municipal Act so far as the Commissioner is concerned. I submit, Sir, there is no sanction of Government asked to amend the Municipal Act. There is no provision in the Municipal Act compelling the Commissioner to attend at the Improvement Trust meetings.

The Honourable the PRESIDENT: I could not claim to know the exact wording of the Municipal Act after my having severed my connection with it for such a long time. If I am not mistaken, the Act provides that in addition to giving his whole time to the Corporation he is permitted to devote some part of it in other directions. The exact details I cannot be expected to remember, but that was the principle. Secondly, this is said to be a bill to transfer the work of the Improvement Trust to the Corporation, and in devoting his time to this work the Municipal Commissioner will be attending to the work of the Corporation.

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President, a difficulty has arisen in my mind out of what the Honourable the General Member has said. He has stated as his opinion that there is no inducement as far as fees were concerned for the Commissioner to attend these meetings and, therefore, he would be unwilling to attend the meetings. To use his words, "it is human nature that the Commissioner will not have the temptation to attend as there are no fees". It has therefore

[Moulvi Rafiuddin Ahmad]

occurred to me that you might compel a man by law to attend, but you cannot compel him to contribute to the debate. I think it will be useless to compel his attendance when his heart is not in the work. Would it not be wise therefore to give him the option to attend as has been pointed out by my honourable friend Mr. Baptista?

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City): I am glad, Sir, Government are now coming round to my point of view. Originally in the Corporation I had moved an amendment to the similar effect that the Commissioner shall not have the right to vote or make any proposition at the meeting, but shall have the right to attend the meeting. He shall not vote or move any proposition or receive fees but only be present and take part in the proceedings. I am glad to find that Government have now come to my point of view.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the first part of sub-section (2) gives the right to the Municipal Commissioner to be present. The second clause makes it compulsory for him to be present. My honourable friend the honourable member Moulvi Rafiuddin Ahmad says it is useless to make it compulsory for him to be present. He may be present, but he may not give his best advice because he is not paid. The honourable member has forgotten that only a few months back we raised the Municipal Commissioner's salary. And I am sure that any Municipal Commissioner, when this duty is thrown on him, will faithfully carry it out. Further the work that will be done by him will be part of the work of the Corporation, because the "Board of Trustees" is nothing but the Corporation, though in other words. Therefore, I oppose the amendment.

The honourable member Mr. Baptista's amendment put and lost.

The Honourable Khan Bahadur Shaikh Ghulam Hussain's amendment was put and carried.

Clause 10, as amended, ordered to stand part of the bill.

Clause 61 ordered to stand part of the bill.

Clause 64 (*Provision regarding pending cases*).

Notwithstanding anything contained in sections 4, 60, 61, 62 and 63 in respect of all references and appeals made to the 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 preferred 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.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the amendment which I beg to move to clause 64 is as follows:

In place of the proviso to clause 64 insert the following:—

"(2) For the purposes of this section the provisions of section 48 of the City of Bombay Improvement Act, 1898, with the exception of sub-sections (5) and (11) and the proviso to sub-section (3), shall remain in force for a period of 18 months after the date on which this Act comes into operation, within which period all references shall be disposed of.

[Khan Bahadur Shaikh Ghulam Hussain]

"(3) There shall be an appeal to the High Court from the award or any part of the award of the Tribunal.

Provided that no person who is a member of the Board or Improvements Committee or who under the Act is disqualified to be a member of the Board or Improvements Committee, shall be qualified to be a member of the Tribunal."

Sir, the proviso which I have inserted after (3) gives effect to Sir Vasant Rao Dabholkar's amendment, which has been accepted by the House. The sections that are mentioned will be printed in the foot-notes.

Question proposed.

Mr. J. BAPTISTA: I think it would be better if we consider the suggestion which you made that the clauses together with the original sections should be published in the foot-notes so that any one will have the original sections before him.

The Honourable Sir MAURICE HAYWARD: I simply say that it is the ordinary practice to give the annotated writer an opportunity. It is usually done in the annotated editions.

The Honourable the PRESIDENT: I understand the Honourable Minister, in the course of his observations, gave an undertaking that it will be done, and that, I think, will be satisfactory.

The Honourable Sir MAURICE HAYWARD: What is the undertaking given?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: That the sections that are mentioned will be printed in the foot-notes.

The Honourable Sir MAURICE HAYWARD: That can be done, Sir.

Mr. HOOSENALLY M. RAHIMTOOLA: Am I to understand that there will be an appeal to the High Court from the award of the Tribunal?

The Honourable the PRESIDENT: Yes, clause (3) of the amendment says that there shall be an appeal to the High Court from the award or any part of the award of the Tribunal.

Question put and carried.

Clause 66 (*Power to borrow from the Secretary of State for India in Council or other persons*).

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.

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.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, my amendment to clause 66 runs as follows:

In clause 66, after the words "section 86" and before the proviso insert a comma followed by the words "or for the purpose of discharging any loan raised under this Act or the City of Bombay Improvement Act, 1898".

Question put and carried.

Clause 66, as amended, ordered to stand part of the bill.

Clause 70 (*Period over which loans may extend*) ordered to stand part of the bill.

The Honourable the PRESIDENT : Is the Honourable Minister ready to go on with clause 109 A ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : No, Sir, I shall be ready to-morrow.

The Honourable the PRESIDENT : We shall now postpone the consideration of the bill clause by clause till the Honourable Minister is ready with any further amendments of a verbal character or of a consequential character which may be necessary.

Mr. J. BAPTISTA : Before we adjourn I should like to bring to the notice of the Honourable Minister an important point in regard to clause 10. The original clause read that the Board shall appoint officers at such and such a time and the second part provided for the constitution of the Improvements Committee itself. But now, as amended, we have got the constitution of the Improvements Committee but the provision as regards the time when they shall be first appointed is not there, and I should have thought that this is necessary. I hope the Honourable Minister will consider this point.

The Honourable the PRESIDENT : I am sure the Honourable Minister will consider any suggestion that the honourable member Mr. Baptista may make to him to supply any omissions that may have been inadvertently left out. That is the reason why time is given to the Honourable Minister to consider any verbal, consequential and necessary amendments of a non-controversial character which he may bring forward.

The House will now adjourn till to-morrow when it will take up, if the Honourable Minister is ready, his amendments in regard to the Major Municipalities Bill, or we will proceed with further legislative measures that are in the agenda paper. It is rather late to proceed with any fresh legislation now, and the House will, therefore, adjourn till 2 o'clock to-morrow, Thursday, the 29th October 1925.

29 Oct. 1925]

Thursday, the 29th October 1925.

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Thursday, the 29th October 1925, the Honourable the President Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

ABDUL LATIF HAJI HAJRAT KHAN, Mr.
ABDULPURKAR, Mr. N. A.
ADWANI, Mr. D. B.
AHMAD, MOULVI RAFTUDDIN
ANGADI, Mr. S. N.
BAPTISTA, Mr. J.
BEDREKAR, Khan Bahadur I. M.
BHOPATKAR, Mr. L. B.
BHURGRI, Mr. J. M.
BHUTTO, Khan Bahadur S. N.
BIJARANI, Khan Saheb SHER MAHOMED KHAN
BOLE, Mr. S. K.
BUNTER, Mr. J. P.
CHAUDHARI, Mr. L. S.
CLEMENTS, Mr. E.
COOPER, Khan Bahadur D. B.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
DELVES, Mr. R. H. A.
DESAI, Rao Saheb D. P.
DEV, Mr. S. S.
DIXIT, Dr. M. K.
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
GRANTHAM, Mr. V. A.
HAMID M. ABDUL ALI, Mr.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HOSSACK, Mr. W. B.
HOTSON, Mr. J. E. B.
JADHAV, the Honourable Mr. B. V.
JAYAKAR, Mr. M. R.
JEHANGIR, the Honourable Mr. COWASJI
JOG, Mr. V. N.
JOSHI, Mr. P. G.

KALBHOR, Mr. G. M.
 KAMBLI, Mr. S. T.
 KANGA, Mr. J. B.
 KAZI INAITULLAKHAN
 KHUHRO, Mr. M. S.
 KOKANI, Mr. G. J.
 KOTHARI, Mr. V. R.
 LALJI NARANJI, Mr.
 LALJEE, Mr. HOOSEINBHOY A.
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MCKEE, Mr. W. G.
 MEHTA, Dr. M. M.
 MEHTA, The Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 MUKADAM Mr. W. S.
 MUKHI JETHANAND PRITAMDAS
 NANAL, Mr. B. R.
 NARIELVALA, Mr. H. H.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAHALAJANI, Mr. B. G.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATHAN, Khan Bahadur JAN MAHOMED KHAN
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOSENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SARDESAI, Mr. S. A.
 SAYED GHULAM NABI SHAH
 SAYED SHAHJADE SAHEB HAIDAR SAHEB
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. D.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.

THOMAS, Mr. G. A.

WILES, Mr. G.

WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order. Questions.

THE EKRUK TANK CANALS.

Mr. ABDULLATIF HAJI HAJRAT KHAN on behalf of Mr. N. A. ABDULPURKAR (Sholapur City): Will Government be pleased to state to what length the three canals, viz., the Perennial, the Right Bank and the Left Bank of the Ekruk Tank were run for twelve consecutive years before the year 1922 and the area irrigated on each of the three canals of Rabi, Kharif, Hot weather and Perennial crops?

The Honourable Mr. COWASJI JEHANGIR: The information has been called for.

WATER SUPPLY FOR ATHANI.

Mr. S. N. ANGADI (Belgaum District): Will Government be pleased to state—

(a) whether the Athani municipality has submitted any scheme for the water supply to the town;

(b) if so, what is its estimated cost?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: (a) No; but certain possible sources for the water supply were investigated by the Sanitary Engineer to Government at the request of the Municipality.

(b)	Name of scheme.	Estimated cost.
		Rs.
(i)	Agarani Nala scheme (complete scheme)	6,87,000
(ii)	Ditto for 6" pumping main with pumping machinery but without service reservoir or other works ..	1,60,000 (in 1924).
(iii)	Krishna River scheme for 6" main with pumping : machinery but without other works	2,50,000 (in 1924).

Mr. S. N. ANGADI: Do the Government propose to take up any of these three schemes?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: We will consider the question when the municipality send up any particular scheme.

MR. FERN, POTTERY SUPERINTENDENT.

Mr. LALJI NARANJI (Indian Merchants' Chamber): Will Government be pleased to state—

(a) whether it is a fact that Mr. Fern, Pottery Superintendent of the Sir J. J. School of Arts, had borrowed Rs. 6,000 (Rs. 5,000 on 18th September 1919 and Rs. 1,000 on 17th February 1920) on interest at the rate of 7½ per cent. per annum from the Bombay and Mofussil

Grass Trading Company of Bombay who were then the proprietors of Sorab Dalal Tile Works at Than Road on certain conditions ?

(b) whether Mr. Fern asked for a six annas share from the Bombay and Mofussil Grass Trading Company for manufacturing fire bricks, tiles, pottery, etc. ?

(c) whether Mr. Fern had any connection or private interest in the Fern Pottery Works Ltd., being floated in 1919 at Nadol in the Dehgham district of the Baroda State ?

(d) If the facts are as stated in (a), (b) and (c), do Government intend to take any action in the matter ? If so, what action do they intend to take ?

The Honourable Mr. B. V. JADHAV : (a) The answer is in the affirmative.

(b) and (c). The answer is in the negative.

(d) Government do not propose to take any action in the matter beyond informing Mr. Fern that they consider that in the circumstances it was inadvisable for him to have entered into the transactions mentioned in part (a) of the question.

THE GHADI MASJID, DAHOD.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities) : (i) Will Government be pleased to state whether they are aware—

(a) that the Ghadi Masjid at Dahod was closed by the mamlatdar of Dahod during the war time ;

(b) that the well and the " Houz ", i.e., tank for making ablutions before praying, were taken over by the Public Works Department simultaneously with the closing of the masjid ;

(c) that the masjid was handed over to the Mahomedans by the mamlatdar after the Great War but that the well and the " Houz " are still in the charge of the Public Works Department ;

(d) of the great hardship and inconvenience experienced by the Mahomedans of Dahod at the time of prayers owing to the well and the " Houz " belonging to them being in the charge of the Public Works Department ?

(ii) Will Government be pleased to state what action they propose to take in the matter ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : The information has been called for.

Khan Saheb A. M. MANSURI : Has the Honourable Member considered the urgency of the situation ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I have called for the information.

MAHOMEDANS IN THE EDUCATIONAL DEPARTMENT.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(a) the number of Mahomedan graduates of the Educational Department taken up in the provincial service during the last 5 years;

(b) whether they are aware that the demand for taking up Mahomedan graduates of the Educational Department in the provincial service was made in this Council some two years ago and that the Government answer was that qualified Moslems were not available;

(c) whether they are aware of the fact that there are some highly qualified Moslem graduates in the Educational Department quite fit to be taken in the provincial service?

The Honourable Mr. B. V. JADHAV: (a) 6 (including 2 acting men) and excluding 3 (part-time Professors at the Law College).

(b) Yes.

(c) There are no suitable qualified men in the Subordinate Educational Service at present who can be taken up into the Bombay Educational Service. Moreover, those who are at present in the Subordinate Educational Service are all junior in service.

DEVELOPMENT SCHEMES OF BOMBAY MUNICIPALITY.

Mr. HOOSENALLY M. RAHIMTOOLA: Will Government be pleased to state—

(a) whether they had examined through a committee in 1922 or 1923 the financial aspect of the various development schemes of the Bombay Municipality before recommending the Government of India to sanction the loans of the Municipality;

(b) if so, will they be pleased to lay on the table the papers before the committee and the minutes of proceedings of the committee and the resolution at which the committee arrived, and the resolution of Government thereon; will they also state the names of the members of the committee;

(c) whether it is a fact that the following statements were made to the committee referred to in clause (a) by the Municipal Commissioner or some other municipal officer as regards the Hornby Road Ballard Pier Scheme

(i) that the resolution of the Corporation laying down that the occupants of acquired properties should not be dishoused in less than seven years without the specified sanction of the Corporation had altered the prospects of the scheme;

(ii) that if this decision had been arrived at at the outset it would have been advisable for the Municipal executive to proceed slowly with acquisition;

(d) If so, by whom were the statements made;

(e) Will Government lay on the Council table a copy of the statements made before the committee by the Municipal Commissioner or other municipal officers in this matter?

The Honourable Mr. H. S. LAWRENCE: (a) No Committee was appointed but a Conference of the executive officers of the Development Department, the Improvement Trust and the Bombay Municipality considered certain aspects of the Development schemes of the Bombay Municipality and their inter-relation with other development schemes in 1923.

(b), (c), (d), (e) Government do not propose to lay on the table of the House the papers before the Conference and the minutes of the proceedings.

Sir VASANTRAO A. DABHOLKAR: What was the object of Government in holding such a conference?

The Honourable Mr. H. S. LAWRENCE: In order to consider certain aspects of the Development schemes of the Bombay Municipality and their inter-relation with other development schemes.

Sir VASANTRAO A. DABHOLKAR: May I know what was the decision of this conference on the various aspects?

The Honourable Mr. H. S. LAWRENCE: There was no decision.

Sir VASANTRAO A. DABHOLKAR: Was any permission of the Municipal Corporation taken by Government to allow municipal servants to attend this conference?

The Honourable Mr. H. S. LAWRENCE: I am not aware that any such permission was necessary. The Municipal Commissioner was asked to discuss something in a private conference with other officers of similar position.

Sir VASANTRAO A. DABHOLKAR: Is the information asked for confidential, that it cannot be placed on the table?

The Honourable Mr. H. S. LAWRENCE: The information, I believe, has already been placed before the municipality.

POLICE PROTECTION TO GAIKWAD WADA, POONA.

Mr. R. D. SHINDE (Nasik District): Will Government be pleased to state—

(a) whether it is a fact that during the last Ganpati festival in Poona city an application was made by the owner of Gaikwad Wada, which is the office of the *Kesari*, for the help of European police officers to be stationed at the Wada;

(b) if so, how many officers were stationed and for how many days?

The Honourable Sir MAURICE HAYWARD: (a) In the negative. (b) A European Sergeant was detailed for duty at the Gaikwad Wada on 3 or 4 occasions for some hours in the night to regulate the crowd, which visited the Gaikwad Wada.

MOULVI RAFIUDDIN AHMAD: The question is whether it was the request of the *Kesari* press.

The Honourable Sir MAURICE HAYWARD : The answer to that is in the negative.

Mr. N. E. NAVLE : The reply says that an application was not made by the owner of the Gaikwad Wada. Was it made by somebody who has something to do with the Gaikwad Wada or the *Kesari* office ?

The Honourable Sir MAURICE HAYWARD : I am not aware that any application was made. I think they were the necessary arrangements made for the maintenance of law and order.

Mr. N. E. NAVLE : Does the Honourable the Home Member suggest that there was no such application at all ?

The Honourable Sir MAURICE HAYWARD : That is my information.

CONSTRUCTION OF CERTAIN GOVERNMENT BUILDINGS IN NASIK DISTRICT.

Mr. R. D. SHINDE (Nasik District) : Will Government be pleased to state—

(1) what are the total amounts of the estimates for the new Headquarters Police Lines at Nasik, the new Police Lines at Manmad and the Central Jail at Nasik Road ;

(2) the names of the contractors to whom these works are given ;
(3) whether Government had publicly called for tenders for these works ;

(4) if the answer to (3) be in the negative, why tenders were not called for in these cases ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : The information has been called for.

SAVINGS IN RENTS OF SCHOOL PREMISES IN NASIK CITY.

Mr. A. N. SURVE (Bombay City, North) : Will Government be pleased to state the saving effected in rents of school premises in Nasik City ?

The Honourable Mr. B. V. JADHAV : Information has been called for.

Mr. LALJI NARANJI (Indian Merchants' Chamber) : Sir, before the regular business of the day is taken up, I should like to know whether the Honourable the Leader of the House has got any information about the riot between Hindus and Mahomedans at Sholapur. I have received a telegram from Sholapur from the Chairman of the municipality, and the leading citizens of Sholapur. I should like to know whether the Honourable the Leader of the House has got any information about the matter.

The Honourable Sir MAURICE HAYWARD : Mr. President, the honourable member for Sholapur city mentioned the matter to another honourable member who asked me last night whether I had any information, and I had replied then that no official intimation had been received by Government. I took steps early this morning to ascertain what

[Sir Maurice Hayward]

had happened, and I have received information now that there was a disturbance about 3-30 yesterday afternoon in the bazaar in the Sholapur city. My information is that it was in connection with a Hindu procession passing a mosque and in the disturbance there was loss of life of two Mahomedans, which is very much regretted by Government. The exact circumstances under which this has occurred have not yet been fully reported, and it is not possible for me to make any further statement with regard to that. But the reports are that order was restored within half an hour, that there is no immediate cause for alarm, and that all arrangements have been made by the District Superintendent of Police and the District Magistrate to see that there is no further disturbance in Sholapur city.

Mr. N. E. NALVE : Was firing resorted to ?

The Honourable Sir MAURICE HAYWARD : My information is that firing was resorted to.

MOULVI RAFIUDDIN AHMAD : May I ask the Honourable the Home Member how is it that, considering the seriousness of the case, the Home Department did not receive any information until they themselves telegraphed for it the next day, though the disturbance took place at 3-30 p.m. the previous day ?

The Honourable Sir MAURICE HAYWARD : I understand that a telegram was received last night by the police but that was not communicated to the Home Department.

MOULVI RAFIUDDIN AHMAD : Will the honourable member please inform the House why the delay has occurred in communicating the matter to the Home Department ?

The Honourable Sir MAURICE HAYWARD : I am not in a position to say why the information was not received at once, but I think honourable members will realise that it was probably due to the fact that the District Superintendent of Police was more busy with the immediate matter in hand—that was in preserving law and order on the spot—than in telegraphing the facts to Government.

Mr. LALJI NARANJI : Has Government any information as to how many persons were injured and taken to hospital ?

The Honourable Sir MAURICE HAYWARD : My information is that 12 were injured.

Mr. LALJI NARANJI : Were they Hindus or Mahomedans ?

The Honourable Sir MAURICE HAYWARD : We have not got any definite information except that 12 persons were injured of whom two Mahomedans were killed by gun shot.

Mr. D. R. PATIL : Is Government in a position to state which party—Hindus or Mahomedans—took an aggressive part ?

The Honourable Sir MAURICE HAYWARD : It is impossible to give any statement of that nature. I think honourable members would

[Sir Maurice Hayward]

prefer that judgment should be suspended until full enquiries have been made by local officers and reported to Government.

Mr. R. G. PRADHAN : Will Government be pleased to place before the House fuller information as soon as the report is received ?

The Honourable Sir MAURICE HAYWARD : I will be glad to do so as soon as I am in a position to give further information of a useful nature to the honourable House.

BILL No. XII OF 1925 (A BILL FURTHER TO AMEND THE BOMBAY PORT TRUST ACT, 1879.)

The Honourable the PRESIDENT : In connection with this bill, the Secretary to the Legislative Council has received a letter from the Private Secretary to His Excellency the Governor to the following effect :

Sir,

I have the honour to state that Bill No. XII of 1925 (A Bill further to amend the Bombay Port Trust Act 1879) which was read for a third time and passed by the Legislative Council of the Governor of Bombay on the 22nd October 1925 was submitted to His Excellency the Governor for his assent as requested in letter No. 612-P, dated the 23rd October 1925, from the Secretary to Government, Legal Department. His Excellency the Governor has carefully considered the provisions of the Bill as passed, and is unable to agree to it in the form in which it has been passed.

2. His Excellency is of opinion that the words " by them " occurring in the third line of sub-section (1) of new section 61 A in clause 2 of the Bill and in the marginal note to that clause should be deleted, as the retention of these words will have the effect of excluding all import cargo landed in the docks from the operation of the Bill, as cargo is not landed by the Port Trust authorities.

3. His Excellency is also unable to agree to the substitution of the word " eleven " for the word " seven " in sub-section (2) of new section 61A in clause (2) of the Bill. It appears that the intention of the Bill was that in respect of goods landed within the premises of the Board the Board should, if the goods are not removed by the owner, be liable for seven days only from the date of landing of the goods. His Excellency thinks that the substitution of 11 days for 7 was probably made under some misapprehension, and that it would not be fair to throw responsibility on the Port Trust for a longer period than 7 days. He therefore hopes that the Council will agree to reconsider the matter.

4. His Excellency has accordingly decided to return the Bill to the Council for reconsideration under section 81A of the Government of India Act with the following recommendations :

(1) In sub-section (1) of new section 61A in clause 2 of the Bill the words " by them " occurring in line 3 and in the marginal note should be deleted.

(2) In sub-section (2) of section 61A in clause 2, and in the marginal note the word " seven " should be substituted for " eleven ".

In pursuance of the message which I have communicated to honourable members and in terms of the Government of India Act and the Standing Orders I call upon the honourable member Mr. Cowasji Jehangir to move his first amendment. After this is disposed of, I will call upon him to move the second amendment.

Clause 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

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.

[The President]

been landed, such goods shall remain on the premises of the Board or in such public ware house 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."

The Honourable Mr. COWASJI JEHangIR : Mr. President, I beg to move :

That in sub-section (1) of new section 61A in clause 2 of the bill, the words " by them " occurring in line 1 and in the marginal note be deleted.

This is an amendment to a clause recommended by His Excellency on which the Council moved no amendments on the last occasion. If honourable members refer to the bill, they will find that the proposed new clause runs as follows :

" The Board shall, immediately upon the landing by them of any goods, take charge thereof, except as may be otherwise provided. . . . "

By an unfortunate oversight these words " by them " were included in the original bill. But the Port Trust have now reminded us that if these words are included in the bill the object of the bill will be frustrated as goods are not landed by the Port Trust but by stevedores. If these words " by them " are included, the bill will not apply to any goods at all because the Port trust do not land any goods.

The honourable House will realise that this is more or less a verbal alteration. It was due to an oversight and we are grateful to the Port Trust for having reminded us about it, and we are also grateful to His Excellency for giving us an opportunity of amending this bill in this direction. I feel sure the House will agree to this amendment, as otherwise the bill will not have the effect that the honourable House intended that it should have.

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division) : Mr. President, the Honourable the General Member has told this House that owing to an oversight the words " by them " occurred in the original bill. May I ask him whether the original bill was not sent for the perusal and opinion of the Port Trust, and whether this serious mistake was not then pointed out to him by the Port Trust ? Moreover, may I ask who is responsible for this oversight in such an important bill ?

Mr. V. A. GRANTHAM : Rising to a point of order, Sir, is the honourable member relevant in his remarks ? Does it matter who was responsible for the oversight ? Are we not here to discuss whether the amendment is necessary or not ?

The Honourable the PRESIDENT : I think it is perfectly relevant. The amendment must be put to the vote of the House, and provisions are made to regulate the procedure after the amendment recommended by His Excellency is either carried or rejected.

MOULVI RAFIUDDIN AHMAD : I am sorry, Sir, that the honourable member for the Chamber of Commerce is always ready to take upon himself the defence of Government even when they themselves have no defence to offer. The oversight was mentioned and emphasised by Honourable the General Member. Before the House agrees to this amendment,

[Moulvi Rafiuddin Ahmad]

therefore, it would like to be informed as to how it occurred and why it could not be corrected long ago. Why and how His Excellency the Governor was obliged to bring this matter to the notice of this House? Of course, the Honourable the General Member has told us that the whole object of the bill will be defeated if this wording remained, and therefore, there would not perhaps be any objection to allow him to amend it. But one point is quite clear, that Members and Ministers bring in bills of which they do not always seem to know the phraseology and even after the second reading, they are unable to remember whether they themselves or their clerks are responsible for serious mistakes. The Honourable the General Member owes an explanation to the House.

The Honourable Mr. COWASJI JEHangIR: Mr. President, when the bill was drafted Government were not aware of the fact that the Port Trust did not land goods: we were under the impression that the Port Trust did the work, and the words "by them" were employed to include all goods landed by them. The Port Trust have drawn the attention of Government to the fact that they were not responsible for landing these goods, and therefore, the words "by them" were not necessary.

MOULVI RAFIUDDIN AHMAD: But why did not Government bring in the amendment after the second reading of the bill? Did not the Port Trust remind them then?

The Honourable Mr. COWASJI JEHangIR: They reminded me after the second reading of the bill, but they had also written, I believe, to Government drawing their attention to this fact before the bill was presented to the House.

MOULVI RAFIUDDIN AHMAD: Why did you not tell us about it then?

The Honourable Mr. COWASJI JEHangIR: As I said, it was an oversight. And honourable members will realise that oversights do occur. Sometimes mistakes do occur, and, if this is a mistake, I have to apologise for it. I think we should rectify the mistake as we have an opportunity. If the bill had gone through and we had not had this opportunity of rectifying it, we would have had to wait till the next session to rectify it by an amending bill. I again apologise on behalf of Government for the oversight.

Question put and carried.

The Honourable Mr. COWASJI JEHangIR: Mr. President, I beg to move:

In sub-section (2) of section 61A in clause 2, and in the marginal note, the word "seven" be substituted for "eleven".

Honourable members who were present when this bill was introduced and the second reading was proceeded with, will remember that the honourable member the representative of the Ahmedabad Millowners' Association moved an amendment during the second reading, that the word "eleven" should be substituted for the word "seven". No notice had been given

[Mr. Cowasji Jehangir]

to the House or to Government of the intention of the honourable member to move that amendment. A discussion took place during the first reading, and it was decided, to save time, that the second reading should be proceeded with and that the bill should not be sent to a select committee before the second reading. The amendment was allowed, moved, and it was carried notwithstanding the opposition of Government. It was most unfortunate that we did not send this bill to a select committee, for if we had, we could have thrashed out the whole question, and the House would then have been in possession of all the facts before the third reading was proceeded with. Sometimes, Mr. President, a little haste means more waste. This is one of those instances where a little haste means a little more waste of time of this honourable House. As the amendment was carried, Government did not proceed with the third reading of the bill, because they realised that the amendment threw upon the shoulders of the Port Trust more responsibility than was provided for in the bill, and they thought it advisable to consider to what degree the responsibility had been increased and whether it would be fair to thrust this increased responsibility upon the Port Trust. They have made full enquiries as to what would be the effect of increasing seven days to eleven days, and they have come to the conclusion that it would not be in the interests of the Port Trust and the large commercial community of the city of Bombay that this increased responsibility should be incurred by the Port Trust. The whole question was brought to the attention of His Excellency the Governor, and His Excellency thought it desirable that this honourable House should have full information before they definitely decided that the responsibility should be extended to eleven days. I am in a position to place before the honourable House all the information that the select committee would have had before them, and it is now for the honourable House to re-consider the whole position.

I may inform this honourable House that the Port Trust considered this question and have unanimously come to the conclusion that Government be approached for the reconsideration of this matter. They have placed before Government the following reasons :

In the Calcutta Port Trust this period of liability is limited to 3 days and it was limited to 3 days because in that body the period of free time is also 3 days. That is to say when goods leave the ship and are landed on the wharf in Calcutta for 3 days no charges are made. They are allowed to remain for 3 days free of charge. In Bombay the free period is 5 days. In Calcutta the period of responsibility is also 3 days. On the same analogy the period of responsibility in Bombay should be 5 days, but under the provisions of the bill the period is 7 days and therefore the honourable House will realise that as compared to Calcutta the proposals of the Port Trust are very liberal. It has been proved from experience that in a vast majority of cases merchants can and do take delivery of their goods within the free period of 5 days. Therefore if you have a period of 7 days as the period of liability, you have made a very liberal provision. The 7 days provided in the bill was suggested

[Mr. Cowasji Jehangir]

as corresponding to the time hitherto allowed by law for lodging claims against the ship for loss or damage of goods. This period has recently been reduced to 3 days by the new International Act governing Carriage of Goods by Sea, the provisions of which have recently been adopted by the Indian Government. Well, the honourable House will realise that even if this comparison is made the provision of 7 days is more than fair. Besides that, the responsibility that the Port Trust are incurring is much greater than that of Calcutta. The Calcutta Port Trust Commissioners under their Act do not accept responsibility on account of damaged goods while the Bombay Port Trust propose to accept responsibility for goods damaged and un-damaged. Therefore if a longer period were insisted upon the responsibility incurred by the Port Trust would be much greater than that incurred by the Port Commissioners at Calcutta. It is impossible, Mr. President, to lay down a sliding scale of responsibility and say that if a merchant in Ahmedabad claims 11 days because he is 300 miles away from Bombay, a merchant doing business in northern India can justifiably claim a month. The difficulty that has been pointed out of merchants being at a distance from Bombay can well be overcome by the appointment of accredited agents in Bombay. It is practically impossible for any upcountry merchant to carry on work at Bombay satisfactorily unless he has such an accredited agent, and I may inform the House that if up-country merchants have accredited agents in Bombay, their work can and is done expeditiously and most satisfactorily. Mr. President, I have briefly given the honourable House the reasons why the Port Trust have appealed to Government and this honourable House not to insist upon this responsibility of 11 days. I desire to point out to this House that increased responsibility might mean increased expenditure and increased expenditure on the part of the Port Trust means increased taxation and increased taxation comes from the pockets of the merchants of Bombay and therefore this appeal to the honourable House to reconsider their former decision is just as much on behalf of the merchants of Bombay as it is on behalf of the Port Trust. Mr. President, I have nothing further to say. I trust this honourable House will take all the points I have given into their serious consideration and while doing so will realise that we had not the opportunity of taking the bill to the select committee and that this unusual procedure has been adopted in the interests of all concerned.

Question proposed.

Mr. A. N. SURVE (Bombay City): I rise to oppose the amendment that has been placed before this House for the following reasons. The Port Trust is a body of the nature of public utility. Therefore the public must not be asked to conform themselves to the convenience of this corporate body. It is for the corporate body to accommodate itself to the demands made upon it by the public. Sir, it is in the memory of this House that as the bill originally stood the period fixed was 7 days and the select committee after very careful consideration increased it to 11. I am afraid that the Honourable the General Member does not mean to say that the gentlemen who formed the select committee.....

(HONOURABLE MEMBERS) : There was no select committee.

Mr. A. N. SURVE : I will not labour that point. When that bill came before this House it was carried to a division and it was the majority opinion of this House that the period be fixed at 11. Therefore I think that the procedure adopted to get the thing altered again is rather not quite proper. The proper thing would have been to obtain some experience and after having obtained that experience, if it is found that it is not satisfactory an amending bill should have been brought before this House. While defending or rather supporting the amendment, the Honourable the General Member has placed before us the instance of Calcutta Port Trust. But in that connection he has not given us all the relevant information that was necessary. We do not know the accommodation which is available to the Port Trust in Calcutta and the accommodation that is available to us in Bombay. Second point, we do not know and no number of the incoming and outgoing ships is given to us and therefore we are unable to come to a decision whether the demand made by the Bombay Port Trust is a reasonable one. Another point was raised about the Calcutta Port Trust not holding itself liable for damages. There also, the most relevant point was not given by the Honourable the General Member. If he were to give us the rates charged by the Bombay Port Trust and the Calcutta Port Trust, it would have helped us to make an accurate judgment.

The Honourable Mr. COWASJI JEHangIR : May I rise to a point of explanation, Sir ? I did not say that the Calcutta Port Trust was not liable for damages. I said that the Calcutta Port Trust did not take upon themselves the responsibility for damaged goods.

Mr. A. N. SURVE : But I think that has something to do with the rate of taxation, and that is why I mentioned that. The Honourable the General Member had omitted to mention the rate of taxation. For these reasons I oppose the amendment.

Mr. LALJI NARANJI (Indian Merchants' Chamber) : Sir, I support the amendment that has been moved by the Honourable the General Member for the following reasons. The question at issue is only this, whether the trustees' responsibility should remain for seven days or eleven days,—responsibility after the landing of the goods in the docks. The member for Bombay North has opposed it for one reason and he says that the charges of the Calcutta Port Trust and the Bombay Port Trust are not given. But he must remember that if we ask the Port Trust which is a corporate body and a public body, to meet the convenience of the public, they will also demand an additional sum for more responsibility, for eleven days, when there will be an additional charge which will have to be borne by those who bring in the goods, and it is for that reason and the reason which I do not wish to repeat which the Honourable the General Member mentioned, that compared with Calcutta, we are offering better terms. That is, the Bombay Port Trust has already agreed

[Mr. Lalji Naranji]

to raise the number from five days to seven days. It was stated that it was more convenient to mofussil merchants to have more time. That was the argument used, but owing to the increased cost which would be thrown on the Port Trust, it is not fair to demand eleven days now, and looking to all the Port Trusts elsewhere, I think seven days is a very reasonable offer that is made by the Bombay Port Trust. I therefore support the amendment.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I also rise to support the amendment. My amendment was carried on the last occasion against the Government's proposal, but looking to the practical side of the question, the practical difficulties of the Port Trust, I have come to this conclusion and I certainly support the amendment.

Mr. V. A. GRANTHAM (Bombay Chamber of Commerce): Sir, I rise to support the amendment of Government. The argument advanced by the honourable member for Bombay North is to some extent fallacious. He has made an impression on the House that the Port Trust is a corporate body which does not meet the demands which the people make or want. I submit, Sir, that the people who manage the Port Trust are the merchants of Bombay. The majority of the Port Trustees on the Port Trust are merchants. An equal portion of the Indian community is returned and represented. It is to their advantage to see that the Port Trust is run economically and that the charges are not put up and it is the merchants themselves who insisted that this period should not be more than seven days. The merchants themselves realise only too well the difficulties that would result by any further delay and that the question of congestion arises, which must lead to extra charges. Therefore, they want to give only seven days and they do not want the charges of the port to go up. They have throughout insisted on a seven days' period. I hope, Sir, in view of that explanation the honourable member for Bombay North will not oppose this amendment.

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President, I must at the outset make it clear that both myself and my honourable friend behind me (Mr. A. N. Surve) are independent members, benevolently inclined more towards ministerial party than the regular opposition. But, Sir, in the altered state of parties and somewhat peculiar circumstances, it has fallen upon us to criticise adversely the measures of the Government, because without that expression of opinion Government will have no opposition at all. Sir, I oppose this motion upon a different ground and for a very serious consideration. We are asked a second or third time to rescind a decision of this House. After the reforms, Sir, we thought we would never have legislation by mandate. All the arguments that are used now by the Honourable the General Member and his supporters, namely, the honourable member for the Chamber of Commerce and the representatives of the rich corporations had been used on the previous occasion when they had

[Mou'vi Rafiuddin Ahmad]

opposed the amendment which was carried by the House against them. I find the same arguments trotted out now and I am sorry to say that the honourable member Mr. Lalji Naranji, who had opposed the Government motion on the last occasion, is supporting Government now—I do not know for what reason, perhaps because of the evil influence exercised upon him by his colleagues on his return to Bombay.

Mr. LALJI NARANJI : For the reasons given by myself now.

MOULVI RAFIUDDIN AHMAD : Well, Sir, those reasons I consider very futile. And, Sir, if the honourable member wished to change his mind he could do so without giving any reason, I am sure the House will not find fault with him for that (Laughter). That very often happens with Government benches. Sir, it is a serious matter—to cause a deliberate decision of this House to be rescinded. The Honourable the General Member says that “we have now learnt from the Port Trust some additional reasons” and the additional reasons, according to him, are given. But we already knew all these reasons, and for these reasons it was that he said on the last occasion that he would not move the third reading of the bill. Circumstances in this House have changed and it is possible therefore that this bill is brought again. But, Sir, I would not like to be too severe upon the Honourable the General Member. Sir, if Government desired frequently to rescind the decision of the House, they might at least furnish us at the beginning of each session with a list of the bills or resolutions they desired to rescind. We shall in that case be spared these sudden and painful surprises. Sir, I respectfully request Government not to inflict this humiliation upon us more than once in the same session. Sir, it may be that there are certain secret reasons given to the Honourable Member, but the reasons that he has advanced, I am convinced, are not satisfactory to the House. In conclusion, Sir, I would entreat the Honourable Member and the Government in the interests of this august assembly not to ask us again to rescind a deliberate decision of this House, because it would be reducing the proceedings of the House to a mere farce. Sir, with this protest, because nothing else is possible, I would further request the Honourable the General Member to throw further light if he has any, upon the necessity for adopting this unusual course.

Mr. J. BAPTISTA (Bombay City, North) : Mr. President, I fully sympathise with the constitutional stand taken by my honourable friend Moulvi Rafiuddin Ahmad but I am afraid he has spent much powder and shot on a very trifling matter on this occasion. There is one aspect of the question I would like to place before the Treasury Benches in this House. The Honourable Mr. Cowasji Jehangir told us at the third reading what was going to happen, namely that His Excellency the Governor was going to return the bill to the House for the purpose of amending it in the manner indicated by the Honourable Mr. Cowasji Jehangir who said that he would make that recommendation to His Excellency the Governor. No doubt His Excellency the

[Mr. J. Baptista]

Governor is endowed with the power of returning bills for reconsideration after the third reading suggesting such amendments as he deems desirable, but I think that the procedure adopted was an unconstitutional interference with the powers and duties of His Excellency the Governor. I think it is desirable that in such cases His Excellency the Governor should exercise his judgment independently after the passing of the third reading; and not before the third reading. Otherwise what will happen is that the Government Benches will arrange with His Excellency the Governor to utilise this power of His Excellency to make amendments which could not be made under the rules. I do not know how far the constitutional issue is involved in this matter but I hope the point will be borne in mind in future.

The Honourable Sir MAURICE HAYWARD : Mr. President, I should just like to say that no constitutional question is involved in this matter. It is always open to the Honourable Member, if he wishes to do so, to make a recommendation to His Excellency the Governor. As far as I recollect, what the Honourable the General Member stated was that he proposed to make a recommendation to His Excellency the Governor. He said no more than that. He no way endeavoured to interfere with the discretion vested in His Excellency.

The Honourable Mr. COWASJI JEHangIR : Mr. President, I can assure my honourable friend, Mr. Baptista, that I did say that "we proposed to recommend to His Excellency the Governor", and I am absolutely certain that I said that because we had considered that point very carefully. We informed the honourable House of the procedure we proposed to adopt, because it was the first time this procedure was going to be adopted in this honourable House.

Now, Sir, my honourable friend opposite, Moulvi Rafiuddin Ahmad, said that I had all the arguments in my possession on the last occasion and that still I had given expression to them. I refer my honourable friend to the debate that took place on the last occasion. I think he will realise that he is mistaken. Not one of the points that I have mentioned to-day to the honourable House was I aware of. All that Government was aware of was that a greater responsibility was being thrown on the Port Trust and not knowing to what extent that increased responsibility went, Government proposed to enquire and investigate and it was because Government desired to investigate and enquire that they held up the third reading of the bill. I can assure my honourable friend that these points were supplied to Government by the Port Trust in consultation with the Trustees after the second reading of the bill, and also I can assure my honourable friend that my honourable friend, the representative of the Indian Merchants' Chamber, changed his opinion after having discussed the whole question with his colleagues on the Port Trust and that he was not aware of these facts just as I was not aware of them when he supported the amendment. The whole trouble occurred because the amendment was suddenly moved without notice either to Government or to this honourable House, and not being absolutely conversant with

[Mr Cowasji Jehangir]

the working of the Port Trust, I was not in a position to place before this honourable House the case as fully and as exhaustively as I should have been able to do had this honourable House sent this bill to a select committee. After this explanation I trust my honourable friend opposite will realise that we have brought this amendment not because my honourable friend sits opposite me alone to-day to oppose. We should have brought this bill for reconsideration whether my honourable friend happened to be present or absent, alone or supported by his other friends. The only reason why we brought this bill is that we have now been made acquainted with facts and we desired to place those facts before the House for their consideration and judgment.

Question put and carried.

Clause 61A, as amended, ordered to stand part of the bill.

The Honourable Mr. COWASJI JEHangIR : Sir, I now beg to move
Third reading. the third reading of the bill.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT : The bill is now read a third time and passed.

**BILL No. XIII OF 1925 (A BILL TO IMPOSE A TAX ON
TOTALISATOR BETTING).**

The Honourable the PRESIDENT : I should like to inform honourable members that the Secretary to the Legislative Council has received a communication from the Private Secretary to His Excellency the Governor to the following effect :—

“ Sir,

I have the honour to state that Bill No. XIII of 1925 (A Bill to impose a tax on totalisator betting) which was read for the third time and passed by the Legislative Council of the Governor of Bombay on the 21st October 1925 was submitted to His Excellency the Governor for his assent as requested in letter No. 629-P, dated the 26th October 1925. from the Secretary to Government, Legal Department. His Excellency the Governor thinks that the intention of clause 3 (1) of the bill is that in the City of Bombay and the Cantonment of Poona the Act should come into operation on a date to be specified in the clause itself. His Excellency believes that the omission to specify the aforesaid date was probably due to an oversight and considers it desirable that the necessary date should be specified in clause 3 (1) of the bill by an amendment of that clause. His Excellency has accordingly decided to return the bill to the Council for reconsideration under section 81A of the Government of India Act with the recommendation that in clause 3 (1) of the bill the date on which the Act should come into operation in the City of Bombay and the Cantonment of Poona should be specified. ”

In virtue of the message I have communicated to the House, I call upon the Honourable Mr. H. S. LAWRENCE to move an amendment in accordance with the recommendation of His Excellency.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I may explain at once to the House that this oversight did occur and that it is much regretted by Government. I now move an amendment as follows :—

In clause 3 (1) of the bill after the words “the first day of” the word “December” shall be inserted and for the figures “192” the figures “1925” shall be substituted.

[Mr. H. S. Lawrence]

It is proposed to bring this into operation on the 1st of December next, a short time before the new racing season begins in Bombay.

Question proposed.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to oppose the amendment that is placed before the House. The very fact that an amendment is brought so soon after the bill had passed its third reading shows the evils of rushing legislation through. I shall not comment on it any further. I hope at least in future, in matters of legislation, the bills will not be rushed through.

Coming to the clause which is proposed to be amended, I think that even if the amendment is not made, the Act will not be made inoperative. I would refer the House to the General Clauses Act, Bombay Act No. I of 1904, section 5 of which lays down :

"Where any Bombay Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it is first published in the *Bombay Government Gazette*, after having received the assent of the Governor General."

Therefore, the moment this Act is published in the *Government Gazette*, after receiving the assent of the Governor General, it will come into force. Whether a date is mentioned therein or not is a matter of indifference.

Some point may be made about the fact that there is a clause actually referring to the date. But I submit that in legal documents if there are any words of which the meaning cannot be made out then they are treated as unmeaning words, as surplusages, and do not affect the validity of the law, and for that reason, the clause in its unmeaning form will be safely neglected, and the Government can go on taxing the totalisator, if they so choose, from the date on which it is first published in the *Bombay Government Gazette*. For that reason, I humbly submit that it is not at all necessary to accept this amendment.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I do not rise so much to oppose the amendment as again to make a protest that a Member of the Government, who is one of the most clear-sighted of men and farsighted of statesmen should now plead an oversight again. These oversights, I am sorry to say, are being crowded together in this session. One more important bill is subjected to the operation of this section under the Government of India Act. I do not know, Sir, that any words of mine will have any effect on the Government, but I do again appeal to them that in future they will see to it that oversights of this nature, which the public do not always think are oversights, do not occur. We have no desire, as far as Mahomedans are concerned, to obstruct the Government or to embarrass them, but the dignity of the House we must keep; or else, this House will be reduced to an insignificant and third-rate institution. With these words and with this protest, I conclude my observations.

Mr. G. WILES: Sir, my honourable friend opposite (Moulvi Rafiuddin Ahmad), whom I may perhaps allude to as the Leader of the Opposition, is insatiable in his demands for a scapegoat for these oversights, and I offer myself to his sacrificial knife. The only point in bringing this bill

[Mr. G. Wiles]

back with this amendment is that we do not wish to put on the Statute Book an Act containing an ugly gap. We are perfectly aware of what was pointed out by the honourable member for Bombay City, North (Mr. Surve), but we prefer that the bill shall be put on the Statute Book as a complete bill.

The Honourable Mr. H. S. LAWRENCE : Sir, the honourable member Mr. Surve very correctly referred us to the General Clauses Act. We are quite aware that the bill would not be inoperative if this amendment were not made; but, as pointed out, we consider that it would look better to have the bill complete. We must accept the criticisms of the Leader of the Opposition with as good grace as we can. The matter was omitted through oversight, and I have already expressed my regret for that oversight. I therefore ask the amendment to be accepted.

Question put and carried.

Clause 3, as amended, ordered to stand part of the bill.

The Honourable Mr. H. S. LAWRENCE : I now move that the bill

Third Reading. be read a third time.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT : The bill is read a third time and passed.

MAJOR MUNICIPALITIES BILL.

The Honourable the PRESIDENT : I understand that the Honourable Minister for Local Self-government is now prepared with all his amendments, verbal and consequential, to the Major Municipalities Bill. I think it would be better, therefore, to take that bill now and to dispose it of.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, the Legal Remembrancer has drafted the amendments, and I would request you to allow him to move them.

The Honourable the PRESIDENT : That can be done.

Mr. E. CLEMENTS : Sir, I beg to move the amendments standing in my name. They are only formal. The first one is :

That the proviso inserted by an amendment at the end of sub-clause (1) of clause 9 be deleted.

I beg to move this amendment, because the same provision has been inserted in the new clause 219. The proviso added at the end of clause 9 (1) is as follows :

" Provided that the rules shall be previously published and shall be laid on the table of the Bombay Legislative Council for one month previous to the next session of the Council and shall be liable to be modified by a resolution of the said Council tabled at such next session. "

Clause 219 as added by this Council reads as follows :

" All rules made by the Government or the Commissioner under this Act shall be laid on the table of the Bombay Legislative Council for one month previous to the next session thereof, and shall be liable to be rescinded or modified by a resolution of the said Council tabled at its next session. "

Practically speaking, they amount to the same thing.

Question proposed.

Question put and carried.

Clause 9 as amended ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, I beg to move:

"That in sub-clause (2) of clause 33, line 28, substitute 'clause' for 'sub-clause'."

It is only a formal amendment.

Question put and carried.

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move:

"In clause 33, sub-clause (6) in second proviso add the words 'from the meeting' after the word 'removed'."

I want to insert these words in order to remove any ambiguity with regard to the interpretation. The proviso says:

"Provided that the said authority may at any time cause any councillor to be removed who does not obey his ruling."

Sir, the presiding authority is invested by the proviso with the power to expel a defiant councillor from the meeting of a municipality. The president indeed should possess such necessary powers to remove from the meeting, by force, if force be necessary, any councillor who disobeys his orders. But the clause is capable also of another possible interpretation, viz., that the president can remove a councillor from councillorship forever for the remaining period of his term of office. That was not my intention, Sir, when I moved my amendment for insertion of this proviso. I only meant that the president shall be invested with the power of expelling or removing by force a councillor from the meeting who disobeyed such presiding authority. Therefore in order to avoid the ambiguity I propose the above verbal amendment. The verbal amendment makes it clear that the presiding authority is by the proviso invested with power to expel or remove by force if force is necessary from the meeting any councillor who refuses to obey his ruling and thus to prevent such defiant councillor from taking any part in that ruling.

Question put and carried.

Clause 33 as amended ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, the next amendment standing in my name is as follows:

"In clause 35 as it stands after amendment, delete 'and they shall be elected from among the members of the municipality' and delete the number '55'.

"Substitute for the words and number so deleted 'and elected by the municipality in accordance with rules framed under section 55, clause (a)'.

"Delete the words 'nominated or' from line 15."

The object of these amendments is to make the section clearer. These follow the wording of an amendment which stood in the name of another honourable member.

Question put and carried.

Clause 35 as amended ordered to stand part of the bill.

Mr. E. CLEMENTS: I beg to move, Sir:

"In clause 36, sub-clause (2) substitute 'committees' for 'committee'."

I do not think I need explain this.

Question put and carried.

Clause 36 as amended ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, I beg to move:

"In clause 39 from lines 8, 12, 13, 15 and 19 delete the words 'nomination or', 'nominated or', or 'nomination' as the case may be wherever they occur."

These words are out of place considering the amendments that have been accepted by the House.

Question put and carried.

Clause 39 as amended ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, I beg to move:

"In clause 40, sub-clause (1) from lines 2 and 3 delete the words 'nominated or'."

Question put and carried.

Clause 40, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, I beg to move:

"In clause 44, line 46, insert the figure '(2)'."

Question put and amendment carried.

Clause 44, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, I beg to move:

"In clause 68, sub-clause (00) inserted by the amendment, add 'the' at the beginning."

Question put and carried.

Clause 68, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, I beg to move:

"In clause 141, from lines 10 and 11 delete the words from 'at' to 'streets', and from line 13 delete the word 'and'."

I might explain, Sir, that the object of this is to make sense of the clause as it stands after the amendment. It is necessary to delete these words.

Question put and carried.

Clause 141, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, I beg to move:

"In clause 184, sub-clause (1) in the two explanations, for sub-sections (g) and (r) substitute 'clauses (g) and (r)'."

It needs no explanation, Sir.

Question put and carried.

Clause 184, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS: Sir, as regards the alterations in the numbering, there are a large number of them. May I move it as one amendment?

The Honourable the PRESIDENT: The honourable member the Remembrancer of Legal Affairs has asked my permission to move in a body as one amendment the alterations in the numbering of all the clauses. Honourable members will observe that certain clauses which have been added by the select committee have been numbered with the letter "A" added to the figure to distinguish them from the clauses bearing numbers without the letter. The ordinary procedure is to ask

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the honourable member to move each amendment by itself but it will take at least an hour or so of the time of the House, because there is a very large number of such amendments. As these are not amendments of substance, but merely amendments for the purpose of renumbering the clauses of the bill, I should like to ask whether honourable members would agree that all these amendments should be moved as one amendment so that the renumbering could be sanctioned by one question. I think considerable amount of the time of the House will be saved if that procedure is agreed upon by the House. I will ask honourable members whether they agree. Does any honourable member object to considering this as one amendment? I take it that no one objects. The honourable member Mr. Clements can move this as one amendment.

Mr. E. CLEMENTS: Sir, I beg to move that

"In clause 1A the number be altered to 2 and clause 2 to 3. Then in clause 3 as renumbered, sub-clause 16 (c) substitute for 113 and 114 the figures 115 and 116. The old clauses 3 and 4 will be renumbered as 4 and 5 and in clause 5 as renumbered, sub-clause 2 in the third line change the figure 3 into 4. Clause 5 will become 6 and 6 will become 7; in line 5 section 3 will become section 4. Clauses 7 and 8 will be renumbered as 8 and 9; in clause 9, sub-clause (2) the figure 29 to be substituted for 27. Clause 9 will become 10 and in sub-clause (1) (b) 9 to be substituted for 8 after the word 'section'. Clause 10 becomes 11 and the figure 14 in the second line becomes 16; in sub-clause (2) the figure 41 becomes 16 and in sub-clause 2 (b) in line 78 substitute 10 for 9. Clause 11 becomes 12 and in sub-clause (1) (ii) substitute 27 for 25; in sub-clause (3) (viii) substitute 91 for 83 and 194 for 192. Clause 12 becomes 13, clause 12A becomes 14, clause 13 becomes 15 and clauses 14, 15 and 16 become 16, 17, and 18. Clause 17 becomes 19, 18 and 19 become 20 and 21 and 20 and 21 become 22 and 23. In line 12 of clause 23 (1) as renumbered substitute 22 for 20 and 28 for 26 in line 14; in sub-clause (2) substitute 18 for 16. Clause 22 becomes 24; in line 8, 8 becomes 9, in sub-clause (2) 23 becomes 25. Clause 23 becomes 25, 24 becomes 26 and 25 becomes 27. Clause 26 becomes 28, in line 16, section 11 becomes section 12. Clause 27 becomes 29, in line 10 substitute 15 for 13 and in line 22, 28 for 26. Clause 28 should read 30, in line 11, 31 becomes 33. Clause 29 becomes 31, and in line 9 for 55 read 58. Clause 30 becomes 32 and in line 11 for 29 read 31. Clause 31 becomes 33 and 32 becomes 34; in line 17, (e) becomes (c) and in line 32, (b) becomes (c) and 55 becomes 58. Clause 33 becomes 35 and in line 80, 29 becomes 31 and in sub-clause (10) for section 55 read section 58. Clause 34 becomes 36 and 35 becomes 37; and in line 15 for 55 read 58 and in line 25 for 55 read 58 and for 32 in line 26 read 34 and for 36 in line 27 read 38. Clause 36 becomes 38 and in the second line for 35 read 37 and in sub-clause (2) for section 55 read section 58. Clause 37 becomes 39 and in line 16 for 36 read 38. Clause 38 becomes 40 and in line 10 for 36 and 37 respectively read 38 and 39. Clause 39 becomes 41 and in line 5 for 36 read 38. Clause 40 becomes 42 and 41 becomes 43 and in line 4 for 33 read 35 and 33 in line 12 becomes 35, and section 33 in line 22 becomes section 35. Clause 42 becomes 44 and in line 17, 33 becomes 35 and 33 in line 23 becomes 35. Clause 43 becomes 45, and in sub-section (2), line 18, read 38 for 36 and 81 for 78 in line 20, and 58 for 55 in line 25. Clause 43A becomes 46 and in line 16, 35 and 36 become 37 and 38 respectively. Clause 44 becomes 47, and 45 becomes 48. In line 18 of sub-clause (2) of clause 48, as renumbered read 114 for 112. Clause 46 becomes clause 49 and 47 becomes 50, 48 becomes 51. In line 6 of that clause for 47 read 50. Clause 49 becomes 52. 50 becomes 53, 51 becomes 54, and in sub-clause (3) of that clause, line 26, change 11 to 12. Clause 52 becomes 55, and in line 10, 11 becomes 12. In line 24 also, 11 becomes 12. Clause 53 becomes clause 56, 54 becomes 57, and 55 becomes 58. In sub-clause (f), line 41, for 31 read 33, and in the next line for 32 read 34. In sub-clause (j), line 97, for 83 read 91, and in line 99, for 87 read 90. In line 114, read 106 for 104. Clause 56 becomes 59. In line 4 of that clause, read 58 for 55, and also in line 8 read 58 for 55, and in line 18 also in line 21, read 58 for 55. Clause 57 becomes 60. In the 4th line read 58 for 55, and in the 7th line change 101 to 103. Clause 58 becomes clause 61. In sub-clause (b) (iii), read 186 for 184 in line 43. The sub-clauses after (f)—(ff) becomes (g) on page 48, line 99; (g) becomes (h); for 176 in that sub-clause read 177; (h) becomes (i); (i) becomes (j); (j) becomes (k); (k) becomes (l), and in line 147 for 177 and 178, read 179 and

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180 respectively; (l) becomes (m); (m) becomes (n); (n) becomes (o); (o) becomes (p). Similar changes are made in (p), (q), (r), (s), (t), (u), (v), (w), (x) (y) and (z), which become respectively (q), (r), (s), (t), (u), (v), (w), (x), (y) (z) and (aa). Then, in line 246, page 50, for 121 read 123, and in line 275, for 115 and 124 read 117 and 123. On the next page, 52, for clause (aa) read (bb). Clause 59 becomes clause 62, and 60 becomes 63. 61 becomes 64 and 62 becomes 65. Then, in line 17 for 60 read 63. Clause 63 becomes clause 66, and 64 becomes 67; 65, 68; 66, 69; and 67, 70. 68 becomes 71, and in line 21 for 65 read 68; in line 39 for 155 read 157, and in line 45 for 184 read 186. There is an amended sub-clause which is numbered (oo); that becomes (p), and sub-clause (p) becomes (q) and (q) becomes (r); in line 80, 65 becomes 68; sub-clause (r) becomes (s). Clause 69 becomes 72. Clause 70 becomes 73, and in line 6, for 72 and 73 read 75 and 76 respectively. In line 78, for 72 substitute 75. Clause 71 becomes 74, and in line 8 for 70 read 73. Clause 72 becomes 75, and in line 8 for 70 read 73 and in line 10 for 55 read 58. Clause 73 becomes 76; in line 4 for 72 read 75; also in the 11th line for 72 read 75. Clause 74 becomes 77 and '1' should be added in brackets (1) after the number 77; in the second line 73 becomes 76 and also in line 19, 73 becomes 76; in line 39 for 55 read 58. Clause 75 becomes 78. Clause 76 becomes 79; 77 becomes 80. Clause 78 becomes 81, and in line 5 of that clause, 77 becomes 80. In sub-clause (6), line 98, read 82 for 79; in line 100, 108 becomes 110 and in line 103 read 82 for 79. Clause 79 becomes 82; in line 28, read 81 for 78; in line 35, read 110 for 108. Clause 80 becomes 83. 81 becomes 84; in line 15, read 80, 81 and 82 for 77, 78 and 79 respectively. Clause 82 becomes 85; 83 becomes 86; 84 becomes 87; 85, 88; 86, 89; in line 23, for 110 read 112. Clause 87 becomes 90. In clause 90 (as amended) sub-clause (3), line 38, substitute 61 for 58; line 41, put (h) for (g), and line 42 put 61 instead of 58. Clause 88 becomes clause 91; in line 14, 55 becomes 58; line 49, 58 becomes 61, and in line 67, 55 becomes 58. Clause 89 becomes clause 92. Clause 90 becomes 93; in line 8 substitute (n) for (m) and 61 for 58. Clause 91 becomes 94, and clauses 92, 93, 94 and 95 become respectively 95, 96, 97 and 98. Clause 97 becomes clause 99. Clause 98 becomes 100; in line 5, for 44 read 47. Clause 99 becomes 101; in line 19, for 95 read 98. Clause 100 becomes 102. Clause 101 becomes 103; in line 7, for 213 read 215; in line 11, read 218 for 216 and in line 16, read 73 for 70; in line 27, read 75 for 72. Clause 102 becomes 104. In line 8, read 98 for 95. Clause 103 becomes 105. In line 5, read 104 for 102. Clause 104 becomes 106. Clause 105 becomes 107. In clause 107, as amended, line 14, read 106 for 104. In clause 107, as amended, line 16 and in line 26, read 106 for 104. Clause 106 becomes 108. In line 4, for 102 read 104. In line 6, for 103 read 105. In line 13, for 103 read 105. Clause 107 becomes 109. Clause 108 becomes 110. In line 5, 102 becomes 104. In line 24, substitute 81 for 78 and 82 for 79. In line 29, read 104 for 102. Clauses 109, 110 and 111 become 111, 112 and 113. Clause 112 becomes 114. In line 11, same clause, read 48 for 45. In line 29, same clause, read 48 for 45. Clause 113 becomes 115. In sub-clause 2, line 23, substitute 194 for 192. In sub-clause 3, line 36, substitute 194 for 192. Clauses 114 and 115 become 116 and 117. Clause 116 becomes 118. In line 33, substitute 143 for 141. In line 37, substitute 123 for 121. In line 50, substitute 198 for 196. In line 62, substitute 149 for 147. Clause 117 becomes 119. Line 5, substitute 118 for 116. Line 62, substitute 198 for 196. Line 74, read 149 for 147. Line 80, read 149 for 147. Clauses 118 and 119 become 120 and 121. Clauses 120 and 121 become 122 and 123. In line 9 of clause 123 as amended for section 117, read 119. In line 13, read 118 for 116. Clause 122 becomes 124. In line 64, substitute 123 for 121. In line 108, substitute 123 for 121. Same alteration to be made in lines 110, 114 and 121 that is to say, read 123 for 121. Clauses 123 and 124 become 125 and 126. Clauses 125 to 128 become 127 to 130. In clause 128, as amended, line 28, read 198 for 196. Clauses 129 and 130 become 131 and 132. Clause 131 becomes 133. Line 6, read 132 for 130. Clauses 132 to 135 become 134 to 137. Clauses 136 to 139 become clauses 138 to 141. Clause 140 becomes 142. Clause 141 becomes 143. In line 84, substitute 198 for 196. Clauses 142 to 147 become clauses 144 to 149. Clauses 148 and 149 become 150 and 151. Clause 150 becomes 152. In line 67, substitute 143 for 141. Clauses 151 to 155 become 153 to 157. Clauses 156 to 162 become clauses 158 to 164. Clause 163 becomes 165. Clause 164 becomes 166. In line 4, read 165 for 163. Clauses 165 to 170 become 167 to 172. In line 9 of clause 172, as amended read 61 for 58. In line 43, read 61 for 58. Clauses 171 to 178 become clauses 173 to 180. In clause 174, as amended, in line 7, for 171 read 173. In clause 180 as amended, line 97, read 179 for 177. Clause 179 becomes 181. In line 5, read 179 for 177. In line 6, read 180 for 178. Clause 180 becomes 182. Clause 181 becomes 183. Clause 182 becomes 184. In line 82, for section 190 read section 192. In line 108, for 196 read 198. In line 123, for 196 read 198. Clause 183 becomes 185. Clause 184 becomes 186. Clauses 185 to 188 become 187 to 190. In clause 190, as amended, in line 8, read 61 for 58. Clauses 189 and 190 become 191 and 192. In line

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104 of the last clause (192) as amended read 199 for 197. Clause 191 becomes 193. Clause 192 becomes 194. Line 29, for 127 read 129. In line 45, for 113 read 115. In line 46 read 117 for 115. Line 47, read 123 for 121. In line 48, for 125, 127, 132 and 133 read 127, 129, 134 and 135 respectively. In line 50 read 131 for 129. Clauses 193 to 198 become 195 to 200. In line 47 of clause 200, as amended for 52 read 55. In line 48, for 116 read 118. In line 48, for 169 read 171. In line 49, read 117 for 115. In line 50, read 184 for 182. Clauses 199 to 213 become 201 to 215. New clause 215 at page 164 in line 29, for 212, read 214.

Clauses 214 to 218 become respectively 216 to 220. The new clause added, which was clause 219 becomes 221. In Schedule I in the second line, read "section 4" for "section 3". In Schedule II, second line, for "72" read "75", and at the end of the last line but one make the same alteration. In Schedule III, second line, read "88" for "85", and also in the second line below the word "Municipality". In Schedule IV, second line, read "88" for "85"; also in the second line below the word "Municipality." In Schedule V, read "104" for "102" in the second line. In Schedule VI, read "105" for "103" in the second line. The same alteration is to be made about the middle of that Schedule where the words "section 103" appear. In Schedule VII, line 3, for "103" and "95" read "105" and "98", respectively.

That is all, Sir.

Question put and carried.

The Honourable the PRESIDENT: This completes the consideration of the bill clause by clause.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:

Third reading. Sir, I move that the bill be read a third time.

I am grateful to the House and the members of the select committee for their co-operation and valuable assistance. This bill, Sir, is a step forward and a great advance on the existing law. It affords greater opportunity to the people at large to associate themselves with their local affairs. I feel confident that the masses, if they organise themselves, will capture all the seats in the municipalities and will come into their own. (Hear, hear). With these remarks, I move that the bill be read a third time.

Question proposed.

MOULVI RAFI UDDIN AHMAD (Central Division): Sir, in rising to support the third reading of this bill, I wish heartily to congratulate the Honourable Minister for successfully piloting this bill—one of the most comprehensive, voluminous and important bills that have ever been placed before this House. The bill is a landmark in the history of legislation as far as local self-government is concerned; and as far as I know it is an advance upon any measure that has yet been passed in any other provincial council in this country.

I hope the Honourable Minister will permit me to allude to the midnight oil he has burnt over this bill and to the fact that he has almost shattered his health. The House will be ungrateful were it to allow the occasion to pass by without expressing its deep gratitude to him for the great trouble he has taken, for the foresight he has shown, and for the labour which he has bestowed on his bill. I also take this opportunity of thanking the honourable the Legal Remembrancer for the knowledge and experience he brought to bear upon the provisions of the bill; and if I may be permitted I offer my thanks to the Secretary of the Legislative Council, for the great trouble which he has taken in supplying to

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the members the countless amendments in reasonable time. Time there was when I had to criticise the Honourable Minister, rather severely but on this occasion I should be failing in my duty if I did not give expression to the debt of gratitude which we all owed to the Honourable Minister for his laudable efforts to satisfy all parties in the Council including the Swaraj party who have not been sparing in their criticisms on the bill. Sir, on this occasion we are all united in offering our congratulations to him. With these remarks I support the third reading of this bill.

Mr. R. G. PRADHAN (Nasik District): Sir, I support the third reading of the bill and in doing so, I echo the sentiments that have been expressed by my honourable friend Moulvi Saheb. I have had some difference as regards specific provisions with the Honourable Minister in charge of Local Self-government. Even at this stage, I feel that, so far as that portion of the bill which deals with outside control over municipalities is concerned, it is not liberal enough and I have every hope that the Honourable Minister for Local Self-government will realise the soundness of my views upon this question and at no distant date will come forward with an amending bill reducing outside control proposed to be exercised over the municipalities and liberalising local self-government still further in that direction. Apart from this and other differences between the Honourable Minister and myself, I do heartily join my honourable friend Moulvi Rafiuddin Ahmad in offering my sincerest congratulations on the measure the third reading of which he has moved.

I agree with the Honourable Minister when he said that it was a liberal bill, and that it was a step in advance of the existing state of things. I have no doubt that if the masses take advantage of the facilities that are afforded by this bill, as the Honourable Minister pointed out, so far as local self-government is concerned, they will not only have adequate representation but will be able to exercise a decisive voice in the administration of municipal affairs. I again most heartily join my honourable friend Moulvi Saheb whom I have great pleasure in calling the Leader of the Opposition, in offering congratulations to the Honourable Minister for Local Self-Government upon this bill. It is one more feather in his cap, Turkish cap, as an Honourable Member reminds me and I hope he will win more laurels still in the departments under his charge.

Mr. S. T. KAMBLI (Dharwar District): Sir, on behalf of the non-Brahmin party I give my heartiest support to the third reading of the bill and in doing so I congratulate the Honourable Minister who has piloted the bill in all its different stages. This bill aims at broadening the base of municipal constitutions and aims at democratising the municipal institutions. I am quite sure that the prediction of the Honourable Minister will be truly fulfilled. The masses have been given a wider franchise which they have hitherto not enjoyed and many disqualifications that stood in the way of many fit persons aspiring to become members of municipalities have been removed. I am quite

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sure that if only the masses organise themselves, they will be able to wrest the municipalities from the hands of oligarchies wherever they may happen to exist. This measure will surely democratise municipal institutions throughout the presidency.

The attitude of the Honourable Minister at the second reading of the bill was indeed commendable. Whenever there was a combined or unanimous expression of view on this part of the House, he took great pleasure in yielding to that view and accepting the amendments. Whenever this part of the House was divided he stuck up to the original section in the bill. I hope that this attitude of the Honourable Minister will be copied, imitated and followed by the other two Honourable Ministers when they bring in their bills. In other words the combined and unanimous expression of views of the House should be given effect to by them at the time of clause by clause reading of bills. Many members both inside and outside the House were under the impression that the second reading of the bill would not take more than a few hours owing to the unhappy and unfortunate non-participation of a respectable number of members of this House in the business of this House. But I am glad to say that those members who participated in the debate took a very keen and intelligent interest in the consideration of all the clauses of the bill. Several important amendments—amendments of a far-reaching character—were put forward, moved, fully debated and discussed and most of them were successfully carried. The non-official members did not like that there should be so much power vested in one person, namely, the president. When the bill emerged from the select committee and came up for second reading most of the members of this House were surprised to see that the president was made, so to say, an autocrat. Not only was the president to have the power to supervise and superintend over the general administration of the municipality, but he was to be ex-officio chairman of the standing committee and of any of the other executive committees the municipality may appoint. In other words, he was to be seen everywhere, and his influence and power was to be felt everywhere. The non-official members thought that that ought not to be. These municipalities are the training ground for the people to fit them to take part in the larger administration of their country. Viewed from this point, this side of the House thought that an opportunity should be given to the other members of the municipalities to become chairmen of the standing committees. I am glad to say that the Honourable the Minister after feeling the pulse of the House accepted the amendment.

Sir, the bill as finally passed in the second reading shows important improvements and is a great advance on the existing law. If you compare Act III of 1901 with the bill now under consideration you will see that greater power is vested in the municipalities than before,—there is less interference of Government and greater power given to the municipalities. That is the principle on which this bill is based. I hope this House will agree with me when I say that this bill will

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have the blessing of the whole country, and will be carried out in the spirit in which it has been passed in this House.

Before I resume my seat, I congratulate the Honourable Minister for having successfully piloted the bill through all its stages.

Mr. M. S. KHUHRO (Larkana District): Sir, I wish heartily to congratulate the Honourable Minister for having brought such an excellent piece of legislation before us and got it carried. I discharge this duty, on this occasion, on behalf of my honourable colleagues, the Sind Mahomedan members of this Council. The greater reason for us to be proud is that the Honourable Minister is a Sindhi. I might remind the House that during the time this bill was being discussed, the Honourable Minister took the most democratic attitude, and all important amendments he left entirely to the House to decide by majority; for instance, the case of the president being *ex-officio* chairman and the power of nomination given to the president in the case of the standing committee and various other important amendments brought before this House and discussed. The point worth noting in this bill is that it has considerably widened the franchise of the municipalities. He has also agreed to provide in this bill a clause giving the president sufficient powers to conduct meetings, and thus the constitution has been made perfect. Sir, this bill will form a landmark in the history of the life of this Council, and I am sanguine that every one in this honourable House will agree with me in thanking the Honourable Minister for having taken so much trouble to bring forward this bill and get it passed in such an excellent and democratic spirit.

Mr. D. R. PATIL (East Khandesh District): Mr. President, I cannot but thank the Honourable Minister for Local Self-Government for the service he has done to the backward classes in the city municipalities, especially in widening the franchise. At the last time, when my honourable friend Mr. Bhopatkar brought a bill about the same subject, naturally he (the Honourable Minister) got up with anger and said "I have taken all the labours. Why should the credit go to Mr. Bhopatkar now?" If we look to the excellent work he has done so far as city municipalities are concerned, I think he deserves every support from all the parties here and at last he got the credit which he rightly deserved. I thank him heartily for that.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I am grateful to the House for the very kind references they have made about me and for the support they have given to the bill. One word only about the control—a point that was raised by my honourable friend opposite me (Mr. R. G. Pradhan). If my honourable friend refers to the various enactments in other countries, he will find we have less control here than in any other country.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT: The Major Municipalities Bill is read a third time and passed.

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 amended by the Select Committee.)

The Honourable Mr. H. S. LAWRENCE : Mr. President, I present the report of the select committee on 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).

The Honourable the PRESIDENT : The report of the select committee is presented.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I beg to move the second reading of the bill. The House will observe with satisfaction that on this somewhat difficult and intricate business, the select committee have been able to arrive at an unanimous conclusion. Cynical people may think, because the conclusion is unanimous, that means that there must be a lack either of thought or of intelligence on the part of the members of the committee. I would deprecate any such criticism in this matter, for in this particular bill, though it was adopted under considerable stress of time, it was debated at considerable length and various points of view were put forward and dealt with in complete detail, and the result you will see is a bill altered in certain important aspects from the bill that was first placed before this House. But if the complaints and criticisms are stilled for the present, I think I must warn the House that there is not the slightest doubt that they will arise in the future.

This bill takes us into a new and untried country. The administration will not be easy. The Act gives the Government power to recognise or to refuse recognition to any stock exchange. That recognition will be granted or refused at the discretion of Government and it will be in various conditions that that discretion will be exercised. A certain stock exchange desirous of recognition may be constituted of persons who do not command the confidence of the public. Another stock exchange desirous of recognition may submit a set of rules which Government will not regard as satisfactory. In either of these cases recognition will be refused. Some people may perhaps be a little puzzled at the words in the bill "stock exchange desirous of recognition" and they may ask "how can a body of persons who are not recognised by Government be called a stock exchange?" and I wish to emphasise that point. There is nothing in this bill to control or to regulate transactions of stocks and shares on a cash basis and therefore any body of persons who can secure the confidence of the public can constitute themselves a stock exchange provided they deal only on a cash basis; and that stock exchange will not come within the purview of this legislation. It is only in regard to those transactions which are known as futures that this bill applies and the power to control is being taken by Government. The small investor is seldom interested in speculative dealings in futures. If this important

* *Vide* appendix G.

[Mr. H. S. Lawrence]

point is fully recognised the House will appreciate the threats which have been uttered by some section of dissatisfied members of the existing association, threats that they will close down the business rather than submit to any control, these threats are of no great interest to the investing public. For these reasons Government as also this House, may regard with equanimity any such dissatisfaction of members of the existing association. Members of a stock exchange are persons who play an important part in the transactions of commerce and industry. But it must be remembered that they are the agents and servants of the public and the recent trouble has largely arisen from the fact that these gentlemen have fallen into some error on this point and have arrogated to themselves a position of mastery. The public who have been suffering long in patience and silence has finally revolted against this arrogant mastery and has asked this House as their representatives to bring these refractory persons under control. That I think is a fair summary of the situation. I will only invite the special attention of the House to the fact that whereas in the original bill Government proposed to take power to sanction, add to, vary or rescind rules for the regulation of the stock exchange they have now, on further advice and consideration, decided that it is unnecessary and inexpedient that Government should interfere in such detail in the internal working of the stock exchange and that it will make for better relations and will encourage a better spirit of self-administration, if they contented themselves with this power of granting or refusing to grant or withdrawing recognition, and for the reason which I have explained in my earlier remarks I suggested to the House that Government would not be at any time unwilling to exercise that power if at any time a stock exchange is known to be working to the detriment of the public. They would then exercise their power and close down that exchange until a better system of management of the exchange has been brought about. This is a somewhat drastic power, but on the advice open to Government we have decided that that is the system which we should recommend to this House. I ask that the bill be read a second time.

Question proposed.

Mr. J. BAPTISTA (Bombay City): Mr. President, I must congratulate the Honourable the Finance Member for having introduced a measure of this description. (Hear, hear). No doubt it is with considerable reluctance that he has intervened in the affairs of the associations of long standing and great utility. But the doings of these associations have reached the dimensions of a scandal in the city of Bombay. I therefore congratulate the Honourable the Finance Member for having overcome the reluctance and for having displayed considerable firmness and thoroughness, which has enabled him not to surmount all obstacles, and to bring about the present state of affairs. I might almost disarm the opposition of the most interested association, but also to command their confidence and approbation. I believe the bill has now emerged from the select committee considerably improved. The Government

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have now power to recognise or refuse to recognise a stock exchange instead of the power merely to make rules as originally intended. To recognise or to refuse to recognise means that they would naturally refuse recognition when men of straw come forward to constitute a stock exchange and ask for recognition. The result will be that a recognised stock exchange would receive the hall mark of Government's approval. I trust that this hall mark of approval will not be given except after a careful consideration of the question whether confidence can be reposed upon the members of the stock exchange and their constitution and solvency. I should like however to sound one note of caution. I do not think that this bill will prevent speculation or prevent gambling. It may to some extent reduce gambling and speculation, if Government remember the cause of all trouble. The cause of trouble is the power of the stock exchange of declaring the existence of a corner and then fixing arbitrarily the rates of settlement or dealings to the scrips concerned. Any one who has had anything to do with the share bazaar feels that the bazaar had become a family compact to enable the bear members to rob the public by their manouvres. This measure will be entirely futile unless the Government insist upon the removing of the rules relating to corners in accordance with the recommendation of the Atlay Committee at all costs and whatever the threat of the bazaar. That is all I have to say and I hope the House will approve of the bill.

The Honourable Mr. H. S. LAWRENCE: I do not think, Sir, that it is necessary to take up the time of the House with further remarks. I have said all that I had to say.

Bill read a second time. Question put and carried.

(*Bill read clause by clause.*)

Clause 1 (short title) ordered to stand part of the bill.

Clause 2 (extent and operation) :

(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.

Mr. G. WILES: May I draw attention, Sir, to a typographical error? In the fourth line a full stop has appeared in the copy before me. After the words "Bombay Presidency" the full stop should be erased.

The Honourable the PRESIDENT: No amendment need be made now. The honourable member can move it, if necessary, at the third reading. If it is a typist's error, then merely drawing attention to it is sufficient.

Clause 2 ordered to stand part of the bill.

Clause 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) "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) "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.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move the following amendment:

In clause 3 (4) Explanation, substitute the word "shall" for the word "is" where it occurs for the second time and add the word "be" after the word "case".

The clause as amended will read as follows:

The question what is a reasonable time shall in each particular case be a question of fact.

Sir, this amendment really relates to drafting. It is laid down here that the question of reasonable time is to be decided by evidence. What is a question of fact is in a court of law proved only by evidence. That is, what is a question of fact is a futurity, and therefore the appropriate words there would be "shall be" and not "is". With that idea I have suggested that instead of employing the word "is" we should employ the words "shall be". That would be a desirable amendment and I think the honourable member will see his way to accept it.

Question proposed.

Mr. J. B. KANGA: Sir, I want to point out that my honourable friend who has moved the amendment should have read, before moving the amendment, a section of the Contract Act which was passed in 1872 and in respect of which there has been no trouble up to now, which contains exactly the same explanation as is given here. I mean section 46 of the Contract Act, where the words "reasonable time" are used in the section, and the explanation given there is: "What is a reasonable time is in each particular case a question of fact." I am quite sure, after this explanation, my honourable friend will withdraw his amendment.

Mr. A. N. SURVE: I have nothing more to add. You may put the question before the House.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I think what is good enough for the statutes of the Government of India for the last fifty years should be good enough for us. It is also the phrase which we use in the House of Commons. It is also the phrase that would be used by every one who has studied English grammar (Laughter).

Question put and lost.

Clause 3 ordered to stand part of the bill.

Clause 4 (*Recognition*) ordered to stand part of the bill.

Clause 5 (*Rules*).

(1) A Stock-Exchange 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 transaction 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) Rules made by a stock exchange under sub-section (1) shall be published in the *Bombay Government Gazette* one month before they are sanctioned by the Governor in Council.

(4) 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.

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.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move my amendment to clause 5, sub-paragraph (3).

Add the words at the end to clause 5 (3); "and shall again be published after sanction with alterations if any".

Sir, the bill makes provision of previous publication for one month. That is, the rules are to be published before the Government give sanction for one month, and that was the only thing. But now an amendment has been suggested. It will come before the House after I have moved my amendment. The idea is this that even if the subsequent amendment is added, what is meant is that first there shall be a publication and after one month there shall be a republication. But the idea underlying the first publication is to call attention of the public that they may send in their objections or suggestions if they have any. Therefore, when the rules are published and some people send in their suggestions, then Government should have the power of either accepting these suggestions or rejecting them. If Government accept the suggestions and they find that it is desirable to improve those rules, then if my amendment is not accepted, I am afraid Government will not have the power of giving their sanction. They can only accept or reject. But if my amendment is accepted, then, by implication, Government will have the power of altering the rules, if any, and thus when the rules are altered, they can be republished in the *Government Gazette*.

Question proposed.

The Honourable the PRESIDENT: I noticed that the honourable member Mr. Wiles has also a similar amendment. If he wishes to speak now, he may.

Mr. G. WILES: Just one word, Sir. It was never the intention of the select committee in amending this clause that subsequent publication should not be made. That publication should follow, as it was originally proposed in the original clause. I, therefore, have given notice of an amendment, similar to the honourable member's amendment, which reads "and shall again be published after sanction". The words which are proposed to be added by the honourable member Mr. Surve, "with alterations if any", are unnecessary. Government has no authority under the Act to effect alterations in the Rules. And any alterations which are effected after publication will have to be made by arrangement with the Association. It is the Association that makes the Rules. Therefore, I say that my amendment is preferable and should be accepted.

The Honourable the PRESIDENT: Does the honourable member, Mr. Surve, agree to withdraw his amendment in favour of the amendment of the honourable member Mr. Wiles? It is practically the same.

Mr. A. N. SURVE: No, Sir, because there is a vast difference as the next amendment suggests that the rules are to be republished. My amendment makes it quite clear and leaves no room for doubt.

The Honourable the PRESIDENT: The honourable member, Mr. Wiles, has already explained that Government have no power to alter the rules.

Mr. A. N. SURVE: In that case I have no objection to withdraw my amendment in favour of that proposed by the honourable member, Mr. Wiles.

Question put and leave granted.

The Honourable the PRESIDENT: The honourable member, Mr. Wiles, can now move his amendment.

Mr. G. WILES: Sir, I beg to move the following amendment:

To clause 5 sub-clause (3) add the words "and shall again be published after sanction".

Question put and carried.

Mr. G. WILES: Sir, I beg to move the following amendment:

Omit sub-clause (4) of clause 5.

The alteration made in clause 6 by the select committee makes it unnecessary, so our legal advisers tell us, to retain this clause.

Question put and carried.

Clause 5 as amended ordered to stand part of the bill.

Clause 6 (*Contracts not made subject to rules to be void*).

Every contract entered into after the date on which this Act comes into operation for the purchase or sale of securities, other than a ready delivery contract shall be void, unless the same is made subject to and in accordance with the rules duly 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.

Mr. G. WILES: Sir, I move the following amendment:

In clause 6, for the words "Every contract shall be void" substitute "Every contract for the purchase or sale of securities, other than a ready delivery contract, entered into after a date to be notified in this behalf by the Governor in council shall be void".

The object of this amendment is to prevent the interregnum which would arise after this bill comes into operation and before the subsequent sanctioning of the rules. The select committee has entered in the bill a clause which provides for one month's publication of the rules. My amendment is in order to avoid the interregnum which would otherwise prevent futures business and interrupt the course of trade. Government will now take authority to notify a date after which all operations other than those carried on under the rules shall be void. That date will be naturally the date on which sanction is given to the rules.

Question put and carried.

Clause 6 as amended ordered to stand part of the bill.

The preamble ordered to stand part of the bill.

The Honourable Mr. H. S. LAWRENCE: Mr. President I now move
Third reading. that the bill be read a third time.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT: The bill is now read a third time and passed.

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).

The Honourable the PRESIDENT: Is the Honourable the Minister ready to go on with clause 109A?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes, Sir.

Mr. HOOSENALLY M. RAHIMTOOLA: Sir, as I had not finished my remarks on the amendment which I had moved to this clause yesterday I beg permission to continue my observations. This clause shows want of confidence in the sense of fairplay. . . .

The Honourable the PRESIDENT : The proper procedure is that I will propose the question that clause 109A do stand part of the bill. Then the amendment can be moved and the regular procedure will be then followed. The question is that clause 109A do stand part of the bill.

Clause 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 1924. "

Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : Sir, I beg to move :

" That clause 109A be deleted. "

This clause shows want of confidence in the sense of fairplay and justice of the Corporation. It is absolutely unnecessary in my opinion, and was inserted at the last moment in the select committee. I therefore move that it should be deleted.

Mr. J. BAPTISTA (Bombay City, North) : Sir, I am rather reluctantly obliged to oppose this amendment ; for this reason. I think, if the intention of the clause is as stated by my honourable friend, I would certainly sympathise with him. The language of the clause itself seems to convey the impression that the officers of the Improvement Trust do not wish to serve under their new masters, and that they would rather resign and retire from service than serve under their new masters. Of course, no self-respecting councillor can countenance such an attitude on the part of the servants of the Improvement Trust, and I hope that nobody would encourage an attitude of that description. But, Sir, I have had a consultation with the Honourable Minister, and, so far as I can make out, that is not the object of the clause. The real object underlying the clause is this. There are some of these servants who have been in service for more than five years, who have the benefit of certain existing rules. These rules may be amended by the new Board, may be more liberalised, or may be made more illiberal. It would not be right to deprive the Board of the power of making rules, liberal or illiberal, even though it would affect those persons who have taken up service under the existing rules. But I think it is right that they should have the benefit of the rules which existed at the time at which they took up service. But it cannot be left open for a long time. The question of transfer of Trust to the Corporation has been discussed for the last five years. Therefore, it would be right to say that only those who have been serving for the last five years shall have the benefit of the old rules. If we want to give them the benefit of these rules, we must make some provision for it. Therefore, I propose that the right thing for us to do is to give those officers who have been in service for the last five years the benefit of the existing rules, but to impose a limitation of two years within which the benefit can be available ; and

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this only in the case of those who wish to retire. No other cases are to be provided for. There may be many good reasons why they should retire, and it seems to me to be in accordance with reason that they should get the benefit of these rules. I have, therefore, endeavoured to put on paper what I consider would be an amendment to the clause as it stands. The honourable member Mr. Rahimtoola moves that it should be deleted. His amendment is equivalent to rejecting the clause altogether. I do not know, Sir, whether you would permit me to move the amendment which I wish to move. It is as follows :

Clause 109 should read as follows :

" 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, in case of retirement within two years from the date of the passing of this Act, to all the benefits of the rules regarding leave in force at the date of the passing of this Act, and to draw his share of the trustees' contribution to the provident fund."

The Honourable the PRESIDENT : In the special circumstances of the case, I am prepared to allow it. The amendment is in order. The only question is one of notice, and I am prepared to condone it, and accept the amendment if there is no objection in the House to that course being followed.

MOULVI RAFIUDDIN AHMAD : That is hardly an amendment. It is a new section.

The Honourable the PRESIDENT : The clause is there ; and he has moved an amendment to the clause as it stands.

Mr. J. BAPTISTA : I believe my amendment really carries out the reasonable intention of the clause itself. I understand the Honourable Minister is prepared to accept this amendment to the original clause.

The Honourable the PRESIDENT : I was enquiring whether any honourable member wished to object to this amendment being moved at this late stage. I take it that there is no objection from any honourable member to that being done.

Question proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I accept the amendment of the honourable member Mr. Baptista.

Question put and carried that clause 109A should read as follows :

" Any officer or servant, who has been in the service of the Board constituted under the City of Bombay Improvement Act, 1898, for a period of not less than five years before the date on which this Act comes into force, shall be entitled, in case of retirement within two years from the date of the passing of this Act, to all the benefits of the rules regarding leave in force at the date of the passing of this Act, and to draw his share of the trustees' contribution to the provident fund."

The honourable member Mr. Hoosenally M. Rahimtoola's amendment " That clause 109A be deleted " put and lost.

Clause 109A, as amended, ordered to stand part of the bill.

The Honourable the PRESIDENT : We will now deal with the consequential amendments.

Mr. E. CLEMENTS : Sir, I have an amendment to propose to clause 10 which is not a consequential amendment.

The Honourable the PRESIDENT : I hold that the amendment which I saw this morning and which, I presume, the honourable member wishes to move, is consequential. New seats have been allotted to certain interests, and that makes such an amendment necessary, and the amendment can be moved as a consequential amendment.

Mr. E. CLEMENTS : Sir, I beg to move :

Clause 10, sub-clause (3) : After sub-clause (2) add the following sub-clause numbered sub-clause (3) :

“ The election of members by the Board shall be held at their first meeting after the date on which this Act comes into operation, and thereafter at their first meeting after each general election of councillors of the Corporation. The elections by the Chamber of Commerce, the Indian Merchants' Chamber, and the Millowners' Association shall be held, and the nominations by Government shall be made, within ten days thereafter, and the names of all persons so elected and nominated shall be published by the officiating Chief Officer or the Chief Officer in the *Bombay Government Gazette*.”

Clause 10 deals with the constitution of the committee. This amendment simply provides for the first elections and nominations. Provision for the meeting of the board is made in clause 9 (2) (a). This is a necessary amendment.

Question proposed.

Mr. J. BAPTISTA (Bombay City, North) : Sir, this is a new clause. There is no provision made compelling these associations to notify to the chief officer their nominations, so that the chief officer may notify them in the *Bombay Government Gazette*. If these associations do not so notify their nominations to the chief officer, he will not be in a position to notify the nominations in the Gazette.

Mr. E. CLEMENTS : If the honourable member Mr. Baptista moves an amendment, I will accept it.

The Honourable the PRESIDENT : He cannot move an amendment.

Mr. E. CLEMENTS : Then we may leave the matter as it stands.

Question put and carried.

Mr. E. CLEMENTS : I beg to move, Sir :

“ In sub-clause (2) of clause 10 delete the word ‘ or ’ where it occurs for the first time and in sub-clause (1) of clause 27..... ”

The Honourable the PRESIDENT : I cannot allow amendments to two clauses at the same time. I have to put each clause to the vote of the House.

Mr. E. CLEMENTS : Sir, I move :

“ In sub-clause (2) of clause 10, delete the word ‘ or ’ where it occurs for the first time, and substitute ‘ and ’.”

MOULVI RAFIUDDIN AHMAD : Do you rule, Sir, that this is a consequential amendment ?

The Honourable the PRESIDENT : Unless the honourable member points out that it is not. Honourable members who vote on these amendments should ascertain for themselves and object to any amendment, which in their opinion is not a consequential amendment.

Question put and carried.

Clause 10 as amended ordered to stand part of the bill.

Mr. E. CLEMENTS : My next amendment, Sir, is :

" In sub-clause (1) of clause 27, line 5, substitute the word 'and' for the word 'or'."

Question put and carried.

Clause 27 as amended ordered to stand part of the bill.

Mr. E. CLEMENTS : I move, Sir :

" In clause 28 (3), line 38, substitute the word 'if' for the word 'it'."

This is a printer's mistake.

Question put and carried.

Clause 28 as amended ordered to stand part of the bill.

Mr. E. CLEMENTS : I beg to move, Sir.

" In the explanation to clause 62 (4), line 61, for the word 'clause' substitute the word 'sub-section'."

Question put and carried.

Clause 62 as amended ordered to stand part of the bill.

Clause 64 as amended ordered to stand part of the bill.

Clause 66, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS : Sir, I beg to move :

" In clause 77 (7), in line 129, for the word 'section' substitute the word 'sub-section'."

Question put and carried.

Clause 77, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS : Sir, I beg to move :

" In clause 94, in line 2, for the word 'and' substitute the word 'any'."

Question put and carried.

Clause 94, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS : Sir, I beg to move :

" In clause 106, in line 13, after the word 'Chairman' insert the words 'of the Committee'."

Question put and carried.

Clause 106, as amended, ordered to stand part of the bill.

Clause 109A, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS : Sir, I move :

" In clause 117, in line 5, for the word 'stipendiary' substitute the word 'salaried'."

The reason for making this alteration is that "salaried" is the word used in the Criminal Procedure Code.

Question put and carried.

Clause 117, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS : Sir, the last amendment (before the re-numbering amendment) which I beg to move is :

" In schedule B, after the word 'Act' insert the figures '1925'."

Question put and carried.

Schedule B, as amended, ordered to stand part of the bill.

Mr. E. CLEMENTS: I ask your permission, Sir, to move the re-numbering amendments as was done in the case of the Major Municipalities Bill.

The Honourable the PRESIDENT: I take it there is no objection to the same procedure being followed. (After a pause). No honourable member objects. The honourable member is allowed to do so.

Mr. E. CLEMENTS: Sir, clauses 17 to 36 should be renumbered 18 to 37; clause 36A becomes clause 38; clauses 37 to 109 should be renumbered 39 to 111; clause 109A becomes clause 112; and clauses 110 to 121 should be re-numbered 113 to 124.

Then there are several references which should be altered, which I shall now deal with. In clause 2, for the letter "(a)", substitute "(1)"; and for the letter "(b)" substitute "(2)". In clause 4, line 10, for "bye-laws" substitute "by-laws". In clause 5, line 21, for "77" substitute "79", and in the next line for "78" substitute "80"; in line 26, for "61" substitute "63"; in line 30 for "25" substitute "26"; and in line 32 for "28" substitute "29". In clause 8, line 20, substitute "26" for "25". In clause 9 for the paragraph after (b), put the heading (c) instead of (bb); for "(c)" substitute "(d)"; in the next paragraph introduced by amendment substitute "(e)" for "(c)"; for "(d)" substitute "(f)"; in line 49, substitute a comma for semi-colon; sub-clause (e) becomes sub-clause (g); then sub-clause (ee), inserted by amendment, becomes (h), and (eee) becomes (i); the present clause (f) becomes (j); (g) to (i) becomes (k) to (m).

I now come to clause 16A which will be numbered 17. Clause 17 becomes 18 and 18 becomes 19 and at line 21 for 19 substitute 20, and 21 for 20 in line 25. Clause 19 becomes 20 and in sub-section (1) of clause 20 as renumbered insert a ";" after the word "occurred". In clause 20 now numbered 21 in line 14 for "bye-laws" read "by-laws", and in line 15 for 110 read 113, and in line 72 substitute 20 for 19. In clause 28 as renumbered for 119 in line 25 read 111. In clause 29 as renumbered (old clause 28) in line 26 substitute 27 for 26, and in line 33 substitute "by-law" for "bye-law", and in line 38 "it" becomes "if". In clause 30 as amended (old clause 29) put a small "t" at the beginning of sub-clause (1). In old clause 33 now numbered 34 on page 19, read 33 for 32 in line 8, and 33 for 32 in line 48. Also in line 8 of the next clause 35, read 33 for 32, and 37 for 36 in line 10, and in line 46 read 33 for 32. Also in the next clause line 10 read 33 for 32, and in line 29 for 32 read 33. In the old clause 36 now numbered 37, substitute 36 for 35 and in line 60 of the same clause substitute 36 for 35, and 33 and 36 for 32 and 35 respectively in line 61. In clause 38 as amended substitute 35 for 34 in line 88. In the old clause 38 now numbered 40 substitute 33 and 37 for 32 and 36 respectively in line 20, and 30 for 29 at the end of the clause. In clause 44 as renumbered substitute 33 and 37 for 32 and 36 in line 5. In the next clause substitute 79 for 77 at the end. In clause 44 now numbered 46 substitute 37 for 36 in line 7. In clause 47 line 58 substitute 33 for 32. In clause 51 now numbered 53, line 5 for 32 and 36 read 33 and 37. In clause 54 now numbered 56, line 27, read 61 for 69.

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In clause 61 now numbered 63, on page 36 line 52, for 29, 40 and 50, read 30, 42 and 52; in line 64 for 36 and 42, read 37 and 44; in line 77 for 33 read 34; in line 78 read 35 for 34 and in line 79 read 33 for 32; in line 88 substitute 30 for 29. In line 20 of the next clause now numbered 64 for 32, 42 and 51 read 33, 44 and 53, and in line 37 substitute 33, 44 and 53 for 32, 42 and 51. In clause 64 now numbered 66 insert (1) (2) and (3) at the beginning of sub-clauses. In clause 66 now numbered 68, line 15 for 86 read 88. In clause 68 now numbered 70, line 33, for 66 read 68. In clause 74 now numbered 76 line 3, for 66 read 68 and the same alteration in line 8. In clause 75 now numbered 77 third line for 66 read 68, and in line 8 for 104 read 106. In the next clause line 28, for 68 read 70 and in line 40 for 93 read 95. In line 57 of the next clause on page 45, for 110 read 113 and in line 142 on page 46, for 79 read 81. On page 47 in old clause 78 now numbered 80 read 79 for 77 in line 5. In clause 79 now numbered 81 line 24, for 77 read 79. In the next clause now numbered 82 read 79 for 77 in line 4. In clause 85 now numbered 87 in line 10, for 75 read 77. On page 51 in clause 89 now numbered 91 line 10, for 82 read 84 and in line 12, for 117 read 120. In clause 90 now numbered 92, for 92 in line 15 read 94. In clause 93 now numbered 95, for 66 read 68 in line 5; for 68 and 76 in line 8 read 70 and 78 respectively; the same change to be made in line 13. In clause 96 as now numbered line 4, for 82 read 84 and for 93 in line 5 read 95. In the next clause 97 as amended line 4, for 93 read 95, the same alteration in line 8; and for 94 in line 9 read 96.

In clause 104, old clause 102, on page 56, line 11, read 100 for 98 and 102 for 100. In clause 107, now numbered 109, line 25, read 110 for 108, and in line 27 read 111 for 109. In old clause 109, now numbered 111, line 17, read 109 for 107. In clause 112, now numbered 115, in the third line, read 113 for 110. In the last line of 114, now numbered 117, read 18 for 17, on page 61. On the same page, in clause 119, old clause 116, line 11, for 103 read 105. In the next clause 120, old clause 117, line 4, read 113 for 110.

In Schedule A second line, for 61 read 63; the same alteration in Schedule AA. In Schedule B, second line, read 73 for 71. In Schedule C, second line, for 77 read 79. In Schedule D, second line, read 79 for 77. In Schedule D, on page 78, in the second line, for 77 read 79. The same alteration in Schedule E; and in Schedule F, second line, for 84 read 86.

That is over.

Question put: That the clauses be renumbered as proposed, and carried.

The Honourable the PRESIDENT: That completes the consideration of the bill clause by clause.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I now move, Sir, that the bill be read a third time.

Third reading. I must express my gratitude to the House and to the members of the select committee for their co-operation and valuable assistance. I think, Sir, it would not

[Khan Bahadur Shaikh Ghulam Hussain]

be out of place to say a word about the present trustees and the officers of the Trust. I may assure the House that the present trustees as well as the officers of the Trust have been carrying on the work of the Trust efficiently and successfully. Now, this bill proposes to transfer the Trust to the Corporation. The Bombay Corporation, as you are all aware, is the premier corporation of our presidency, and is proverbial for its efficient administration. I am confident that, true to its traditions, the Corporation will successfully administer the affairs of the Improvement Trust. I also trust the day is not distant when the Improvement Trust will entirely merge in the Corporation. With these words, I move that the bill be read a third time.

Question proposed.

Mr. A. N. SURVE (Bombay City, North): Sir, the duty of offering felicitations is always a pleasant one. Rightly or wrongly, the Bombay public have been complaining for a very long time that the operations of the Improvement Trust were carried on in a very expensive and spendthrift manner. But now when this bill will pass into law, I think the public of Bombay will not have any ground for complaining in the strain in which they are in the habit of doing at present and have been even in the past. Sir, it is a very good step which the Honourable Minister has taken. It is a bold step and, though during the passage of this bill, he has not conceded all that we demanded, still he has seen his way to meet our demands as far as his constitutional position would allow him to do. Sir, we appreciate the restraints imposed upon him by his constitutional position and, though for the moment he has disappointed us and not granted what we wanted, still we appreciate that he has been doing his best and that he has discharged his duty conscientiously. Again, if in the course of heated debate we may have used some very angry terms, I am sure the Honourable Minister will bear in mind that we also owe a duty to the public and we are here to discharge it fearlessly. Therefore, as the bill has now passed, or is about to pass, I think the bitterness, if it was ever created, will not be carried out of the precincts of this Hall. I very heartily congratulate the Honourable Minister for the successful passage of this bill and I trust that he will also admit that the opposition has done its duty of guiding and giving advice to Government benches. So, there has been thorough co-operation on both sides. I again offer my congratulations to the Honourable Minister and hope that many such beneficent bills will come in future before this House for consideration.

Dr. K. E. DADACHANJI (Bombay City, South): Sir, I support the third reading of the bill. You will remember when the Honourable Minister first introduced this bill, I congratulated him as the first Mahomedan Minister who has given this large measure to the city (Bombay). Now it has been proved that this bill has been shorn of some of the contentious clauses, and I hope the corporation will both economically and beneficially carry out in the interest of the city this measure. The corporation no doubt has a huge responsibility and liability—their own

[Dr. K. E. Dadachanji]

amounting to about 19 crores of rupees, and these 14 crores of the Improvement Trust—and it is rumoured that in ten years more the Development Department will also be transferred to the Bombay Municipality. These huge burdens the city is prepared to bear and it must be said to the credit of its citizens that they are prepared to carry out their responsibility as best as they can. There need be no fear as regards the Corporation not carrying out the work of the Improvement Trust. They will carry out the work both economically, I repeat, and beneficially to the city.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat cities): Sir, I rise to offer my hearty congratulations to the Honourable Minister for Local Self-Government upon the pains he has been at in piloting this bill through to success.

My honourable friends from Bombay who are members of the Improvement Trust, especially Dr. Dadachanji, have already expressed their appreciation of the manner in which this bill has been got through. I have had the honour to know the Honourable the Minister of Local Self-Government since 1898, when he was reading for the Law and I was a student at the Elphinstone College. It was then that I prophesied that my friend would one day rise to a position of eminence in the service of his country. I am glad that my prophesy has come true and I now hope that the Honourable the Minister for Local Self-Government will attain to still higher heights and that we shall be able to congratulate him on that achievement.

Mr. J. BAPTISTA (Bombay City, North): Sir, I should like to join in congratulating the Honourable Minister for Local Self-Government for the measure he has piloted through this House. I do not know who is really responsible for Government consenting to the transfer of Improvement Trust. I believe Sir, you yourself had taken a considerable part in it. However, I am prepared to allow to the Honourable Minister full credit for the part he has undoubtedly taken in this affair. I have not the slightest doubt that the Honourable Minister is one of those persons who respond readily to public opinion in matters that come before him. More than once I found him blaming us for not having attended the select committee meetings and placing before him the view of the public. He is certainly entitled to assistance of that description. However, I congratulate the Honourable Minister upon having righted the wrong that was inflicted on the Corporation of Bombay many years ago. It is a matter for gratification that after all patience and perseverance have triumphed and that difficulties have been overcome—difficulties which we should not have been able to overcome without the assistance and the readiness with which the Honourable Minister took up this bill. He has laboured at it very insistently and he has laboured at it with the willingness of one who has espoused the cause with a full heart. I can assure him and all the mercantile communities of Bombay that they will find that the Corporation of Bombay are as anxious as themselves to carry out this transfer most successfully and most economically. In this anxiety I wish the corporation could count upon the cordial

[Mr. J. Baptista]

assistance and co-operation of the mercantile communities of Bombay and particularly of the honourable member, Mr. Grantham. I hope the Government will nominate him even against his will on the Corporation of Bombay and thus give him an opportunity of contributing all he can to help us to make this transfer a real and thorough success.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I rise heartily to support the third reading of the bill. There is hardly anything left for me to add to what has fallen from the eloquent speeches of those honourable members who have preceded me in offering their congratulations to the Honourable Minister of Local Self-Government. I take this opportunity of congratulating the Honourable Leader of the House because we know that without the support of the other half of the Government the Honourable Minister would not have been able to offer to this House what he has given. Solon was asked whether he gave the most perfect laws to the Athenians. He said he gave as perfect laws as the Athenians would allow him to give. In the present Government the Honourable Minister can give us as perfect a bill as his colleagues would permit him to give. I therefore thank the chief of the Government for their generosity in permitting so wide a latitude to the Honourable Minister in the drafting of this bill.

Mr. R. H. A. DELVES: Mr. President, I also rise to support the motion for the third reading of this bill, but with your permission, Sir, I should like to say a few words regarding the work done by the old Board.

The old Board came into existence in the year 1898 and that was a disastrous time for Bombay. Bombay was going through the throes of a very serious epidemic of plague, and Government felt that a special body had got to be constituted in order to cope with the havoc which was threatening the city. The difficulties to be overcome were many; they were both physical and natural, but the Trust has always been fortunate inasmuch as they have found public-spirited citizens willing to assist them in their work. I may remind this House of just a few names of those who have served as trustees. First of all there is yourself, Mr. President. Then there are the Honourable Sir Chunilal Mehta, the Honourable Mr. Cowasji Jehangir, Sir Dinshaw Wacha, Sir Sassoon J. David, Sir Walter Hughes, the late Mr. W. L. Lory, Mr. W. D. Sheppard, General Wilcox, Mr. P. R. Cadell, Mr. G. W. Hatch Mr. Owen-Dunn and Mr. Turner, all of whom served the Board for a very long time and in a very able manner. When I arrived in Bombay in the year 1903 the Board had not got beyond the ordinary work. They had just then started the Colaba Reclamation, and they had done one thing for which the city will be grateful for ever—they had declared under their Act that the Cooperage and the Marine Lines Maidan should be maintained as open spaces for ever. Then, Sir, they were purchasing property now known as Princess Street and Koliwada which contained some of the worst slums in Bombay. All those slums have disappeared and we now have in their place Princess Street and other wide roads. Difficulties arose in regard to housing the people who had to be turned

[Mr. R. H. A. Delves]

out and those members who are present in the House to-day will remember that large camps were erected on the Kennedy sea face where people erected temporary accommodation until they could be moved into the chawls erected for them in Chandan Wadi. They constructed Sandhurst Road. Sandhurst Road runs from one side of Bombay to the other. I think if they had been sufficiently far-seeing they would have made it 120 feet instead of 80 feet. That only shows how careful we have to be to look forward to future requirement.

Then Sir, they took up Nowroji Hill which was one of the most insanitary places in Bombay. In 1905 where Gamdevi and Hughes roads are, there were small houses but now we have there a large number of residential flats which are extremely popular. They filled in the old race-course. All these places have now been rendered sanitary.

Then, Sir, you will remember, and other people will remember, that if one wanted to get to the end of Queen's Road, one had to turn up Charni Road and run through a series of very narrow lanes. You have now the New Queen's Road, the Lamington Road, and you can get to the north of the island in a very few minutes. Furthermore, they have filled in some 1,200 or 1,500 acres included in the Dadar-Matunga Estate and the Sewri-Wadala area. Those areas were very largely below high-water and could not be drained or made available till they had been filled in. They have made very large areas available for building there, and those of you who have visited the Dadar-Matunga estate recently will have seen that colonies are springing up and a very large number of houses are at the present time under construction. Then, Sir, they had started and completed two-thirds of what will be one of the finest roads in the Empire; I am not sure whether it is not one of the finest roads in the world. I refer to the Eastern Avenue, which is 8 miles in length and which runs from the Fort, and the total cost of which will be in the vicinity of Rs. 4 crores. That, Sir, is a great work. It will not be completed at all till the new Board comes into force. It will be for them to complete, and I have no doubt they will see the necessity of completing it at as early a date as possible. So much for the past. What about the future?

The Board are handing over to the Corporation very valuable property, a property which comprises 20 per cent. of Bombay island, that is to say, one-fifth of Bombay island. I do not think that people really realise that the Improvement Trust has under its control such a very large percentage of the land in the island. It is, I believe, Sir, the biggest building estate in the world. It produces to-day a revenue of well over Rs. 50 lakhs, and in a few years time it will produce considerably over a crore and a quarter. In 30 years time or thereabouts the first loans will be paid off, and I am certain that the future citizens of Bombay, when these loans have been paid off and they find themselves in receipt of a net income of about Rs. 125 lakhs a year, will have cause to bless their predecessors. Now, Sir, we are handing over great assets; we are also handing over liabilities. The Trust, as it stands to-day, is perfectly solvent, but we have been going through and we are going

[Mr. R. H. A. Delves]

through rather a bad time and the assets and the estates generally will have to be carefully nursed for the next four or five years. Given careful nursing, I have every reason to believe that the Corporation will not for one moment regret having taken over this vast property, and I wish them every success for the future.

Mr. S. K. BOLE: Sir, I fully associate myself with the previous speakers who have offered their congratulations to the Honourable Minister. I think the Honourable Minister's name will be long remembered in the city of Bombay by the passage of this bill as well as the Bombay City Municipal Bill, in which he has taken a bold step in extending the franchise to a larger number of the residents of the City of Bombay. I admit that there was some opposition to the bill, but the Honourable Minister will admit that the opposition was not merely for opposition's sake, but it was on the lines of constructive opposition.

I also beg to offer my congratulations to the honourable member Mr. Delves. He has given us a long list of those who helped the Bombay Improvement Trust, but he has omitted his own name. I know from my personal experience that he is very considerate and very responsive to public opinion, and he has helped a very great deal the Honourable Minister in piloting the bill through the House. With these words, I again offer my congratulations both to the Honourable Minister and to Mr. Delves.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I am grateful to the House for their appreciation.

Bill read a third time. Question "That the Bill be read a third time" put and carried.

The Honourable The PRESIDENT: The bill is read a third time and passed.

BILL No. XXV OF 1925 (A BILL FURTHER TO AMEND THE BOMBAY DISTRICT MUNICIPAL ACT, 1901).

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: First Reading. Sir, I beg to move that Bill* No. XXV of 1925 (A Bill further to amend the Bombay District Municipal Act 1901) be read a first time. Honourable members will remember that at the last session I promised this honourable House that I would bring amendments to all the enactments relating to local bodies in regard to the removal of the disqualification of convicts and others. In order to carry out that promise, I have brought this amending bill. If honourable members refer to the statement of objects and reasons, they will see that the object of the bill is 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, and so on shall be relieved from the disqualification as soon as they serve out their sentences. The law at present is that they are permanently disqualified, but under this bill if a man has served out a sentence of six months, he can become eligible. Secondly, we are removing by this

* Vide Appendix H.

[Khan Bahadur Shaikh Ghulam Hussain]

bill the disqualification of persons who are dismissed from Government service. They also will become eligible as soon as they are dismissed. Similarly, pleaders whose sanads have been permanently withdrawn are not eligible under the Act as it stands. By this bill, we now propose to remove the disqualification in their case as well, and also in the case of some others.

With these words, I move that the bill be read a first time, and I trust that the House will support the first reading.

Question proposed.

Mr. R. G. PRADHAN (Nasik District): Sir, I heartily support the first reading of the bill. It is a good bill, and I congratulate the Honourable Minister on his bringing it forward.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the first reading of the bill. The bill introduces certain reforms which public opinion has been demanding for some time, and the Honourable Minister after having ascertained public opinion has given effect to it. The Honourable Minister is indeed to be congratulated for having felt the pulse of public opinion and for having respected it. A person who is convicted is permanently debarred from being a candidate to the membership of a municipality under the existing Act. If we look to the provisions relating to legislative bodies, we find that five years after a person serves out his term of imprisonment he becomes eligible to stand as a candidate. On the very face of it surely this is an anomaly. The present position is this: a person who is qualified to be a candidate for a membership to a legislative body is not qualified to be a candidate to a local body. This anomaly has been removed by this bill with regard to municipalities and therefore I heartily support the first reading of this bill. I hope Government will be able to give effect to this measure at the earliest opportunity.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I wish to say a word. There is a cry in the country that the disqualification with regard to political convicts should be removed. Here, this bill goes farther than that. My honourable friend referred to the disqualification of convicts for election to the legislative bodies for five years after they served out their terms of imprisonment. In this bill, there is no question of waiting at all.

Bill read a first time. Question put and carried.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:
Second reading. Sir, I move that the bill be read a second time.

Bill read a second time. Question put and carried.

(Bill read clause by clause).

Clause 1 (*Short Title*) ordered to stand part of the bill.

Clause 2 (*Amendment of section 15 of Bombay III of 1901*) ordered to stand part of the bill.

The preamble ordered to stand part of the bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
Third reading. Sir, I move that the bill be read a third time.

MOULVI RAFIUDDIN AHMAD : In this connection I wish to draw the attention of the Honourable Minister to the previous speeches in connection with the third reading. I hope he has not committed any oversight. With these remarks I support the third reading.

Mr. J. BAPTISTA (Bombay City, North) : Sir, I am very glad that the Honourable Minister has introduced in this bill the principle of 'trust and fear not'. This bill makes eligible for election dismissed Government servants and it is really a very sound principle and Government should be congratulated on introducing it. But this principle of 'trust and fear not' has been introduced in this small matter and I hope they will extend this principle to other matters which affect the welfare of the country.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT : The bill is read a third time and passed.

BILL No. XXVI OF 1925 (A BILL TO AMEND THE BOMBAY VILLAGE PANCHAYATS ACT, 1920.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir,
First reading. I move that Bill No. XXVI of 1925 (A bill * to amend the Bombay Village Panchayats Act, 1920) be read a first time. This also relates to the removal of certain disqualifications with regard to elections.

Bill read a first time. Question put and carried.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir,
Second reading. I move that the bill be read a second time.

Bill read a second time. Question put and carried.
time.

(Bill read clause by clause.)

Clause 1 (*Short Title*) ordered to stand part of the bill.

Clause 2 (*Amendment of section 6 of Bom. IX of 1920*) ordered to stand part of the bill.

The preamble ordered to stand part of the bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir,
Third reading. I move that the bill be read a third time.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT : The bill is read a third time and passed.

BILL No. XXVII OF 1925 (A BILL FURTHER TO AMEND THE BOMBAY LOCAL BOARDS ACT, 1923.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
First reading. Sir, I move that Bill † No. XXVII of 1925 (A bill further to amend the Bombay Local Boards Act, 1923) be read a first time. This also relates to the removal of certain disqualifications.

* *Vide Appendix I.*

† *Vide Appendix J.*

Bill read a first time. Question put and carried.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir,
Second reading. I move that the bill be read a second time.

Bill read a second time. Question put and carried.

(Bill read clause by clause.)

Clause 1 (*Short Title*) ordered to stand part of the bill.

Clause 2 (*Amendment of section 9 of Bom. VI of 1923*) ordered to stand part of the bill.

The Preamble ordered to stand part of the bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir,
Third reading. I move that the bill be read a third time.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT : The bill is read a third time and passed.

BILL No. XXVIII OF 1925 (A BILL FURTHER TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888).

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :

First reading. Sir I beg to move that Bill* No. XXVIII (A Bill further to amend the City of Bombay Municipal Act, 1888) be read a first time. The statement of objects and reasons will show that this bill has been brought for the purpose of removing certain disqualifications and to make certain consequential amendments rendered necessary by the insertion of clause 62E.

Question proposed.*

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to oppose the first reading of this bill. This bill refers to two things. The first part provides for the removal of disqualification, but the second part refers to provision of further control over the Corporation in respect of clause 62E. Sir, as it is a matter of imposing further restrictions, it is the duty of this House to scrutinise the bill very carefully. In the first place, proper notice of this bill was not given. The books that are at our disposal do not contain the section numbered 62E. We do not know what it refers to. And as section 518 refers to control, I hope the Honourable Minister will see our position. As it is a restrictive bill and its object is restriction, we cannot allow it to be rushed through all its three readings at a single sitting. For this reason, I oppose this bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, there is nothing objectionable in the bill. However, as there is a feeling in the House against its being passed straight away, I am prepared to refer it to a select committee, if so desired.

Mr. A. N. SURVE : I have no objection if the bill is to go to the select committee.

Bill read a first time. Question put and carried.

* Vide Appendix K.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
Sir, I move that the bill be referred to a select committee consisting of Mr. A. N. Surve, Dr. K. E. Dadachanji, Mr. J. Baptista, Mr. Hoosenally M. Rahimtoola, Mr. R. G. Pradhan, Mr. S. K. Bole, Mr. A. Master, the Remembrancer of Legal Affairs, and the Honourable Member in charge, the committee to report within a fortnight; and four to form a quorum.

Bill referred to select committee. Question put and carried.

The Honourable the PRESIDENT : The House will now adjourn to 2 o'clock tomorrow, Friday, the 30th October 1925.

Friday, the 30th October 1925.

The Council re-assembled at the Council Hall, Poona, at 2 p.m., on Friday, the 30th October 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

ABDULPURKAR, Mr. N. A.
ADWANI, Mr. D. B.
AHMAD, MOULVI RAFIUDDIN
ANGADI, Mr. S. N.
BAPTISTA, Mr. J.
BEDREKAR, Khan Bahadur I. M.
BHOPATKAR, Mr. L. B.
BHURGRI, Mr. J. M.
BHUTTO, Khan Bahadur S. N.
BLJARANI, Khan Saheb SHEER MAHOMED KHAN
BOLE, Mr. S. K.
BUNTER, Mr. J. P.
CHAUDHARI, Mr. L. S.
CLEMENTS, Mr. E.
COOPER, Khan Bahadur D. B.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
DELVES, Mr. R. H. A.
DESAI, Rao Saheb D. P.
DEV, Mr. S. S.
DIXIT, Dr. M. K.
FERNANDEZ, Dr. COSMAS
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
GUNJAL, Mr. N. R.
HAMID M. ABDUL ALI, Mr.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HOTSON, Mr. J. E. B.
JADHAV, the Honourable Mr. B. V.
JEHANGIR, the Honourable Mr. COWASJI
JOG, Mr. V. N.
JOSHI, Mr. P. G.
KALBHOR, Mr. G. M.
KAMBLI, Mr. S. T.
KANGA Mr. J. B.

KAZI INAITULLAKHAN
 KHURO, Mr. M. S.
 KOKANI, Mr. G. J.
 KOTHARI, Mr. V. R.
 LALJI, NARANJI, Mr.
 LALLJEE, Mr. HOOSAINBHOY A.
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MCKEE, Mr. W. G.
 MEHTA, Dr. M. M.
 MEHTA, the Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 MUKADAM, Mr. W. S.
 MUKHI JETHANAND PRITAMDAS
 NARIELVALA, Mr. H. H.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAHALAJANI, Mr. B. G.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATHAN, Khan Bahadur JAN MAHOMED KHAN
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOOSENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SARDESAL, Mr. S. A.
 SAYED GHULAM NABI SHAH
 SAYED SHAHJADE SAHEB HAIDAR SAHEB
 SHANKARRAO JAYARAMRAO ZUNARRAO, Mr.
 SHINDE, Mr. R. D.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order. Questions.

THE NORTHCOTE HIGH SCHOOL, SHOLAPUR.

Mr. N. A. ABDULPURKAR (Sholapur City): Will Government be pleased to state—

(a) How many students were refused admission in the Northcote High School at Sholapur each year from the year 1920 for want of accommodation?

(b) Whether admission is allowed to students in the order of the receipt of the applications for admission?

(c) If not, what is the practice followed and the principle underlying the practice?

(d) Whether Government intend to increase the accommodation in the said high school?

(e) If not, will they state the reasons?

(f) Whether all the rooms in the hostel of the said high school are occupied by students?

(g) If not, whether there is any objection to their being used as class rooms?

The Honourable Mr. B. V. JADHAV: Information has been called for.

THE WAKAV RAILWAY STATION, G. I. P. RAILWAY.

Mr. N. A. ABDULPURKAR (Sholapur City): Will Government be pleased to state—

(a) whether they are aware that there is considerable increase in the number of passengers going to and leaving from the "Wakav" railway station of the G. I. P. Railway?

(b) Whether they are aware that great hardship is felt by them for want of a platform and a waiting room?

(c) If so, do Government propose to take any action in the matter?

The Honourable Sir CHUNILAL MEHTA: (a), (b) and (c) The information has been called for.

DHARAMSHALAS AT RAILWAY STATIONS.

Mr. N. A. ABDULPURKAR (Sholapur City): Will Government be pleased to state—

(a) how many railway stations between Sholapur and Poona possess dharamshalas;

(b) how many of them are in good condition;

(c) how much has been spent for the repairs of these buildings during the last ten years?

The Honourable Sir CHUNILAL METHA: The information has been called for.

TELEPHONE AT SHOLAPUR RAILWAY STATION.

Mr. N. A. ABDULPURKAR (Sholapur City): Will Government be pleased to state—

(a) whether they are aware that there is no telephone service on the railway station of Sholapur for the public;

(b) if so, what steps do they intend to take in the matter?

The Honourable Sir CHUNILAL MEHTA: (a) and (b) The information has been called for.

DEPRESSED CLASSES BOARDING HOUSES.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) how many boarding houses are maintained by them for the benefit of the depressed classes;

(b) and what is the cost incurred in each case?

The Honourable Mr. B. V. JADHAV: (a) and (b) Only one boarding house is maintained by Government for depressed class students and its cost in 1924-25 was Rs. 12,000 (in round figures).

ANGLO-URDU MIDDLE SCHOOL FOR MAHOMEDAN GIRLS, POONA.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) when the proposed Anglo-Urdu Middle School for Mahomedan girls will be opened at Poona?

(b) when the 2nd year class in the Urdu girls' normal class attached to the Central Urdu girls' school, Poona, will be opened;

(c) what amount of money has been sanctioned this year for locating the above institution in a more convenient building the necessity of which has been already recognised by the Educational Department.

The Honourable Mr. B. V. JADHAV: (a) Government have already decided that if a regular attendance of at least 30 girls could be guaranteed an Anglo-Urdu Middle School for Girls should be opened in Poona as soon as funds permit. However in view of the unlikelihood of even 30 pupils for this school being forthcoming, the proposal to open it is being re-examined.

(b) There is no proposal before Government for opening such a class as referred to by the honourable member.

(c) Rs. 900.

MOULVI RAFIUDDIN AHMAD: I should like to know whether the honourable member is aware that both the Mahomedan Deputy Education Inspector and the Inspectress of Girls' Schools have reported to Government that 30 students are available and if so, how does he say that they are not available?

The Honourable Mr. B. V. JADHAV: The thirty that are available are not sufficiently coached up in vernacular education for beginning English education. For beginning English education these 30 should have passed 4th vernacular standard.

MOULVI RAFIUDDIN AHMAD: My information is, Sir, that 30 already receive English education.

The Honourable Mr. B. V. JADHAV: Yes, it is a fact, but all of them have not completed their fourth standard.

DISTRICT LOCAL BOARD VOTERS AND SEATS, BELGAUM AND
BAIL HONGAL TALUKAS.

Mr. S. N. ANGADI (Belgaum District): Will Government be pleased to state what is the number of non-Mahomedan district local board voters for Belgaum and Bail Hongal talukas respectively and the number of seats assigned to each taluka?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:
The information is being called for.

BHIKU AMBEKAR.

Mr. S. K. BOLE: Will Government be pleased to state—

(a) whether they are aware of the death of an agriculturist named Bhiku Ambekar whilst digging a well for the khot at Hedvi in the Chiplun taluka;

(b) whether the owner of the well had taken due precautions in the matter;

(c) whether the said agriculturist was subjected to forced labour;

(d) what compensation his heirs have received from the khot.

The Honourable Sir CHUNILAL MEHTA: (a) Yes. In April last Balkrishna Joglekar, khot of Hedvi, Peta Guhagar, District Ratnagiri, had engaged five coolies (three from his village Hedvi and two from the neighbouring village Umrath, one of whom was the deceased Bhiku Ambekar) for deepening his well. They were assisted by his two private servants. The five coolies were employed on daily wages. They worked for two days and on the third day at about 11 a.m. while the deceased was at work in the well a laterite stone out of the masonry work at the bottom accidentally gave way, fell on the deceased's left leg and broke it. The deceased was at once taken out of the well and his broken leg was dressed with the aid of a private kunbi physician. The deceased's wife, who had been sent for from Umrath by the khot on this occurrence, came to Hedvi immediately to see her husband. The same afternoon the khot arranged to send the deceased to his house at Umrath in a *dooly* accompanied by his wife. On the 4th day, i.e., on 21st April 1925, the deceased's condition grew worse and he ultimately died in a fit of high fever and delirium.

(b) Enquiry does not disclose any fault or neglect on the part of the khot. On the contrary he is said to have taken all necessary precautions and given the deceased all possible assistance in securing medical treatment and spent money for that purpose out of his own pocket.

(c) Balkrishna Joglekar is not the khot of the deceased's village Umrath, but that of Hedvi. Therefore the deceased was not likely to be subjected to forced labour. As noted above the deceased had been employed on daily wages along with other coolies.

(d) The widow of the deceased states that he had borrowed some money from the khot, but the exact amount is not known to her. The khot paid all the expenses incurred for the deceased's treatment. He also paid Rs. 5 to his wife as a matter of charity for the deceased's funeral

expenses. As the death was due to a mere accident the khot is not prepared to pay anything more and cannot be held in any way responsible for the accidental injury to the deceased.

Mr. S. K. BOLE: Is it a fact that Bhiku Ambekar was given any medical treatment?

The Honourable Sir CHUNILAL MEHTA: The answer says that he was taken out of the well and given medical help. His broken leg was dressed with the aid of a private kunbi physician.

Mr. S. K. BOLE: Was it done immediately?

The Honourable Sir CHUNILAL MEHTA: Yes, at once.

Mr. S. K. BOLE: May I know who made the enquiry?

The Honourable Sir CHUNILAL MEHTA: This report was received from the Collector.

Mr. S. K. BOLE: Was the enquiry conducted by the Collector himself or....

The Honourable Sir CHUNILAL MEHTA: I should like to have notice of that.

Mr. S. K. BOLE: Is it a fact that the person was made to work in consideration of the loan money he received from the khot?

The Honourable Sir CHUNILAL MEHTA: I should like to have notice of that.

Mr. A. N. SURVE: May I know the qualifications of the physician?

The Honourable Sir CHUNILAL MEHTA: I cannot say.

Mr. A. N. SURVE: In part (c) it is stated that the man was not the khot of the deceased's village and therefore he was not likely to be subjected to forced labour. In part (d) it is stated that he had borrowed some money from the khot. Is it not likely that he was called to work simply because he was a debtor?

The Honourable Sir CHUNILAL MEHTA: I have given as much information as possible and you will see that the Collector reports that he was not likely to be subjected to forced labour, as he was not the khot of the deceased's village but of some other village. Therefore it is unlikely that he could have been subjected to do forced labour.

Mr. A. N. SURVE: Was he in fact given any wages at all?

The Honourable Sir CHUNILAL MEHTA: I should like to have notice of that.

Mr. N. E. NAVLE: Was he a Government servant?

The Honourable Sir CHUNILAL MEHTA: I do not know. I should like notice.

PROSECUTION BY THE GADAG MUNICIPALITY FOR THEFT.

Mr. S. T. KAMBLI (Dharwar District): Will Government be pleased to state—

(a) whether it is a fact that the Gadag municipality prosecuted some persons for theft of municipal property in 1924 and in 1925?

- (b) if so, the name or names of the accused ?
 (c) what was the result of the prosecution ?
 (d) whether any of the accused were related to any of the municipal councillors of Gadag Municipality, and if so, how ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:

(a) Yes.

(b) the following men were the accused in the case:—

- (1) Mudlagiri Shrinivas Kulkarni,
- (2) Balesab Hasansab Alnawar,
- (3) Sikandarsab Jandisab Mulla.

(c) No. 1 was sentenced to pay a fine of Rs. 500 and Nos. 2 and 3 to pay each a fine of Rs. 250. An appeal is pending before the Sessions Court.

(d) No. 1 is a *bhauband* of Municipal Councillor, Mr. V. R. Kulkarni.

GRAZING GROUND AND DRY TANK IN NULVI.

Mr. S. T. KAMBLI (Dharwar District): Will Government be pleased to state—

(a) whether it is a fact that there is only one public grazing ground and one dry tank in Nulvi village in Hubli taluka;

(b) whether it is a fact that the earth of this tank has been from time immemorial used by the potters of the village for making pots;

(c) whether it is a fact that Government intend granting the grazing site and the dry tank to one individual only for agricultural purposes;

(d) whether a representation was made to Government by the villagers of Nulvi against the proposed grant;

(e) what action Government have taken or propose to take in the matter ?

The Honourable Sir CHUNILAL MEHTA: (a) No. There are three free grazing grounds and two dry tank beds in the village.

(b) Yes. From a certain portion of the tank; but they can take earth from other places also.

(c), (d) and (e) The areas in question were given out for cultivation by the Collector on 10th June 1925; but in consequence of a petition made by the villagers the Commissioner cancelled the grant on 26th August 1925 and further ordered that the land should not be given out for cultivation as it is required for public use.

GRAZING GROUND, NULVI.

Mr. S. T. KAMBLI (Dharwar District): Will Government be pleased to state—

(a) whether the occupancy rights of R. S. No. 255 of the village of Nulvi in Hubli taluka of Dharwar District are proposed to be given to a certain person for Rs. 71 or so ?

(b) whether it is a fact that the said survey number was used as the only grazing ground of the said villagers ?

(c) whether the villagers have or had any objections to urge in the matter?

(d) whether the said Survey number is such as can bring an annual revenue of Rs. 100 or more to Government if the grazing rights are auctioned every year?

The Honourable Sir CHUNILAL MEHTA: (a) Yes. The honourable member's attention is invited to the reply to clauses (c), (d) and (e) of question No. 2 put by him at the current session of the Legislative Council.

(b) No. There are other grazing lands in the village.

(c) The potters and other villagers raised an objection after the grant on the ground that they have no suitable earth elsewhere for carrying on their business and for grazing, respectively.

(d) The highest amount of bid fetched in 1922-23 was Rs. 92.

ADMISSION IN GOVERNMENT HIGH AND MIDDLE SCHOOLS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state whether they are aware that some Mahomedan and Hindu students are refused admission in Government high and middle schools?

The Honourable Mr. B. V. JADHAV: Yes.

Khan Saheb A. M. MANSURI: May I know from the Honourable Minister why this admission was refused?

The Honourable Mr. B. V. JADHAV: I cannot say; but if the honourable member will give me notice, I shall find that out for him.

Khan Saheb A. M. MANSURI: Is any separate rule fixed for the Mahomedans?

The Honourable Mr. B. V. JADHAV: I should like to have notice.

MOULVI RAFIUDDIN AHMAD: Has the Honourable Minister made any enquiry with regard to the cause of these refusals of admission? The only stereotyped reply is "Yes". But there are students who have not got admission. Has the Honourable Minister made any enquiry as to the cause of the refusal?

The Honourable Mr. B. V. JADHAV: There was no room for them.

REVISION OF BHONDAN-DIGAR, AN INAM VILLAGE.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) whether it is a fact that original survey settlement was introduced in the year 1870-71 in the inam village of Bhondan-Digar, taluka Parola, district East Khandesh, and that the inamdar passed an agreement for the revision survey of the village on the 8th of November 1913?

(b) if so, who is responsible for the loss of proportionate increase of revenues caused to the inamdar so long?

The Honourable Sir CHUNILAL MEHTA : (a) Yes.

(b) The survey of such villages is made according to districts. The work has hitherto been confined to districts other than East Khandesh. The village in question cannot be taken up out of its turn.

Sardar G. N. MUJUMDAR : If it is so, why was the inamdar asked to give an agreement in 1913 ?

The Honourable Sir CHUNILAL MEHTA : I should like to have notice of that. I should like to make enquiries.

Sardar G. N. MUJUMDAR : I have already given notice in the question itself. My first question is whether it is a fact that the inamdar passed an agreement on the 8th November 1913, and the next question is : if so, who is responsible for the loss of proportionate increase of revenues caused to the inamdar so long ? The latter is in (b), and there is no proper reply to (b).

The Honourable Sir CHUNILAL MEHTA : There is a reply to (b). It says : " The work has hitherto been confined to districts other than East Khandesh. The village in question cannot be taken up out of its turn."

Sardar G. N. MUJUMDAR : For so long a time since 1913 it has not been possible to take up East Khandesh ?

The Honourable Sir CHUNILAL MEHTA : That is apparently so.

CORRESPONDENCE REGARDING EXCHANGE OF LAND AND VILLAGES IN THE MULSHI PETA.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state whether it is a fact that there was some correspondence between the Collector of Poona and the rayats and Inamdars in the Mulshi Peta regarding the exchange of Government lands and villages for those acquired for the Tata Power Company ?

The Honourable Sir CHUNILAL MEHTA : Yes.

Sardar G. N. MUJUMDAR : Then, according to the correspondence, were the rayats and inamdars given compensation in exchange for lands and villages acquired from them ?

The Honourable Sir CHUNILAL MEHTA : I should like to have notice of that. But I may tell the honourable member from memory—I am only speaking from memory now—that certain pieces of land were offered by the district officers to the rayats and the inamdars. Those pieces of land were refused by the rayats as being unsuitable.

Sardar G. N. MUJUMDAR : Was it the same case with the inamdar of Sangivi in the Mulshi peta ? Was he offered a certain village in exchange and then Government themselves refused to give him that village ?

The Honourable Sir CHUNILAL MEHTA : If the honourable member had asked me that specific question, I should have given him a reply. But I cannot do so from memory.

INAMDARS FINED UNDER SECTION 85 (4) OF THE LAND REVENUE CODE.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to supply a list of Inamdars in this Presidency who have been fined under section 85 (4) of the Bombay Land Revenue Code during the last twelve years?

The Honourable Sir **CHUNILAL MEHTA**: Looking to the time and trouble involved in the collection of the required information without any commensurate public advantage being obtained, Government regret their inability to furnish the information.

APPOINTMENT OF VILLAGE OFFICERS WITHOUT INAMDAR'S CONSULTATION.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) whether it is a fact that the Inamdars of Bhuyar, taluka Indi, district Bijapur, were not consulted by the Assistant Collector, N. D., Bijapur, before the recent appointment of patils in that village?

(b) If so, will they be pleased to state why they were not consulted and whether Government proposes to take any action in the matter?

The Honourable Sir **CHUNILAL MEHTA**: (a) Two Patils have been appointed in the inam village in question. Both of them are representative watandars. One of them Madappa Bhimanna, was appointed in 1922 as a Revenue Patil for life, after giving due notice to the Inamdar. He was appointed as Police Patil on 4th February 1925 in addition to his duties as Revenue Patil. As he was already officiating since 1922 and as that appointment was for life the Inamdar was not given notice through oversight at the time of his appointment as Police Patil. On the application of the Inamdar to the Collector he was informed that the mistake was due to oversight which would not be repeated. Appaji Tippaji is a representative Watandar Part I of the village. He has been officiating as Patil since the year 1910. He was appointed on behalf of his father for 10 years till 1920 when he was reappointed as Police Patil by the then District Deputy Collector without giving notice to the Inamdar probably on the understanding that no outsider was appointed. The Commissioner has already taken action on the petition of the Jahagirdar, and the Collector has been asked to report why the appointment of the village officers of Bhuyar made without consultation with the Jahagirdar should not be cancelled.

FORFEITURE AND RESTORATION OF INAMS.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state the names of the villages, the inams in which were first forfeited and subsequently restored, in the Bombay Presidency, during the last twelve years?

The Honourable Sir **CHUNILAL MEHTA**: As the collection of the information will require an expenditure of time and labour quite out of proportion to the importance of the matter from the public point of view, Government regret their inability to furnish the information.

Sardar G. N. MUJUMDAR : Can this information be collected from the Land Revenue Administration Reports or any other Government publications?

The Honourable Sir CHUNILAL MEHTA : No ; I do not suppose that it could be done.

MOULVI RAFIUDDIN AHMAD : Would the Honourable Member point out the source of information ?

The Honourable Sir CHUNILAL MEHTA : I do not think the information is available in any published books. The information is available in Government records, but as the question relates to villages all over the presidency in which inams have been forfeited and subsequently restored during the last twelve years, it seems to me that it will take a very great deal of time and work of the staff, and unless the honourable member tells me what specific information he wants, I do not think it would be justifiable to call upon the staff to collect all this information for twelve years.

Mr. R. G. SOMAN : I do not ask my questions, Sir.

PUNISHMENT OF A SCHOOL TEACHER.

Mr. S. A. SARDESAI (Bijapur District) : (a) Will Government be pleased to state whether their attention has been drawn to the article of "Tirugata" that appeared in the *Kannadiga* of Bagalkot, dated 14th August 1925, regarding the penalty meted out to be a poor Kannada school teacher by the educational authorities?

(b) If so, will they be pleased to state if it is a fact and, if so, what action they have taken or mean to take ?

The Honourable Mr. B. V. JADHAV : Enquiries are being made.

RAYATS OF BALLOLLI.

Mr. S. A. SARDESAI (Bijapur District) : Will Government be pleased to state—

(a) whether they are aware that in Ballolli, taluka Indi, district Bijapur, the names of the rayats have been entered in the C register of the Record of Rights (village form VI) though they have been shown to be annual tenants by proving the beginning of their tenancy ;

(b) if so, do they propose to take any action in the matter ?

The Honourable Sir CHUNILAL MEHTA : Inquiry is being made.

Mr. LALJI NARANJI (Indian Merchants Chamber) : Has the Honourable the Home Member got any further information to give to this House about the rioting at Sholapur? I have seen a further telegram from Sholapur which shows that the position is very serious there and that the houses of Hindus have been raided, that Hindu women have been assaulted and that shops have been looted. Will the Honourable the Home Member be pleased to give the further information which he promised yesterday?

The Honourable Sir MAURICE HAYWARD : Mr. President, I can give some further information about the rioting at Sholapur, but I would deprecate too much attention being paid to alarmist telegrams which may be received by honourable members in this House.

The City Magistrate had made efforts to settle this dispute beforehand between the leading Hindus and Mahomedans and had passed an order that the Rath procession of the Hindus on the Kartiki Ekadashi day should pass with music, but not during prayer-time, past the Punjabi Talim Musjid. The City Magistrate was with the procession and it was also joined by the District Superintendent of Police. The City Magistrate and the District Superintendent of Police were both present at the time. They came to within a hundred yards or so of this mosque at 1-30 p.m. the day before yesterday, and they waited there for 1½ hours for the prayers to finish. They waited until 3 p.m. The District Superintendent of Police then enquired when these prayers were going to stop, and after some discussion he was informed, by the Mahomedans in charge of the mosque that the procession might proceed. The City Magistrate and the District Superintendent of Police then proceeded at the head of the procession and passed the mosque with the usual music and after they got past the mosque, they heard a disturbance and shouts of "Din", "Din", and they saw stones and soda water bottles being hurled at the crowd and they heard firing. They had neither of them given any orders for the firing. The crowd scattered upon the firing and disappeared and they then found that several Hindus and two policemen who had been with the procession were injured. One policeman had been seriously injured apparently by a soda water bottle which had hit him on the temples and he was profusely bleeding. They found that two Mahomedans had been hit by the firing, who shortly after expired. After the crowd dispersed, it seems that several Hindus were assaulted in various quarters of the town by Mahomedans. The District Superintendent of Police proceeded in a motor lorry with a guard to put down these miscellaneous assaults and placed pickets in the town, and complete peace was restored by 6 o'clock that night. There was no further trouble yesterday and the District Magistrate has given orders for a full enquiry as to the circumstances in which the firing took place and has made all the necessary arrangements to maintain law and order in Sholapur.

Mr. LALJI NARANJI : Is the bazaar closed or working normally ?

The Honourable Sir MAURICE HAYWARD : I am not aware of it but there is no reason why the shops should not be open throughout Sholapur.

MOULVI RAFIUDDIN AHMAD : May I ask the Honourable Leader of the House, as it is a very serious matter, namely, that firing was ordered without the permission of the magistrate, whether he would let the House later on know the result of the enquiry which the District Magistrate is holding and, if necessary, will Government themselves enquire into the matter ?

The Honourable Sir MAURICE HAYWARD: My information is that no orders were given for firing and that the District Magistrate has ordered a full enquiry into the matter. The result will be duly intimated to the House.

BILL No. XXVIII OF 1925 (A BILL FURTHER TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888).

(As amended by the select committee.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I present the report* of the select committee.

The Honourable the PRESIDENT: The report of the select committee is presented.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:

Second reading. I move that the bill be read a second time.

Bill read a second time. Question put and carried.

(Bill read clause by clause.)

Clause 1 (*short title*) ordered to stand part of the bill.

Clause 2 (*Amendment of section 16 of Bom. III of 1888*) ordered to stand part of the bill.

Clause 3 (*Amendment of section 118 of Bom. III of 1888*) ordered to stand part of the bill.

Clause 4 (*Amendment of section 518 of Bom. III of 1888*) ordered to stand part of the bill.

The preamble ordered to stand part of the bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:

Third reading. Sir, I move that the bill be now read a third time.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT: The bill is now read a third time and passed.

The Honourable Sir MAURICE HAYWARD: Mr. President, there is only one other bill, namely, the Sind Courts Bill, to be dealt with. I am not in a position to proceed with it to-day, as we are still waiting for the final orders of the Government of India. I propose to take it up later if those orders are received before the end of this session.

The Honourable the PRESIDENT: During non-official time with the consent of the non-official members?

The Honourable Sir MAURICE HAYWARD: It will be a Government day.

Mr. NOOR MAHOMED: May I point out, Sir, that if the Sind Courts Bill is going to be taken after the private business is over, that Sind

**Vide Appendix L.*

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members may not be present as some of them, I believe, are thinking of going away.....

The Honourable the PRESIDENT : I should like to make the point clear. If during the time that the House is considering non-official business, Government desire to take up this business by complying with the necessary formalities, it can be done that way ; if, however, they propose to take it up on a day allotted for Government business that can also be done. If the honourable member wishes to say anything more in view of that statement, I will be glad to hear him.

Mr. NOOR MAHOMED : I was only going to enquire whether it would be possible to move amendments of principle at the time of the second reading, since the bill is coming so late now.

The Honourable the PRESIDENT : It does not mean they are going to do it after the private business is over ; they will do it in the interval, if possible.

The Honourable Sir MAURICE HAYWARD : I think, Sir, the honourable member is contemplating a departure at an early date for Sind. I can say this, that I do not anticipate that there will be much opposition to the principle of the bill which is that there should be a Chief Court, and we would not put any difficulties in the way of any details being discussed thereafter. My intention is that, if I can get the first reading passed and refer it to a select committee, the select committee should sit some time during December in Bombay.

The Honourable the PRESIDENT : Without restricting the House as regards amendments of principle at the second reading ?

The Honourable Sir MAURICE HAYWARD : Yes, Sir.

MOTIONS.

The Honourable Mr. H. S. LAWRENCE : Mr. President, the motion standing in my name is :

“ That this House approves of the Report of the Committee on Public Accounts on the Audit and Appropriation Reports on the accounts of the Bombay Presidency for the year 1923-24 and recommends to Government that effect may be given to its recommendations.”

Sir, I present the report of the Public Accounts Committee, and I move that it be received by this House. The report is, I think, in the hands of all honourable members of the House and has been so since the beginning of this session.

I have frequently been asked what are the functions of the Public Accounts Committee, and what is the procedure adopted in the House of Commons in regard to the Report of the Public Accounts Committee in that House, and I have usually referred enquirers to a book called “ The Financial Administration of Great Britain ”, published by Messrs. Willoughby and Lindsay, on behalf of the Institute of Government Research of the United States. That book was the result of enquiries set on foot by that Institute into the financial administration of Great Britain, and I gave a summary of their conclusions when I presented a similar report last year. But within the last few days I have come

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across another and a somewhat fuller and more authoritative report entitled "The System of National Finance" by Mr. Hilton Young, which was published only last year. Mr. Hilton Young, the House will recognise the name, is the Chairman of the Commission which is to visit India next month to investigate our currency problem, and, with the permission of the President, I will read out an extract from this book. This book, speaking of the Public Accounts Committee, says :

"Many documents submitted to Parliament, when they have been laid before it and have been ordered to be printed, have received all the attention from Parliament that they ever will receive. But the House of Commons is not content with a merely formal reception of the Appropriation Accounts. It is not content to take it for granted that its directions as to the appropriation of public funds have been carried out; it imposes upon itself the tasks of careful and minute scrutiny of the accounts, of inquiry into all irregularities, and of admonition, and in case of final need, of punishment of peccant officials. For the performance of these duties close consultation with the Treasury is necessary and the examination of witnesses and of documents. The House itself would be quite unable to do the work; it would have neither the time nor the means; so it entrusts the task to a Select Committee, called the Public Accounts Committee, which is appointed for "the examination of the accounts showing the appropriation of the sums granted by Parliament to meet public expenditure."

Members of every party are elected to it, and especially any member who may be distinguished by a knowledge of public finance.

After the report of that Committee, a discussion takes place with the Treasury, and it is very seldom the Treasury does not agree with the Committee. If there is such disagreement, special attention is then called in the report to the House of Commons, with which the Committee ends its labours, and it is for the House to take action if it pleases, which it very seldom finds time to do.

This is the last stage in the history of national finance for a year. The Report of the Public Accounts Committee is its epitaph. It may not be until late in the session that the Report is received. By then the departments are already beginning to think of their estimates for the next year.

Having received the Report of the Public Accounts Committee the House of Commons has completed its task under the system of control which it has devised to maintain its power. It has granted the money needed, it has appropriated the sums granted to specific purposes, and through the Public Accounts Committee it has seen that its orders as to appropriation have been obeyed. As regard the finances for the year reviewed Parliament is then *functus officio*; and it leaves their dead record for a prey to the statistician."

That, Sir, is the procedure and practice of the House of Commons, and I have read it out for the information of those members who have been making enquiries of me within recent months.

Now, if there is any point in the Report of the Public Accounts Committee on which the House desires full discussion, the Government will welcome that discussion. I merely wish to draw the attention of the House to the fact that the practice in England is that the House of Commons does not do over again the work that has been performed by a committee appointed for the purpose; and, in the interests of economy of time, the House of Commons practises a self-restraint which perhaps some members might consider to be too severe; a self-restraint, however, which some members of this House have already shown themselves to be capable of. I hope I shall not be misunderstood. I do not venture to criticise or offer any objection to a vow of silence. I am merely answering certain enquiries as to the procedure which is adopted in the House of Commons, and I know no better way of answering

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those enquiries than by referring my questioners to these two authoritative works.

With these remarks, Sir, I place the Report of the Committee before this House with the recommendation that it be received.

Question proposed.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I happen to be a member of this Public Accounts Committee, and if it is to be praised by me I fear I would be praising myself. I therefore would not venture to praise the proceedings of the committee, but I would be failing in my duty if I omitted to mention that the Treasury, which is represented on this occasion by the Honourable the Finance Member (Mr. Lawrence), did its best to meet the wishes of the non-official members, Indeed I may go further and say that the Honourable the Finance Member not only accepted the recommendations of the non-official members, but showed a more severe attitude towards certain offending officials who were brought before the Committee than that which the non-official members were disposed to adopt. I am much obliged to him for the two learned works which he has brought to our notice. Knowing his generosity I beg of him to make a present of these two books to every member of the Public Accounts Committee. If that were too much to ask—even from a generous man—I would request him to place one copy of each of these two books in the library of this House.

The Honourable Mr. H. S. LAWRENCE: I would be very much pleased to do so.

MOULVI RAFIUDDIN AHMAD: I heartily support the motion moved by the honourable member and hope the House will adopt the report.

Mr. R. G. PRADHAN (Nasik District): Sir, I do not happen to be a member of the Public Accounts Committee and I hope the House will show me some indulgence if I make some remarks on the report presented to this House. I am glad, Sir, that this year they have drawn up a formal report. Last year as a member of the Public Accounts Committee I made a suggestion in the committee that a formal report should be drawn up; and I am very glad indeed to find that that suggestion of mine was approved of by the Accountant General, and has been complied with by the committee. I must however say that the report presented by the committee is too brief, I am almost tempted to describe it as perfunctory. If honourable members refer to page 77 of volume II of the Bombay Legislative Council Manual they will find under rule 34 the functions of the Public Accounts Committee defined. Clause 2 says:

"It shall be the duty of the committee to bring to the notice of the council—

- (i) every re-appropriation from one grant to another grant;
- (ii) every re-appropriation within a grant which is not made in accordance with the rules regulating the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision for which has been specifically reduced by the vote of the council; and
- (iii) all expenditure which the Finance Department has requested should be brought to the notice of the council."

[Mr. R. G. Pradhan]

I submit, Sir, that the report of the Public Accounts Committee should be so drawn up as to include all these points which according to the rule it is the duty of this committee to bring to the notice of this honourable House. I must say with regret that this brief and perfunctory report does not conform to the conditions which have been laid down in this rule. This committee is responsible to this House; it is a statutory committee. That being so, it is necessary that the rules with regard to the working of this committee as laid down in that rule should be strictly complied with.

I expected that my honourable friend the honourable member Mr. Lalji Naranji who might be described as the non-official financial member of this Council, would go thoroughly into the financial administration of this presidency and submit a well considered separate report on the financial administration of this province. After reading the report and the minutes of the meetings appended to it I must say that the report is a melancholy reading. It reveals a sad tale of laxity of financial control. Nobody can fail to be impressed with the fact, as he reads the report and the minutes of the proceedings of the committee, and also the Appropriation Report, that the Government have failed to exercise adequate financial control. I regret to say that on account of this laxity of financial control this presidency has been put to a good deal of loss. It is the duty of the Government to see that the utmost care is taken in future to prevent this loss.

Sir, I do not want to make any further remarks, as my ardour has been damped by the gentle hint given by the Honourable the Finance Member that in this particular matter we might well follow the example of our Swarajist members and take a vow of silence on the principle that silence is gold, speech is silver. I content myself with these observations. Again I repeat that the Public Accounts Committee should draw from next year a fuller and a more comprehensive report strictly in conformity with the rules laid down on the matter and the Government ought to see that not a single pie of the revenues of this presidency is wasted, owing to negligence either on the part of the Government or of their subordinate officers.

Mr. G. WILES: Sir, I apologise for my lateness in rising. I waited to see whether any honourable member would make any further remarks so that I might reply to them. Like my honourable friend opposite, I do not want to arrogate to myself any credit for the work which has been done by the Public Accounts Committee; but I have to plead guilty of being the author of this report, which was placed before the Public Accounts Committee and accepted by them.

The honourable member for Nasik has drawn our attention to the Rules of the Council which detail the duties of the Accounts Committee; and he criticised the report on the ground that the report is not full and that the Committee have not discharged their duty as laid down in the Rules.

[Mr. G. Wiles]

The Rule is as follows :

" It shall be the duty of the Committee to bring to the notice of the Council—

' (i) every re-appropriation from one grant to another grant.' "

The Committee, Sir, has done so :

" (ii) every re-appropriation within a grant which is not made in accordance with the rules regarding the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision for which has been specifically reduced by a vote of the Council."

I submit, Sir, that the Public Accounts Committee's report has done that.

' (iii) all expenditure which the Finance Department has requested should be brought to the notice of the Council.'

The report of the committee has also done that. Let me explain what I mean. The honourable member said that the report itself should have dealt with all these details. In drawing up the report to the Council my trouble has been to keep up within limits. The detailed report has been made by the Accountant General and the details which are referred to in the Rules of the Legislative Council have been dealt with by the Accountant General in his Audit and Appropriation Reports. It would be a work of supererogation for the Public Accounts Committee to repeat again those criticisms of the Accountant General which are put in the greatest detail in the Audit and Appropriation Reports. These books have been placed before the Council and are referred to throughout the minutes of proceedings and report of the Public Accounts Committee. I submit, Sir, that the honourable gentleman in his criticism of the Public Accounts Committee has gone off the lines.

If I may, before I sit down, make a recommendation to this House, I would submit that it is in the interests of the House that the Public Accounts Committee should not be elected for one year only, but should be elected for the whole period of the Legislative Council. We have, for instance, lost the services of the honourable member who has criticised the report, and his loss has been a great loss to the Public Accounts Committee. If the members of the Public Accounts Committee could only retain their seats on the committee for the whole period of the Council, their work would be made simpler, Government work would be simplified, and I think the work would be better done.

MOULVI RAFIUDDIN AHMAD : Can it be done under the Rules ?

Mr. G. WILES : It cannot be done under the Rules as they stand at present, but it can be done in effect by the same gentlemen being re-elected by the House.

Mr. D. R. PATIL (East Khandesh District) : Mr. President, from the report and proceedings of the meetings of the Committee on Public Accounts on the Audit and Appropriation Reports, paragraph 4, page 2, we find that the Government of India are paying only 2 per cent. interest on our provincial balances. Sir, the committee has very rightly observed that that rate is very inadequate, and we are told in the Report that the Local Government is also making to the Government of India some proposal

[Mr. D. R. Patil]

in regard to this. In paragraph 3 of the Report we find that it is recommended that there ought to be some sort of check upon the growth of expenditure. I believe Government will take steps to see that they cut their coat according to their cloth, and in order to have more money, I hope they will try their level best to approach the Government of India with a prayer that the rate of interest on our provincial balances should be increased from 2 per cent. to at least 3 per cent.

Then, Sir, I object to one procedure that is being followed by Government. We know that there is a certain amount of famine fund with the provincial Government. That famine fund should, in my opinion, be exclusively used for the purpose of famine. But we find in paragraph 5 of the report :

"The Auditor General has taken exception to the action of Government in contributing from the Famine Fund ten lakhs towards payment of interest on the loans taken for the Sukkur Barrage."

I say, Sir, that the Government should be careful in future not to spend a single farthing out of the famine fund which should be exclusively utilised for famine purposes.

With these remarks I support the motion. I cannot help saying, looking to the efforts of individual members of the committee, that Moulvi Rafiuddin Ahmad has put so many questions to the Finance Member and that he has done excellent work, for which I admire him.

The Honourable Mr. H. S. LAWRENCE: Mr. President, the suggestion of the honourable member for Nasik that this is a perfunctory disposal of a very important matter, I think, can only proceed from a gentleman with an insatiable appetite for literature and statistics. We have already had before the House an Audit Report which runs into 30 and odd folio pages, an Appropriation Report of 70 or 80 pages and appendices of another 20 pages, and we have the proceedings of the Public Accounts Committee running into 64 pages; and the whole thing is finely summarised by this brief report. I do not know quite what would satisfy the honourable member. Does he want that the final report should be of the same length as the reports on which it is based? That is not the ordinary practice of well organised and well administered departments. The honourable member has very rightly said that the proceedings of the Public Accounts Committee are this year presented in a more detailed form and enables the House to keep some track of the sagacity of its individual members. That also is a good thing, and we are undoubtedly indebted to the honourable member's suggestion for having brought that about.

The honourable member for Khandesh (Mr. Patil) referred to the question of the sum paid from the famine grant for interest on the loan for Sukkur Barrage, but he did not draw attention to the fact that there was considerable discussion on this point in the course of the proceedings which is fully dealt with in pages 28 to 30 of the Report. Government have decided that this payment may be rightly regarded as payment for the protection of Sind against famine, and on that ground we have made this grant from the famine insurance fund. It is perfectly true that there is a difference of opinion in the matter, and that the Auditor General

[Mr. H. S. Lawrence]

does not agree with the Government of Bombay. But this the committee were aware of, and I submit that the sagacious gentlemen of the committee have considered the action of Government to be right and have not agreed with the Auditor General.

Sir, the honourable member for Nasik has made a general charge against us of laxity of financial control, but that charge would have been better understood if he had given some illustration. However, he has told us that his zeal in pointing out our deficiencies is damped down by a hint from the Finance Member. I must say I greatly regret that. If there are instances of laxity of control which have not already been pointed out to us, I shall be very glad to receive advice from the honourable member on that point. It is the anxiety of the Finance Department to tighten up that control. But as the House is aware, the expenditure of the revenues of Bombay represents over 15 crores in the ordinary expenditure, and in Development, and Irrigation another 10 crores or so. It is extraordinarily difficult to stop all points of leakage and any assistance that any member of this House is prepared to give us in pointing out any leakages would be gratefully received by the Finance Department. Sir, I ask this report be received.

Question put and carried.

GOVERNMENT RESOLUTION.

The Honourable Mr. COWASJI JEHangIR : Mr. President, I beg to move that :

"This House recommends to Government that the scheme for the formation of the Bombay Subordinate Engineering Service as outlined in the printed note placed on the table be instituted and introduced as soon as possible."

I do not think, Mr. President, it is necessary for me to speak at any length as the printed note is a comprehensive one and gives all the necessary information and details to the House. But if there is any honourable member who has not up to now had time to read it, it will become necessary for me to give a short summary of this note. The Public Services Commission recommended that the Public Works Department should be divided into three services. Their recommendation was accepted by the Government of India and they have asked local Governments to form three services in their Public Works Department. The three services are the Indian Service of Engineers, the Provincial Engineering Service, and the Subordinate Engineering Service. The first two services were formed in 1920 and these proposals that are now before the House are to enable Government to form the third service, namely, the Subordinate Engineering Service. The Government of India have directed that the Upper and Lower Subordinate Services should be abolished and all recruitment to these services should be suspended except that we still continue to make the guaranteed appointments from the Engineering Colleges. The proposals very shortly are as follows :—

That the salary should be Rs. 60—5—100, Efficiency bar ; Rs. 110—10—170, Efficiency bar ; Rs. 180—10—250, and thereafter a selection grade of not more than 3 per cent. on Rs. 275 ;

[Mr. Cowasji Jehangir]

that the members should be called overseers ;

that the number of this cadre should be 450 ;

that those Upper Subordinates who have up to now not been promoted to the Bombay Provincial Service should be retained on their original salary ;

that the Lower Subordinates as a body be taken into the new service ;

that the local allowances which they enjoy at present should continue ;

that the members of the new service if in charge of sub-divisions should continue to draw their allowance of Rs. 75 per month ; and

that there should be one promotion every alternate year from among the members of the new service to the Bombay Engineering Service. These shortly, Mr. President, are the proposals of Government. These proposals were placed before the Finance Committee and the Finance Committee made one recommendation which this Government have accepted. They suggested that instead of promoting every alternate year one man to the Bombay Engineering Service they should promote one every year. In the orders that will be issued that recommendation will be included. Now, Sir, the average salary of a man in this new service will be Rs. 150-4-0. Perhaps honourable members would like to compare that average with the average sanctioned by other Provincial Governments. I do not know whether honourable members want me to read out those figures but they will realise that our proposals are very reasonable and that the salaries suggested are less than other provincial Governments except Bengal.

MOULVI RAFIUDDIN AHMAD: What is the average for the Bombay Engineering Service ?

The Honourable Mr. COWASJI JEHANGIR: We are not now concerned with that. We are dealing with the Subordinate Engineering Service. Madras has not yet formed this new service, but as I said the average pay in these proposals is less than that in all other Governments except Bengal. The total expenditure for the new service per annum is Rs. 8,12,160. It might be useful to compare this figure with the figure of Rs. 6,86,064 which we would have to incur if we retained the present staff of 77 Upper Subordinates and 375 Lower Subordinates. The new proposals entail a higher expenditure of Rs. 1,26,096. There is just one condition that we should like to include in the orders which is not mentioned in the note and that is, that all new entrants to this service should be given to understand that their services may be lent or may be transferred to district local boards. Honourable members are aware that my honourable friend the Minister for Local Self-Government is considering the question of transferring a certain number of roads now administered by the Public Works Department to district local boards. If that is carried out, we shall have to make corresponding reduction in the staff of the Public Works Department. It is quite possible that district local boards may require the services of some of our officers and therefore it will be necessary to have a clear understanding with them

[Mr. Cowasji Jehangir]

that when such a contingency occurs their services will be transferred to district local boards. I have nothing further to say but if any honourable member desires any further information I shall be very pleased to give it.

Question proposed.

Mr. A. N. SURVE (Bombay City, North): Sir, whenever a new cadre is going to be formed out of old establishment, it generally happens that the interests of several people are sacrificed. In the papers that are handed to us one cannot find out if any real injustice is being done to old people who are in the service already. But I think there is a chance of some people suffering injustice. On page 3 of the note circulated, it is stated that the present upper subordinates have a time scale of pay of Rs. 100—12—460. That is, if the present proposal is accepted, men in the upper subordinate grade can rise as far as Rs. 460. But, according to the new scale that will be fixed, the maximum laid down there is only Rs. 250. So, my point is: if some people are actually drawing to-day more than Rs. 250, what will be their position?

The Honourable Mr. COWASJI JEHANGIR: Read the top of page 3.

Mr. A. N. SURVE: So far as I can see, a little provision has been made there that there shall be one promotion every alternate year from among the members of the new service to the Bombay Engineering Service. I think perhaps the honourable member is referring to this. (The Honourable Mr. Cowasji Jehangir: Look at the top of page 3). That is what I have read "That there shall be one promotion every alternate year" and so on. (The Honourable Mr. Cowasji Jehangir: No, no.) All right, the honourable member might give his explanation in his reply.

Another point that strikes me is about the qualifications. It is laid down here that "the Government of India also stated that the qualifications of subordinates for admission to that service should, so far as possible, approximate to those at present required in the Upper Subordinate Service". The point is this: At present, as there are two services, the upper subordinate and lower subordinate, the qualifications are different. But in future a man must begin in the subordinate service, and at that time he will be required to possess qualifications required for the upper grade. That would be imposing a sort of hardship. But you will notice that though the man will be required to possess higher qualifications, there is absolutely no provision made to give him higher pay, because at present the present lower subordinate starts at Rs. 60, and even when the new rules come into force, though he will be required to possess the qualifications required for upper subordinates, he will be paid only Rs. 60. Thus, even while possessing higher qualifications, he will be paid smaller rate of pay. That is another point. Subject to these remarks, I think that on the whole the proposal is a very reasonable one and the Council can adopt it.

Mr. R. T. HARRISON: May I explain one or two points, Sir, which have been raised by the honourable member for Bombay city. Apparently he is under the impression that the present upper subordinates on Rs. 100—12—460 stand to lose by the introduction of the new service. This, Sir, will not be a fact. There is no further recruitment of upper subordinates but no man in that service at present will get less pay than he is drawing and all will continue on their present scale of pay of Rs. 100—12—460 till they eventually "die out" as a service.

Mr. D. R. PATIL (East Khandesh District): Mr. President, while we discussed this matter in the finance committee, the Honourable Member in charge said that the interests of the backward classes would be protected and he gave us some sort of undertaking. I think he will repeat the same promise which he had made there. (The Honourable Mr. Cowasji Jehangir: What is exactly the assurance you want? If you state what it is, I am prepared to repeat the assurance here.) Government have issued a circular as regards the proportion to be observed in the matter of appointments to some Government services so far as the backward classes are concerned. I think that circular should be also observed even in the subordinate engineering service. That is all I have to say.

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President; there is one point to which I would draw the Honourable Member's attention which was raised in the finance committee by the Deputy President, namely, with regard to the urgency of the motion to be brought in this session. Perhaps the House would like to have some information on that point. I think otherwise we are all agreed with regard to the proposal.

The Honourable Mr. COWASJI JEHangIR: Mr. President, my honourable friend opposite (Mr. D. R. Patil) wants some assurance that when recruiting for this service Government will consider the question of reserving some appointments for backward classes and Mahomedans. I gave that assurance in the finance committee. The principle that has been adopted and carried into force, whereby out of the three appointments that are made from the colleges, one appointment is reserved for backward classes and Mahomedans, will be continued, and when we take a larger number, we will consider the question of increasing the number of appointments from those communities. I trust that will satisfy my honourable friend. I gave the assurance in the finance committee and I repeat it now.

My honourable friend the honourable member Moulvi Rafiuddin asks for reasons why we bring this proposal at this sessions. You, Mr. Deputy President, raised this point in the finance committee. I regret you are not able to raise it here directly yourself, but, as my honourable friend Moulvi Rafiuddin wants an explanation, the explanation we gave in the finance committee is very easily repeated. There has been considerable delay in bringing these proposals before this honourable House. So much so, that my honourable friend the member for Nasik (Mr. R. G. Pradhan)

[Mr. Cowasji Jehangir]

has had occasion to officially remind us on more than one occasion, and also my honourable friend Mr. Shinde in the current session. Considering these reminders, we thought that these proposals should be placed before the House at the very earliest opportunity. We are not making any financial demand. We are placing these proposals before you for your approval. The financial provision will be made in the next budget. I think the point raised by the Deputy President was that this question was better discussed and considered during the budget discussion than now. My reply to him was that we have certainly more leisure on the present occasion than at the budget sessions when honourable members' attention has to be devoted to financial problems of great importance and that if an important proposal of this sort is brought forward at a session in Poona, it is much more convenient for both honourable members opposite and for Government because they can devote more time and attention to these proposals. I will also draw the attention of my honourable friends opposite to the fact that this motion was on the agenda from the very beginning and that honourable members had full notice that it was to be brought up during this session. I have nothing further to say. I trust this proposal will meet with the approval of the honourable House.

Question put and carried.

DEMANDS FOR SUPPLEMENTARY GRANTS.

The Honourable Mr. B. V. JADHAV: Sir, I beg to make a demand as follows:—

That Rs. 4,900 be transferred by way of re-appropriation from 33—Public Health to 30—Scientific Departments for grant-in-aid to the Historical Museum at Satara.

At Satara a new museum has been constructed at the cost of a lakh of rupees and at the budget session Rs. 13,000 and odd were sanctioned by this Council for furnishing and carrying on the work of the museum. Rs. 5,678 were for administrative purposes and Rs. 8,000 for furniture. But when the contractors were consulted and it was found that more articles were needed than were estimated for on the first occasion, it was found that the total estimate for furnishing went up to Rs. 15,400. A contract has been given to an Indian firm and the furniture is ready. The museum will be opened on the 3rd of November next, and I have to request this House to allow me the sum of 4,900 by way of re-appropriation. The real estimate for the furniture amounts to Rs. 15,400, i.e., an excess of 7,400 out of which 2,500 have been found from the sum at the disposal of the Scientific Department and only Rs. 4,900 are wanted by re-appropriation. That re-appropriation is to be made from 33—Public Health as shown here and to be added to 30—Scientific Departments. I request this House to sanction this grant.

Question proposed.

Mr. R. D. SHINDE (Nasik District): Sir, I should request the Honourable Minister to tell this House whether the Satara museum is going to be

[Mr. R. D. Shinde]

run by Government entirely or if it is to be made over to a private institution with a grant to be made to it by Government. I think this information will be required by the House before it can sanction the re-appropriation.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the motion before the House. The amount now demanded is quite necessary. Of course the point raised by the honourable member, Mr. Shinde, is an important point, and I think this House will be much obliged to the Honourable Minister if he will make it clear whether the museum will be maintained as national property or Government property, or as the private property of the gentleman whose name is mentioned in the printed statement supplied to us. If it is to continue to be private property of Rao Bahadur Parasnis, then I hope the Honourable Minister will see that the rights of the public of this presidency are safeguarded. With these words I support the motion.

Mr. A. N. SURVE (Bombay City, North): Sir, I would like the Honourable Minister to make one point clear. We do not know what is the nature of this Historical Museum, whether it is open to a very limited circle, whether it is public or private: we are, therefore, I think, justified in asking information and a clear statement on that point.

The next thing I want to know is that if Government is going to support this institution and if it is going to be a public one, how a private gentleman happened to order out furniture? If it is going to be a museum supported out of public funds and in which the furniture also is going to be paid out of public funds, I should like to know why the furniture was not purchased through Government agency.

MOULVI RAFI UDDIN AHMAD (Central Division): Sir, on this motion I should like to ask the Honourable Minister the conditions upon which this institution will be conducted by Government and about the private rights of the manager of the institution. I understand that in future the Government will carry on this institution and I am told by the Honourable Minister that money has already been provided for it in the last budget. If that be so, the House would like to know something about the conditions upon which this institution is to be conducted and about the future, whether the present manager is to be the sole trustee; I should like to know also what arrangements have been made with regard to any loan that other public bodies or private persons may like to give to this institution with regard to exhibits: Also whether any assurances have been taken with regard to the non-interference in the management of the institution by heirs and successors of the present manager after his demise. We do not like that this institution should be entirely in the hands of one family. I hope, Sir, the Honourable Minister will enlighten this House fully upon these matters.

The Honourable Mr. B. V. JADHAV: Sir, there are certain manuscripts and certain objects of historical importance collected by Rao Bahadur

[Moulvi Rafiuddin Ahmad]

Parasnis and kept by him for the use of the public in his own house. Government recognised the worth of this collection and at the same time its national importance, and as Rao Bahadur Parasnis gave his consent to make a present of these articles to Government, they have been granting him a sum of Rs. 3,000 every year for the proper upkeep of these articles and for housing them properly, and Rao Bahadur Parasnis has been getting that amount. Government have constructed a building at the cost of about a lakh of rupees. The building is being furnished and the museum will be opened, as I told the House, just now, on the 3rd of November. The Rao Bahadur does not keep any property in the articles presented to the museum, and it will be run entirely as a Government institution, but as he has been in charge of those articles so long, it was but natural that he should be consulted in arranging the exhibits in the museum, and the equipment and such other things should be done under his guidance, because he is the expert as to how they are to be exhibited, and how they are to be kept. This is the reason why he was consulted in the granting of this contract, and in seeing that the cupboards and other things are properly done and the exhibits kept there. Of course, there is the general supervision of the Public Works Department who constructed the building, and he will be in charge of the building until it is opened and given into the charge of properly constituted trustees. Correspondence is going on and a proper trust will be constituted, and the museum and the establishment will be handed over to them for the use of the people that will go there.

MOULVI RAFIUDDIN AHMAD: Has Rao Bahadur Parasnis reserved any rights in the museum for his heirs and successors?

The Honourable Mr. B. V. JADHAV: No, Sir.

Question put and carried.

Rs.

Supplementary demand by way of re-appropriation from "32—Medical"—	
transferred, to "Grant at the disposal of the High Commissioner for trans-	
ferred expenditure	5,180

The Honourable Mr. B. V. JADHAV: Sir, I now beg to make another demand for a grant by re-appropriation. At the budget session this Council sanctioned a venereal clinic at the J. J. Hospital, and in order to encourage local firms and manufacturers, it was intended to place the order for the purchase of the surgical equipment with them. But it was found that the local firms were not in a position to supply the whole equipment, and therefore indents have to be placed in England and to be paid through the High Commissioner. So, this demand had to be made for transferring the sum of Rs. 5,180 already sanctioned by this Council in the budget to the High Commissioner's budget.

Question proposed.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the demand. The present demand will involve no extra expenditure. It

[Mr. S. T. Kambli]

is only a small amount of Rs. 5,180 and has already been sanctioned by the House. The motion only seeks for a book adjustment. I therefore support the demand.

Question put and carried.

Rs.

Supplementary demand, by way of re-appropriation from 47—Miscellaneous Reserved, to 41—Civil Works, Transferred, for conversion of Shikarpur Subordinate jail into a prison	34,438
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The Honourable Sir MAURICE HAYWARD: Sir, I ask for sanction to the re-appropriation of Rs. 34,438 from 47—Miscellaneous, Reserved, to 41—Civil Works, Transferred, for the conversion of the Shikarpur subordinate jail into a prison.

The Shikarpur subordinate jail is the old district prison. It was given up when a new prison was built at Sukkur, but it has since been found that the over-crowding in the other prisons in Sind has made it necessary for us to re-open it as a full prison. It is in good order, as far as it goes. It is old-fashioned, but it is in good order and only requires some modifications to give better ventilation and to make proper provision for workshops and so on to comply with modern requirements. The over-crowding is very serious. The accommodation is only 386 in the Sukkur prison, whereas the average is almost double that—784. It is proposed, therefore, to re-open the Shikarpur subordinate jail as a full time prison in order to provide for the surplus 356 prisoners that it will accommodate. It is a matter of very great urgency, owing to the great heat and the climatic difficulties in Upper Sind.

Question proposed.

Mr. S. T. KAMBLI (Dharwar District): Sir, I want to know from the Honourable the Home Member whether efforts have been made to let the prisoners on probation of good conduct. Instead of encouraging over-crowding in the jails, I think it is highly advisable and expedient to let prisoners go out of prison on probation for good conduct, so that they may be given an opportunity of correction and improvement. I think it will be a good corrective, and a better step than spending money in constructing new jails or enlarging the existing ones.

Mr. A. MONTGOMERIE: Sir, I think I can assure the honourable member that we are doing everything in our power to render it possible to reduce the jail population. There are committees sitting periodically on all long-term prisoners, to consider their sentences, and a considerable number have already been released. Unfortunately, it is not possible to consider the case of every short-term prisoner. If a magistrate sentences a man to six months' imprisonment, we cannot let him go out of jail, because the jails are over-crowded. We cannot do that. The general public might raise objection to that. Seeing that there are a very large number of convicts in Sind, I think we must make much more reasonable provision for them than exists at present.

Mr. N. E. NAVLE: May I know from the Home Secretary who are the persons who serve on these committees generally?

Mr. A. MONTGOMERIE: The District Magistrate, the District Judge, the Inspector General of Prisons and non-official members in each district where there is a prison.

Mr. G. WILES: Sir, I wish to draw the attention of the House to a misprint which may possibly give rise subsequently to misapprehension. The amount of Rs. 13,31,685 is not the Reserve with the Finance Department. It is the total under the Reserved head 47—Miscellaneous. The words "Reserve with Finance Department" should be scored out.

The Honourable Sir MAURICE HAYWARD: Sir, I do not think there is anything to say except that the climatic conditions in Sind include very severe cold weather as well as very severe hot weather, and it is important to make proper provision for the prisoners, both against the cold and hot weather of Upper Sind.

Question put and carried.

The Honourable Mr. H. S. LAWRENCE: Mr. President, the Accountant General, Bombay, pointed out in his Appropriation Report that there was excess expenditure in the final accounts under certain heads and that this excess expenditure required the sanction of the Legislative Council. These excesses are detailed in the printed note* which is before honourable members. They are as follows:—

	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 Govern- ments	5,236

All these items were investigated with the help of the Finance Committee, and the application to the House is that these excesses should be sanctioned.

Question put and carried.

Supplementary demand by way of re-appropriation from 47, Miscellaneous (Reserved) Reserve with Government to 24, Administration of Justice, for revision of salaries and fees in criminal cases for District Government Pleaders and Public Prosecutors and their assistants	Rs.
	8,450

The Honourable Sir MAURICE HAYWARD: Mr. President, I ask for a re-appropriation of Rs. 8,450 from 47, Miscellaneous (Reserved) Reserve with Government to 24—Administration of Justice, for revision of the retaining salaries and fees to Government pleaders and public prosecutors in the Presidency proper and in Sind. The revision of these salaries and fees has been pressed upon us for a long time, but has hitherto been put off, in view of financial stringency, but it is now urged upon us that it will no longer be right to postpone this matter any longer, now

* Vide Appendix M.

[Sir Maurice Hayward]

that revisions of the salaries have been effected of all other servants in the various departments of Government. The table appended to this statement shows what the retaining salaries were originally and what they are proposed to be now. The increases have been fixed after consultation with all the district officers, the District Magistrates, the Commissioners, the Judicial Commissioner in Sind and the High Court. The retaining salaries now proposed are an improvement on the present salaries, but they are not the improvements which were recommended by the High Court. The High Court recommended double the present salaries. From financial considerations we could hardly go as far as that; but we have given substantial increase which we hope will meet the case and enable us to secure and retain the services of leading pleaders in the various districts. The daily fees have also been proposed to be raised from Rs. 15 to Rs. 20. That again is less than what was recommended to us by the High Court, who were strongly of opinion that they ought not to be less than Rs. 25. Here again, financial considerations had to prevail and at present we are only proposing to raise the daily fee to Rs. 20. We hope that with these increases in the retaining fee and the daily fee we shall, as I stated, be able to secure and retain the services of leading pleaders in the various districts.

It is proposed in view of the increases in the daily fee to effect some saving in special fees. It has been very common in view of the low rate at present in force for the local officers to recommend rather freely increases in the rate in special cases. It has been difficult to resist these claims in view of the low rates existing at present in comparison with the rates obtainable by pleaders doing private practice. The saving that is likely to be effected is taken into consideration in order to meet the increase in the cost. There will probably be a further saving in the special fees to special counsel. We have been frequently pressed by the police and the District Magistrates to engage special counsel in cases where the present rates have not attracted the services of most leading pleaders of districts. It is hoped that with the improved rates we shall be able to retain the services of leading men and avoid the great expense on special counsel. As honourable members know special counsel from Bombay charges anything from Rs. 300 and upwards and the total cost of extra counsel is very much more than the extra cost we expect to have to pay in improved fees to our mofussil Government pleaders. The extra expense on account of retaining salaries will be some Rs. 14,000 a year, and the estimate on increased fees is something like Rs. 36,000. Of course, we hope to save something in special counsel fees. The matter is urgent as it is important to put this matter right as early as possible and the cost will be Rs. 8,450 this year. I have given you, however, here the full figures for a whole year as there will be a recurring increased liability in the next year's budget. I think both in justice to the mofussil lawyers doing a very great deal of important and useful work to Government including not only prosecutions but giving opinions on all matters to all departments of Government, this amount should be

[Sir Maurice Hayward]

sanctioned by this honourable House. I hope on these grounds I have mentioned the grant will duly be sanctioned by the House.

Question proposed.

Mr. N. E. NAVLE (Ahmednagar District): Sir, we have no objection for this supplementary grant. The only thing that I wish to bring to the notice of the Honourable the Home Member is that Government should lay down a policy of encouraging, as far as these appointments of Government pleaders, public prosecutors and assistants are concerned, the backward class pleaders. Unfortunately for the backward classes all these posts have been monopolised by pleaders of one caste. Fortunately now our pleaders are coming forward and they are to some extent encouraged by Government, and I hope Government will continue this policy and give further encouragement to our pleaders. I hope, Sir, that Government will accept my suggestion. With these remarks, I support the grant.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the motion. There is a long-standing grievance that the Government pleaders and public prosecutors have not been treated fairly with regard to their remuneration by way of retaining and daily fees. The monthly retainer in some cases of Rs. 50 per mensem is very unattractive and the public prosecutors have been rightly complaining that their case has not been properly considered by the Government. The daily fee of Rs. 15 is negligible and I think the public prosecutors and Government pleaders are right in making a representation to Government for a revision in their daily fees as well as in their monthly retainers. With regard to daily fees, Government propose to increase it from Rs. 15 to Rs. 20 and with regard to the monthly retaining fee from Rs. 50 to Rs. 100 and from Rs. 100 to Rs. 200 in certain cases. I think, the daily proposed remuneration is not still fully adequate and highly attractive. It seems that Government have taken into consideration the financial situation and they have gone some way to meet their demands. I hope Government will further consider the matter and at least raise the daily fee to Rs. 25.

With regard to the point made by the last speaker, I am glad to say that the Government have taken the necessary action in some cases in that matter by selecting competent non-Brahmins for new appointments to the posts of public prosecutors. But I want to bring to the notice of Government that it is not on account of want of competent pleaders among non-Brahmins that they did not appoint non-Brahmins as public prosecutors hitherto, but because Government were guided by the influence of Brahmins in this connection and Brahmins got the monopoly of these places for themselves. I may quote the case of Dharwar. There, the posts of the government pleader, the public prosecutor, the assistant and even the honorary assistant, hithertobefore not only belonged to the Brahmin community but they were almost all relations of each other. This fact was brought to the notice of Government, and they have remedied matters in the Karnatak by appointing competent non-Brahmins as public prosecutors. I hope Government will

[Mr. S. T. Kambli]

view the situation not in the light of the past but lay down a policy which is fair and reasonable to meet the just and fair demand of the non-Brahmins. I do not mean to say that unfit persons or unqualified persons should be appointed. What I do mean to say is whenever there are qualified persons, still Government are hesitating to appoint them and this causes great discontent amongst the non-Brahmins.

The Honourable the PRESIDENT : The honourable member is labouring the point at great length. That is not the issue before the House. I do not wish to stop honourable members, but surely references to such points should be very brief as they do not relate to matters before the House.

Mr. S. T. KAMBLI : I bow to the ruling of the Chair. But that was a point I wanted to lay stress on. I have said what I wanted to say. With these words I support the motion.

Mr. S. N. ANGADI (Belgaum District) : Mr. President, I am very glad that Government have at last recognised the grievances of public prosecutors. In order to attract first class men it was very necessary that the fees should have been enhanced long ago. It is really a surprise that the payment so far given to public prosecutors was so low. It was only in exceptional cases that first class pleaders came to accept public prosecutorships, and the only thing that persuaded them to accept the posts was the honour that those posts were supposed to carry with them. Otherwise, first class pleaders in the mofussil are extremely reluctant to be public prosecutors, because the payment of Rs. 15 is abnormally small. Even junior pleaders, if they go to the mofussil, get not less than Rs. 25 per day. If we compare this low payment of Rs. 15 with the payment which the pleader representing the accused gets, we shall find that there is a very large difference. The present increase is not, I think, quite satisfactory, and I hope Government will come forward with greater increases in the fees to be given to public prosecutors. Otherwise, really good pleaders will be quite reluctant to accept these posts.

MOULVI RAFIUDDIN AHMAD (Central Division) : I think, Sir, the proposal of the honourable member the Home Secretary does not err on the side of generosity at all. Rs. 20 per day to public prosecutors is the minimum that should be given to them in these days.

With regard to the charge that has been brought against Government of not appointing members of the Moslem community and other backward classes it may be mentioned that the honourable member the Home Secretary is quite alive to the suggestion and ready to remedy the deficiency. I may give an illustration of his activity. In this very city (Poona) the honourable member Mr. Montgomerie has appointed a member of a small minority notwithstanding the protests of the Brahmins, I mean the honourable member Mr. Bunter, who belongs to the Indian Christian community, who by the way are not backward. There is therefore no danger of any class retaining a monopoly of posts, so long as the matter is in his hands although there is cause to fear

[Moulvi Rafiuddin Ahmed]

if Mahomedans would receive their due and adequate share. There is also no danger of the class to which also I belong, I mean the lawyers, objecting to such resolutions from Government. Considering that this class is known as impecunious and garrulous and forms mainly the articulate portion of this House, the amendment of the Home Member will be gratefully accepted by them. I hope he will remember all the remarks that have been passed during the discussion with regard to the inadequacy of the additional emoluments proposed.

Mr. J. BAPTISTA (Bombay City, North) : Sir, I also wish to support this additional payment to public prosecutors. Compared to what they pay to pleaders in the High Court, this appears to be very miserable indeed. The Honourable the Home Member says that when Government engage counsel from Bombay the minimum fee is Rs. 300 a day. I find the minimum fee is Rs. 300 per hour in Bombay. Therefore, I do not think that this proposal errs on the side of generosity. I do not mind whether they make these appointments from the backward or forward classes from the Mahomedans, the Christians or the Hindus, provided the persons appointed are men of legal acumen. That is absolutely necessary. There is one hint I will throw out, namely, not to appoint as public prosecutor any member of this Legislative Council. (Laughter.)

The Honourable Sir MAURICE HAYWARD : Sir, I do not think I have much to say in reply. We are doing our best to distribute these appointments evenly among those communities who put forward qualified candidates. We recognise that the rates at present proposed are a small improvement only, but we put them forward as being as much as we can fairly offer in the present financial position of Government.

Question put and carried.

Construction of a Police-station and quarters for police at Ranchore in the Karachi Headquarters District.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I beg to move for a demand of Rs. 1,23,450 by reappropriation from 47, Miscellaneous (Reserved) to 41, Civil Works (Transferred). The note* shows the necessity of this demand.

Question put and carried.

Supplementary Grant for grant-in-aid to the Bombay Boy Scouts Association.

The Honourable Mr. B. V. JADHAV : Sir, when the Boy Scout movement was started it was financed by the Educational Department and the salary of the Provincial Secretary and the expenses of his office were also borne on the educational budget. After the movement advanced, Rs. 15,000 were budgetted as grant-in-aid to the Boy Scouts Association. In the budget for the current year Rs. 46,864 have been provided for. Since then, Mr. Miller who was Provincial Secretary has reverted to the Educational Department and his place as Provincial Secretary has been taken by one Mr. Venkateswaran, who is not a Government servant, on a much smaller salary. Out of Rs. 31,864 spent on establishment Rs. 28,000 were included in the non-voted items and Rs. 3,864 was votable. Now it is thought desirable that as the movement has been wholly handed

*Vide Appendix N.

[Mr. B. V. Jadhav]

over to the Boy Scout Council there should be a definite grant made to this association for expansion. At present Rs. 46,864 are budgetted for that movement. Government now propose that Rs. 6,864 should be saved from that amount and a total grant of Rs. 40,000 be made to the Boy Scout Council. It will consist of the following items :—

	Rs.
Grant on account of Provincial Secretary and his establishment ..	15,364
Provincial grant	15,000
For expansion	9,636
	40,000

So, now, a demand is made that Rs. 21,136 be transferred from non-voted provision in "31-Education" and added to voted item in "31-Education (transferred)".

Question proposed.

Mr. A. N. SURVE (Bombay City): Sir, it is a very great pity that a saving should be effected in a grant to a movement like the Boy Scouts movement which deserves all encouragement at our hands. I think if Government had come forward with a proposal asking for more grants, there would have been nobody in this Council who would not have consented to that proposal. We now find that a saving of Rs. 6,864 is being made on such a worthy object, not only that but that it is suggested that we should retrench that amount because there is no demand for it. I see at least one difficulty why demand is not made. At present Government makes a direct grant, but in future it is stated that the major municipalities will make provision for this item. Whether they will make provision or not is a different question. If they are not going to make such a provision, such a worthy object is to be sacrificed. I think that the Honourable the Minister will in future at least bear in mind that the attitude of this House towards this movement is very liberal, and I would request him that in future he will not bring in any proposal which would curtail the grant given to this body.

The Honourable Sir CHUNILAL MEHTA: I should like to say just one word of gratefulness to the honourable member opposite for having expressed his view, which I have no doubt is shared by many members of this House as regards the usefulness of the Boy Scouts Movement and as regards the desirability of giving it every financial and other assistance. He is perfectly right in saying that the Boy Scouts movement is a counterpart and perhaps an important addition to the instruction that is usually given to boys in educational institutions. In this particular instance the demand put forward by the Honourable Minister does not really mean any reduction in the amount of money that will be available to the Boy Scout Council. But I cannot refrain from expressing my gratitude to the honourable member opposite for the tribute he has paid to the utility of that movement.

Mr. R. S. NEKALJAY: Sir, I would only like to know from the Honourable Minister whether Government have any control over this association.

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President, this question was discussed in the finance committee and it was pointed out there by the Deputy President, who has taken a vow of silence, that this is not a saving at all, because Mr. Miller belongs to the Imperial service, whose services were lent to the Boy Scout movement and he has now gone back to do some other work but continues to draw the same pay.

This is not actually a saving, because when Mr. Miller reverted to his usual work, corresponding changes had to be made up to the lowest officer that was doing badli but the salaries of all would continue to be charged.

Sir, with regard to the Boy Scout movement, I do not think there is altogether unanimity of opinion in this House as has been expressed by the Honourable the Revenue Member, who, we know, is a great supporter of this movement in this presidency. There have been doubts freely expressed in the press with regard to its utility. The founder of this movement in England had announced that it was a Christian movement or something to that effect and when he came to this country he had either to withdraw his words or offer an apology for them. So, there has been considerable suspicion about this movement. I do not say this movement is not doing good. But it is not yet popular and in order to do so it requires considerable modifications in certain respects. Of course, this is not the time to give expression to modifications or to the views of persons who are opposed to this movement. But I do maintain that if this movement should be rendered beneficial to all people alike, if people have any doubts about it, they should be removed. With regard to the Girl Guides movement, for instance, there is a large number of Mahomedans who do not quite approve of the present system. For purdah ladies a modified system will have to be introduced. On this occasion I do not wish to oppose the demand, but I would like the Honourable Minister to explain how he thinks a saving of 30 thousand would be effected.

The Honourable Mr. B. V. JADHAV: Sir, I do not think I will take up much of the time of the honourable House on this question. The Boy Scout movement is a very good movement and I am very grateful to the honourable members who have offered their support and at the same time criticised myself for proposing to make a saving of about Rs. 6,000 and odd. I may assure the honourable members, Sir, that Government do not want to check the movement at all. Government are improving the finances of that movement to a very considerable degree. There has been a considerable saving in the salary of the secretary (Mr. Miller). Mr. Miller was very highly paid, about Rs. 2,000 a month. The present man will get only about Rs. 700 a month. So there is a substantial saving and the demands of the Boy Scouts Association for immediate expansion are fully provided for in the total grant of Rs. 40,000 which Government propose to make to that association. As a matter of fact, the resources of that association are materially augmented and there is no check to that movement at all.

[Mr. B. V. Jadhav]

Now, as to the point raised by the honourable member Moulvi Rafiuddin, I should say that although Mr. Miller is in service, he has been taken back into the department to do the work of the two or three gentlemen who have already retired. So, as a matter of fact, although Mr. Miller will get his salary, so much salary will be saved from that department, and in that way there is an actual saving. And therefore I place before this House these two facts and request them to grant this demand.

As to the point raised by the honourable member for the depressed classes, I shall only say that the whole of the Educational Department, the head masters, the deputy educational inspectors and the inspectors have an eye upon the troops that have been started in various places, and therefore, this movement is fully under the eye of the department and no fears need be apprehended.

Question put and carried.

Purchase of Stores for the Forest Department: Rs. 36,990.

The Honourable Mr. A. M. K. DEHALVI: I move, Sir, for a demand for a supplementary grant covered by reappropriation of Rs. 36,990 from a grant at the disposal of the High Commissioner for transferred expenditure to Forest. This provision was made, Sir, in the High Commissioner's estimate for the purchase of stores required for the Forest Department during the current year. But it has been found that these stores can be purchased here through the Indian Stores Department, and therefore the transfer.

Question put and carried.

Additional provision for meeting outstanding claims for building grants to non-Government colleges: Rs. 1,00,000.

The Honourable Mr. B. V. JADHAV: Sir, I make a demand of Rs. 1,00,000 to be reappropriated by transfer from non-voted to voted. The various private colleges in the Bombay presidency have had extensions and building grants were promised to them and we have to redeem the promises and, as the department now finds that there is likely to be a large saving from the non-voted allotments under pay of officers, it proposes that Rs. 1,00,000 should be transferred to voted, to pay some of the outstanding grants.

This leads to the presumption that the non-voted grants are too much inflated and I promise this House that when the next budget is framed, I shall see that no unnecessary amounts are included under non-voted.

Mr. A. N. SURVE (Bombay City, North): Sir, the Honourable the Minister of Education certainly, I think, deserves our congratulations. I think it is a sound principle not to allow savings to lapse, but to utilise them towards another useful object. This should be the case in the nation-building departments at any rate.

The next point is that the grant is to go towards fulfilling certain promises which the Government have made. That is a very good reason

[Mr. A. N. Surve]

but at the same time I feel it my duty to bring it to the notice of the Honourable Minister that the demands made by primary education are far more imperative than the demands made by colleges. I am not one of those persons who would advocate that the colleges should be starved altogether, but I would very humbly and respectfully bring it to the notice of the Honourable Minister that any grant or any aid that is given to primary education is increased a hundred-fold, that is to say, its advantage is received by numerically more persons. It was only a few days ago that the Director of Information issued a pamphlet relating to the progress of education and in it he states that in the Ratnagiri district there are 72 schools which are held in temples. The necessary implication of that is that as those schools are held in temples, students of the depressed classes are excluded from receiving the benefit of primary education. Relating to the same district I may as well draw attention of the Honourable Minister to the fact that there have been several instances in which Government have promised help towards school buildings in villages. Those promises are not yet redeemed. Therefore, I say, that the Honourable Minister, when he is making any reappropriation of this kind, should see to the relative importance and the benefit to be received by the public and then suggest the direction in which that grant should be given.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the motion. It is certainly a good idea and a very commendable idea on the part of the Honourable Minister to utilise savings for the purpose of encouraging higher education by giving grants to various colleges in this presidency. I hope the Honourable Minister would give us detailed information about the number and names of the colleges which he is going to help in this manner. With these words I support the motion.

Mr. N. E. NAVLE (Ahmednagar District): Sir, I support the motion before the House. It is good that the Honourable Minister is going to fulfil the promises Government has given to the non-Government aided colleges. Sir, these institutions are conducted mostly by people of the forward classes. I want to ask the Honourable Minister whether he is fulfilling the promises Government has given to the institutions conducted and owned by the backward class people. For instance the Shri Shivaji High School in Poona is solely conducted by backward class teachers and is meant also for backward class students mostly. Government have made certain promises of giving a building grant to this institution. I want to know from the Honourable Minister whether that grant has been given to this institution or not. With these words, Sir, I support the demand for this grant.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I rise to oppose this grant. The Honourable Minister for Education would have done well in spending any surplus that he might have for the needs of Mahomedans. He has been neglecting the interest of the Mahomedan community. This is not the first time that this charge is openly brought against him on the floor of this House.....

The Honourable Mr. B. V. JADHAV : I refute it.

MOULVI RAFIUDDIN AHMAD : I am ready to prove it. The Honourable Minister for Education has been giving us evasive replies to questions repeatedly asked. He has failed to redeem the promises and pledges which he and his department have given to the Mahomedan community. Sir, he is extremely squeezable. When pressure from missionary bodies or from advanced classes is brought upon him for more money for their colleges, money can be squeezed out of him by them. But the Mahomedan community has no means to compel him and no influence to bear upon him. Hence the Honourable Minister does not pay any heed to their demands. Only the other day my honourable friend Khan Saheb Mansuri asked a question for the construction of a class room at Hubli for Mahomedans learning English up to the third standard. He said he had no money for the purpose. The chief need of the Mahomedan community is secondary education and the excuse that the Honourable Minister has is that there is no money for the purpose allotted to him. Government has made solemn promises in that connection to the community for the redemption of which he has no money, but he has money to redeem pledges given to the manager of some aided institutions of advanced classes which do not require the money so much as the Moslems do. Therefore, mine is a formal protest. I am not opposed to his giving grants to advanced classes for their aided colleges; although we do not derive much advantage from them, our need is secondary education. I am protesting against his policy of starving Moslem secondary education. I do not say that the requirements of higher education are not genuine or necessary, but I do say that the Minister's first duty is towards secondary and primary education and the needs of backward classes and Moslems. Though some other classes take the credit for maintaining him on the Front Bench, in reality it is the Mahomedans that keep him in office. We therefore have a right to ask him to pay more attention to the demands of the Mahomedan community. He must not give us evasive replies and he must not try to get behind the pledges to which he is openly committed. It is only when supplementary demands are made here that we get an opportunity to ventilate our grievances on the open floor of this House. It is only by way of protest on behalf of the Mahomedan members of this House that I have risen to protest against the policy pursued by the Honourable Minister regarding Mahomedan Education.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to join my voice with that of my honourable colleague (Moulvi Rafiuddin Ahmad) in the protest that he has raised. I have off and on, by means of questions and resolutions in this House, tried to impress upon the Honourable Minister of Education that the Mahomedans are kept in the background so far as their education is concerned. Sir, whenever I have put any questions or interpellations, he has given evasive answers. He tries to make out his case always by percentages, showing the percentage of the Mahomedans here and there, but not giving us the actual. Sir.....

The Honourable the PRESIDENT: Order, order. The Honourable Minister in his capacity as Minister is not now before the House, and his career is not open to criticism on this occasion. The issue before the House is a very simple one, namely that this saving should be utilised to aid aided colleges for building purposes. It is perfectly relevant for honourable members to point out that the direction in which the saving is being used is inappropriate, and that it should be used in some other direction, and in that way honourable members who wish to press for the claims of the Moslems can bring the point in. But I do not think that the Honourable Minister and his policy are now before the House for criticism on this issue.

Khan Saheb A. M. MANSURI: I was coming to the same point, Sir. What I wanted to say was that the Honourable Minister instead of re-appropriating the grant in the way in which he proposes to do, would do better to spend it for the education of Mahomedans. In conclusion, I would point out that we have two Mahomedan Ministers who are equally responsible for the education of Mahomedans, and it is for them to pull the sleeves of their honourable colleague who is sitting amidst them.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I would not have spoken on this question but for the speeches that have been made by two honourable members who preceded me. Perhaps, it will not be exactly correct on our part if we do not admit this much that during the time of the present Minister of Education more has been done for the Mahomedans than had been done by his predecessor. We were positively harmed in the last ministry. The honourable member, Moulvi Rafiuddin Ahmad, rightly pointed out that the need of the Mahomedan community was secondary education. I trust that the policy of the present Minister of Education will be directed towards the uplift of the backward communities in secondary education.

Mr. J. BAPTISTA (Bombay City, North): Sir, I do not wish to oppose this motion. I rise to say that I should like my Mahomedan friends to place a higher ideal before them than was expressed by my honourable friend Moulvi Rafiuddin. He says that the Mahomedans keep the Minister in office, and he gives me the impression that they do so on the principle of *quid pro quo*. That is not a right principle or a high principle. If the Honourable Minister neglects his duty, by all means censure him; if he neglects Mahomedan education, then censure him by all means, but do not even for a moment keep him in office in order to make him respond to your demands and frighten him into giving what he could not in duty give.

I now want to pass on to the statement that the Honourable Minister was very squeezable by Christian Missionaries. But my experience is quite different. I do not find him squeezable.

The Honourable the PRESIDENT: The honourable member does not take any notice of the ruling I gave.

Mr. J. BAPTISTA: I am recommending the support of this grant, in order that I may ask the Honourable Minister to divert some portion of it to the St. Xavier's College. The St. Xavier's College gets a grant of Rs. 40,000, and the grant has stood at this figure for several years. The number of pupils receiving education is twice the number of pupils in the Government College in Bombay, and it is higher than that of any other college in this presidency. Yet, it gets a grant, less than the Fergusson College, and other colleges with less number of undergraduates. That does not show that the Honourable Minister is very squeezable by Christian Missionaries. That is all I have got to say on that point. But there is one statement made to which I must take exception. Primary education is certainly very important, but it is not more important than higher education. Higher education has always been and will always be much more important than primary or secondary education. The greatness of a country depends upon the greatness of the few men of genius it produces—men who make discoveries in the fields of science and other branches of human activities and pursuits. I hope we will all get rid of that curious notion that primary education is more important than higher education.

Mr. A. MASTER: Sir, Government have been attacked for not giving sufficient importance to primary and secondary education, secondary education especially in the case of Mussalmans, and it is urged that the interests of higher education should not be considered until the interests of these other two branches have been completely satisfied. I do not think that any honourable member will allege that no attention at all has been paid to primary education. It is only sufficient to look at the budget grants for primary education to show that very considerable attention is being paid to it. The same can be said for secondary education. Now, as regards the present supplementary grant, there are cases in which Government have promised a grant a very long time ago. So long as ten years ago, certain grants were promised, which have not yet been paid; only a very small part has been paid. In the case of the St. Xavier's College no grant has hitherto been paid. There is the D. J. Sind College in Sind; a grant has been promised for that college. It will not be possible to give anything now, but something will have to be given sooner or later, and that college, I imagine, will benefit the Mussalmans considerably.

Mr. NOOR MAHOMED: It is not doing so now.

Mr. A. MASTER: It is not doing so now, certainly. But the principle is the same, and old promises have to be fulfilled before new promises.

I hope members of this House will not look at this particular grant with a narrow view. I think it is important that the interests of higher education should be kept in mind, and that they should not be sacrificed to the interests of primary and secondary education. It seems to me to be the opinion of some members that not a single pie should be spent on higher education until primary education is absolutely incapable of further

[M. A. Master]

expansion. Of course, that is not possible. It takes time to introduce primary education. Even the opening of new schools takes time, and now that primary education is being handed over to local authorities, it will rest more and more with the local authorities to deal with primary education themselves, and leave Government to deal with higher education.

The Honourable Mr. B. V. JADHAV: Sir, from the speeches that have been made here on this question, I find that nobody has raised any objection to this grant, but extraneous matter has been brought in, and it has lengthened the debate. As regards the demands of primary education Government is fully alive to it and they have made provision for immediate demands in that connection. The district local boards and municipalities have been given the control over primary education. Government are prepared to do their part of the work. Now, if primary education lags behind I think the blame should not be laid at the doors of Government; but people must find fault with their representatives on the local bodies.

The Honourable the PRESIDENT: Order, order. The Honourable Minister has himself realised that criticism has gone on extraneous matters. I had to rule out of order some of the members who exceeded the limits of the latitude allowed on this question. I hope the Honourable Minister will bear in mind that he has to be strictly relevant in his reply. There has been some criticism on the subject and I will allow him some latitude in replying to it but as briefly as possible.

The Honourable Mr. B. V. JADHAV: There has been severe criticism....

The Honourable the PRESIDENT: That is why I am allowing some latitude to the Honourable Minister; but it does not mean that he should expound the policy of Government in great detail. I hope the Honourable Minister will be as brief as possible in dealing with the criticism which has been levelled against him.

The Honourable Mr. B. V. JADHAV: The question of Mahomedan education has not at all been overlooked by Government. A statement was prepared by the Director of Public Instruction last time when the Mahomedan Educational Conference met here and was distributed. That will show what Government has been doing for Mahomedan education. Government has been spending on Mahomedan education much more than they have hitherto spent on the education of the backward community which is three or four times bigger than the Mahomedan community in population.

MOULVI RAFIYUDDIN AHMAD: May I say that that statement is being answered?

The Honourable the PRESIDENT: I cannot allow such interruptions. I have appealed to the Honourable Minister to be as brief as possible and I hope he is doing so.

The Honourable Mr. B. V. JADHAV : I shall explain the policy of Government on another occasion. The backward communities whether Mahomedans or Hindus are receiving due attention at the hands of Government. Government are doing their level best to advance their education as much as possible.

I think I need not say anything more with regard to the remark of my honourable friend Mr. Baptista that the St. Xavier's College has not been getting as much grant as the other Christian colleges. I think the reasons have been already given. But I think that question requires to be re-examined.

Question put and carried.

" Supplementary grant for Rs. 3,100 by way of reappropriation from 31, Education (Transferred) non-voted to 31, Education (Transferred) voted for running the workshop attached to the College of Engineering, Poona "

The Honourable Mr. B. V. JADHAV : Sir, I move for a supplementary grant of Rs. 3,100 by way of reappropriation for running the workshop attached to the Engineering College, Poona. The committee that was appointed to consider the development of engineering reported that the workshop should be better equipped so as to provide education for a larger number. Hence the expenses have increased. It requires Rs. 4,500 of which Rs. 1,400 has been found in the budget of the same institution. The remaining amount is wanted.

Question put and carried.

" Supplementary grant for Rs. 10,500 by way of reappropriation from 41, Provincial Works to 37, Miscellaneous, for examination of wiremen and electrical contractors."

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I move for a supplementary grant of Rs. 10,500. The note* sufficiently explains the purpose for which the demand is made.

Question put and carried.

" Supplementary grant for Rs. 39,500 by way of reappropriation from 31, Education (Transferred) non-voted to voted for building grant to English teaching schools."

The Honourable Mr. B. V. JADHAV : Sir, I move for a supplementary grant of Rs. 39,500 by way of reappropriation for building grants to English teaching schools.

Question put and carried.

DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST

Mr. J. BAPTISTA (Bombay City, North) : Sir, I beg to move the following resolution :

" 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."

* Vide Appendix O.

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Mr. President—You are aware that the Government of India have introduced a bill in the Assembly, which is known as the 'Legislative Bodies Corrupt Practices Bill. During the debate the Honourable Member in charge promised that he would obtain the views of the Provincial Governments and Provincial Legislatures and place them before the select committee before they make their report. I presume that the Government of Bombay will communicate its views to the Government of India independently. My proposition is intended to ascertain the views of this Council in order that they may be placed before the committee for its information, if not for its edification. I hope I may be permitted to say, at the outset, without any egotism, that there is no member in this Council who could be more intolerant of corrupt practices than myself. I have not the slightest doubt that every member of this House would deeply deplore and emphatically condemn the remotest tendency to corrupt practices of every description. I am fully confident that every one of us would insist that every member of this Council should be above suspicion like Cæsar's wife. Yet none of us would venture to dogmatise upon the absolute incorruptibility of law-makers in any part of the world. Nevertheless I have no hesitation in declaring that I thoroughly disapprove of legislation upon this subject.

In the first place I submit that it is unnecessary. I say it is unnecessary, although the Muddiman Committee have unanimously recommended it. The Muddiman Committee has managed to muddle through many things somehow. But this is admittedly one of their side issues. They have given no reasons for recommending it. It is not supported by any evidence of the existence of any corrupt practice. It is entirely the outcome of the natural feeling and the natural sense of honour of every Indian that he cannot tolerate corrupt practices. It has not been investigated nor considered carefully. It is chiefly directed against the corruption of members of Council by outsiders or insiders. The number is limited scarcely exceeding one thousand all over India. This one thousand consists of the intellectuals of India and constitute, more or less, the elite of Indian society. *Prima facie*, therefore, it must be assumed that it is unnecessary to have this bill for repressing corrupt practices among the elite of India. On the contrary, any one who advocates this measure must prove, it is incumbent on him to establish, a *prima facie* case of the necessity of this bill by evidence of the existence of the evil. I can understand legislation of this description for the purpose of counteracting an existing evil, but I cannot understand a measure for counteracting an imaginary evil or an anticipatory evil. It seems to me when we legislate for combating an evil which does not exist, we do more harm than good and the harm is aggravated if the measure proves a dead-letter. I find from the proceedings in the Assembly that the stoutest advocates of this measure confidently predicted that it would be a dead-letter. The honourable member's speech reminds one of the auto-biographers who deliver their own funeral oration during their own lifetime.

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I therefore submit that I have made a *prima facie* case that it is absolutely unnecessary to have this measure.

My second point is that it is derogatory to the dignity of this House. There can be no doubt of this. But we are told that we are following the precedents of Canada and the United States of America. But why not the precedent of the United Kingdom of Great Britain and Ireland? The Mother of Parliaments is a much better model than her daughters in Canada or America. The House of Commons has power under law or convention to take measures to repress corrupt practices or to punish those guilty of corrupt practices. I am quite prepared to support any measure that will give to this House the same powers that are possessed by the House of Commons in Great Britain. I do not know why the Muddiman Committee have gone out of their way and recommended something different. They distinctly say in the report that they do not recommend that the Legislatures in India should have the power which the House of Commons have. They prescribe the Penal Code for India. They keep the sword of Damocles hanging over us. It is not consistent with our dignity. None of us should be subjected to the indignity of being dragged into the police courts by policemen. I know that there is a provision that no man can be prosecuted without the sanction of Government under section 196 of the Criminal Procedure Code. But these sanctions have a very peculiar and sometimes a very undesirable effect. The moment the sanction is obtained the offence under the Corrupt Practices Act would be regarded by the public at large as a political offence. But we know very well that for political offences the present method of trial is very unsatisfactory. It does not command the confidence of the vast majority of intellectuals, because it is not a trial by jury consisting of one's peers as in England, where no conviction is possible without the unanimous verdict of the jurymen. The result will be that a corrupt man will be exalted into a martyr, and the whole object of this bill will thereby be frustrated. I do not wish to say anything against Canada or the United States. I do not quite know what is the history of the Legislation in Canada. It may be due to the old "Family Compact" which was once omnipotent. Their deeds and misdeeds caused riots and even a revolution. The memory of those deeds and misdeeds may be the cause of the legislation in Canada. So far as the United States is concerned, everyone knows that it is due to the Spoils System of the American constitution. In America, when a Party gets into power, it dispenses with the services even of permanent officials and their own friends are appointed in their places. This practice is now considerably reduced, but it still exists to some extent. But what happened in the United States? It gave birth to the Tammany Boss and under this Institution corrupt practice in the United States of America has become a fine art, so fine that I do not know whether there is any man who can escape the corrupting influence of the Tammany Boss. I am sure no one desires the importation of the American System in India. Therefore, I say, Sir, that the example of Canada and the United States is no model for India. I prefer the model of Great Britain.

The Honourable Sir MAURICE HAYWARD: Sir, is it in order to make remarks of that nature with regard to foreign governments?

The Honourable the PRESIDENT: Order, order. I do not find anything in the Rules and Standing Orders which gives me the authority to call to order any honourable member who may indulge in these remarks. But there is one aspect of the question which should be borne in mind, and having regard to the general powers vesting in the President, that point will have to be taken into consideration. America is at peace with Great Britain and the assertion that the honourable member does not know whether there is any man who is incapable of being corrupted by Tammany Boss System in regard to a nation which is at peace with His Majesty is too sweeping and not in good taste. I would therefore appeal to the honourable member to refrain from making remarks of such a sweeping character.

Mr. J. BAPTISTA: I never said that no one is free from corruption. I merely said that under this system every one is in danger of being corrupted and that this system is the result of American Legislation. I do not want the introduction of the Tammany System here. That is what I said. History supports me. If anybody reads Burke's history or any other history here he will find facts and figures supporting what I have said.

Well, Sir, as I said, we do not want the introduction of the Tammany System which is the result of this kind of legislation upon the corrupt practices.

The next point is that it is detrimental to the independence of the members of this Council. I need hardly say that the independence of members is an absolute necessity, an indispensable necessity for the proper discharge of their duties. We enjoy immunity at present under the Reform Act. "No person shall be liable to any proceedings in any Court by reason of his speech or vote in any such Council". (Section 72 D. Cl. 8). If the members are to discharge their duties with fearlessness they must be protected. The fearless discharge of duty often offends persons with vested interests. In their anger or irritation they may conspire to concoct false charges against the offending member. Let me give a simple illustration of what is possible. This bill forbids any gratification for "doing what he does not intend to do". These are the words of the bill. Let me assume that the Government Whip asks a non-Brahmin member whether he intends to vote for a bill brought forward by a Swarajist member. He will say "no". He may change his mind later on, and vote for it or he may be required by party decisions to vote for it and therefore he votes for it. In these circumstances any one can easily bring in a false accusation against him. He will have the true evidence of the Government Whip who would depose that the accused told him that he did not intend to vote for the Swarajist. A perjurer—a man of straw, will say that he gave him Rs. 500 for voting as he did. What harassment! He may be acquitted eventually by the High Court, but he will have to spend a lot of money, engage the best counsel to conduct his case and to submit himself to the indignity of a prosecution. I have not the slightest doubt that this sort of prosecution is practicable under a measure of this description. We

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ought to be protected against this kind of tyranny, seriously calculated to interfere with the independence of the members of this House.

Sir, my strongest objection to this measure is that I do not believe in the purifying power of the Penal Code. I do not believe that law makes men more moral. I prefer to rely upon the sense of honour of a member than upon the fear of the Penal Code. We should cultivate the sense of honour more than the fear of the Penal Code. Sir, a measure of this description is calculated to lower the standard of conduct. Men will ask whether an act is forbidden by the Penal Code. If it be not, it will be assumed that it is permissible to a man of honour. But the Code of Honour forbids many acts not forbidden by the Penal Code. For example, the Government Whip may approach an honourable member, and say to him: "When I was collector I did some good service to you and now you can do me good service by voting for my proposal". This will not be punishable under the Penal Code, but no whip in England would ever stoop to canvass in this fashion. I do not for one moment mean to say that any whip in this Council has ever stooped to do so. The point I wish to emphasize is that the Penal Code cannot compare with the Code of Honours to prevent corrupt practices. Besides our party system is not yet well established. It is still in infancy. In England the people have travelled far from the days of Burke. In the days of Burke there was no such thing as mandates. Burke distinctly declared that the electors are entitled to their representative's service, but his judgment he owes to his God and conscience. But even in England mandates are now given before the election and not after the election. Nobody would dream of regulating the conduct of members of Parliament by rules and regulations of the parties—whether Liberal or Conservative Party, outside the House of Commons. It is not the same in India. At the present moment the Swaraj party have rules governing the conduct of members in the Councils. For example the party members on principle of non-co-operation could not accept any office. After the elections the party modified this rule to enable members to capture the election offices. Pandit Motilal Nehru could not serve on the Skene Committee without the permission of the party.

Mr. R. D. SHINDE: What about Executive Council membership?

Mr. J. BAPTISTA: You can deal with that question as you are appointed a Public Prosecutor (laughter). We are still in the infancy of the party system in India. I therefore submit that this bill is objectionable. It is unnecessary; it is derogatory to the dignity of the House; it is calculated to destroy the independence of this House and what is more important it is calculated to place the member's conduct on the lower plane of the Penal Code instead of the higher code of Honour. Let us leave it to the higher sense of honour of the members and repose confidence in them. Nothing has occurred in this Council which

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would justify any one in saying that they cannot place confidence in a member's sense of honour.

Question proposed.

Mr. A. MONTGOMERIE: I rise to oppose the resolution. In the first place I would draw the attention.....

Mr. J. BAPTISTA: I rise to a point of order. The opinion of the legislature is required; Government have already given their opinion. It is entirely for the nominated and elected members to decide the question.

The Honourable the PRESIDENT: This cannot be a point of order. The resolution is submitted to the House and, according to the Rules and Standing Orders every honourable member of this House is entitled to speak on this motion. Whether, as a matter of policy, a particular course should be adopted or not is not a matter for my consideration.

Mr. A. MONTGOMERIE: Sir, I rise to oppose this resolution. In the first place, the arguments produced by the honourable member are only half arguments. He has only noticed one half of the bill. If he will read the whole of the bill, he will see that the bill proposes to set up two offences. One is the attempt to bribe a member of the legislature. The other is the acceptance of the bribe. On the first half of this bill, I should imagine that no member of this House would object for a moment to the statement that an attempt to bribe a member of the Legislative Assembly should be, as it is in England, a high crime and misdemeanour. I take it for granted, as the honourable member has devoted no argument whatever to this part of the bill, that apparently he has not studied it with that minute care which one would have expected from him and has probably omitted to notice altogether the fact that there is such a provision. I take it for granted that even the honourable mover of the resolution will admit that at least the first part of the proposed new section should receive the wholehearted support of this House.

I turn to the arguments which he has addressed to the other part of the section. His first argument was that it was unnecessary on the ground that the members of the Indian legislatures are the elite of India, the intelligentsia of India, and are not likely to commit any offence. I expand this argument a little. The people of India, as we have been told over and over again in this House, are law-abiding and orderly, and therefore, it would seem to follow logically (I think, that my syllogism is quite as good as his) that the existence of the Indian Penal Code is quite unnecessary and it should be forthwith abolished. Now, the fact that the present members of this House or the other Houses are not amenable to bribery and corruption is, it seems to me, no reason why there should not be legislation against the possibility of any such corruption. I do not think that even the honourable member will put forward the suggestion that corruption in India is, unlike corruption in any other part of the world, impossible. The claim would be one to which I think no one even in India would dare to agree.

[Mr. A. M. Mtgomerie]

Then, he tells us it is derogatory to the dignity of the Legislative Assembly. I cannot see how it can be derogatory to the Assembly to impose upon themselves limits of this nature. The proposal is not coming from without; it is coming from within. It was accepted as a right and proper proposal by all sections of the Legislative Assembly, by the representatives of the people in Canada and in the United States. What they did not believe to be derogatory to their dignity cannot, I suggest, be derogatory to our dignity. And a law imposed by the great Mother of Parliaments upon itself cannot be derogatory to the dignity of this House. It is part of the penal law in England that the acceptance of a bribe by a member of the House of Commons or the House of Lords is a high crime and misdemeanour, punishable with imprisonment. The fact that it is not statutory law has nothing to do with it. The resolution of the House of Commons of 1697 is substantive law. The fact that these offences are not tried in the penal courts is entirely due to a historical accident. In England Parliament was not originally a legislative and deliberative body; it was a court. The fact that it was a court is still to be found in the name or title of the Parliament. Parliament is the "High Court of Parliament" and it is for that reason that offences of this nature are tried in that court. It is as much a crime in England as it is in the United States or in Canada. Had there been as many cases of bribery as there were cases of election petitions, the power of trying such cases would long ago have been given up by Parliament just as it was given up in the case of election petitions. I do not know that any one starting, *a priori* making a new law would suggest for a moment that cases of this sort should appropriately or properly be tried by any legislative body consisting it may be of 112 that we are here, or 620 or thereabouts—625—as they are in England.

That, I think, disposes of what seems to be the basis of the honourable member's resolution as expressed in his own language. He says that it should be left to the honour of members of the Indian legislatures as it is left to the honour of members of Parliament in Great Britain. It is not left to the honour of members of Parliament in Great Britain. It has been made, as I have said, by Parliament, a high crime and misdemeanour. I am afraid that I am quite unable to follow the honourable member in his argument about the interference of such a measure as this with the fearless discharge of the duties of members. It seems to me to be a thoroughly topsy-turvy argument. I have a glimmering of what was perhaps at the back of his mind, but I take it he could not possibly mean that. It would be an insult, a very comprehensive insult, to the people of this country. His suggestion was apparently that a man would be so liable to deliberately false charges against his honour that he would be unable fearlessly to discharge his duty if a law like this existed on the statute book. I can hardly think that the honourable member had clearly followed out the implications of his own argument, or he would not have put it before the House. Nor could I follow him in his extraordinarily involved argument about the relation between the Tammany Hall System in America and the existence of a law in

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America dealing with bribery and corruption. It is possible that there may be some logic in his argument which, however, I find myself unable to follow. His argument has precisely the same value as the argument that the existence of section 312 of the Indian Penal Code on the Statute Book is responsible for the number of murders, say in the Dharwar district. Perhaps in his reply he will expand what his argument meant. I must confess, however, that I was utterly unable to follow him.

Mr. A. N. SURVE (Bombay City, North) : I rise, Sir, with considerable diffidence to support a piece of legislation which apparently aims at restriction of liberties of the people. When the liberties of the people are concerned in this House, I always try to do my little bit to withstand every attempt which curtails them, but contrary to that practice I am going to maintain something to-day which may appear to some to be a direct negation of what I usually do. I am going to oppose the resolution and support the bill.

We are told that there is no necessity for this bill because we may be trusted. I think that men are divided into three classes, *viz.*, those who are altogether above law, *i.e.*, those who would act morally whether there is law or there is no law. Then there is another class consisting of those who would be moral only if there is a law; otherwise they would have the temptation of committing criminal acts. The third class includes the violators of law; they would make it their business to break every rule of law. For the first class, there is absolutely no necessity for making any provision of law. But for the other two classes, I think there is a necessity. It would keep weak men within the bounds of law and it would punish those who would make a breach of it. So out of the three classes, two classes do require the provision of law. For that reason, I think, that the proposed legislation will be a desirable one.

The point about this legislation being derogatory is a proposition to which I cannot subscribe. The Penal Code is there even to-day. It contains various definitions such as theft, cheating and other crimes, but has any honourable member of this House ever complained that, because he is not likely to commit theft, *etc.*, therefore the Indian Penal Code should be repealed? I think that that sort of argument is not a very sound one.

Then it has been said that no such necessity has been found as regards the members of the Houses of Parliament. Perhaps every member of this House is aware of the growth of that institution. Was not the British Parliament at one time a small body composed of prelates, *i.e.*, priests, who acted as the advisers of kings and later on was not that body enlarged by the association of peers and knights? Even so late as about the last decade labour members had hardly any representation worth serious consideration. Even to-day it could hardly be said that the House of Commons is a thoroughly democratic body. When institutions go on expanding and becoming more and more democratic, the necessity for this kind of legislation does arise. This will explain the difference between the United States of America and the House of Commons. One has a thoroughly democratic legislature and the other is progressing in that direction only by slow degrees. Therefore, to say

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that because the House of Commons has no such kind of restrictive legislation, that therefore we also should not have it, is not quite a right proposition.

Again I think it was the famous utterance of Walpole that "every man has his price". What it means I think need not be explained. If that was the case in England, let that stage not be reached in India. What we should strictly guard against is pressure and persuasion from the benches opposite. When the division time comes, the Government Whip is very active and in order to prevent him from interfering with the taking of decision by the non-official members, I think this sort of legislation will be a very salutary one. It is the persuasion of the Government that we non-officials are greatly afraid of. If for nothing else at least for this one thing, *viz.*, in order to prevent the Government Whip from pressing us let us have this legislation, so that if somebody comes to persuade us—non-official members—at the time of division, we can check him at once. It may perhaps be an evil, but it is a necessary one. In one of the sister presidencies a very undesirable state of things was brought to light by the press. It was disclosed that the Members of Government were using their patronage in a rather unbecoming fashion. So in order to protect ourselves from such practices, I think this legislation is necessary. I think I need not press this matter any further. I would only say that even Pandit Motilal Nehru, who is the leader of the Swaraj party, has accepted the principle underlying this legislation. I quote an extract from his speech as follows:—

"As I understand it the principle of the bill is simply this, that corruption in a member of the legislature should be made an offence and punishable. That alone I consider to be the principle and no more, and I take it that it will be open to the select committee to say that instead of this bill it is quite enough to add a section to the penal code to secure the desired result."

I think, after reading these words of Pandit Motilal Mehru, any further comment from me is quite unnecessary. I oppose the resolution.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to support the motion. I am very sorry that the honourable member from Bombay (Mr. Surve) could not follow exactly the implications contained in the bill. If we take his speech into consideration along with that of the honourable mover of this proposition, both the speeches simply mean this, that we do not want this bill, in the interest of the independence of the non-official members. The honourable member the Home Secretary complained that he could not follow exactly the argument advanced by the honourable member, Mr. Baptista. I would inform him that if he has not been able to follow the argument of the honourable member Mr. Baptista, then he could follow more correctly the argument that has been advanced by the honourable member Mr. Surve, because Mr. Surve has candidly conveyed the meaning which Mr. Baptista perhaps did not like to do. Sir, the position is this: The country is at present in a transitional stage; there are no well-defined parties. There are at best two parties in all the legislatures, one the Government party and the other the opposition party; and the opposition party is not so well organised so as to assume in the near future the charge of Government.

[Mr. Noor Mahomed]

Therefore, necessarily for some time to come at least, all the legislatures in India would be against giving such a power to the Government, which they can use if they want to, to the disadvantage of the non-official members.

The honourable member, Mr. Surve, said that we have to take into consideration the conditions prevailing in a sister presidency. That is exactly the mistake that we are making. In giving an opinion about this bill that is before the Legislative Assembly, we are not to think of Bengal, we are not to think of any other province. In that province there are allegations from one side and counterallegations from the other. So that, we have really no evidence to judge of the actual conditions that are prevailing in that province or in any other province. We are simply to say whether this bill, considering our own conditions in this Presidency is necessary or not, in the interests of the reputation of the honourable House and its members. This bill will not work at all, knowing as we do what happens at present. I believe there is not the slightest suspicion of corruption in any member of this House; and therefore, this bill, in this transitional stage, is not at all necessary.

The honourable member Mr. Baptista appealed to the official benches to refrain from voting on a motion like this. I, Sir, join in that appeal. This is a bill that affects the rights, independence and dignity of the non-official members, and not of the Government benches; and therefore, what the Legislative Assembly really requires is the opinion of the non-official members of this House. If the official benches vote on this motion, I do not think the Legislative Assembly will be having the correct opinion of the House on this point.

Now, Sir, another point that the honourable member the Home Secretary wanted to make was that he could not think that Indians, our countrymen, would be so bad as to come and make false allegations against any elected member of a legislature. He did not think that we were so bad, or the people were so bad as to make false accusation. But he is mistaken. Now, we know as I said before, that the country at present is in a transitional stage whatever the duration of that stage. Therefore, there will be so many people coming forward for their own gain—I do not insinuate anything against the Government, I wish to make that clear—there will be so many people who will think that it will please Government and will not hesitate to say that this man or that man is not a right sort of member of the Legislative Council, he is creating trouble for the country. There will be some people who, to please themselves or to please anybody else, will come forward and make false allegations, and the members of the opposition in the Council will always remain in terror, and will not have any influence. With these remarks, Sir, I support the motion.

Mr. R. D. SHINDE (Nasik District): Sir, I beg to support this motion before the House. I may point out that the material on which the Government of India have proposed to undertake legislation is what is the unanimous recommendation of what is known as the Muddiman Committee. But, as has been pointed out by the honourable mover of this motion, for the purposes of this

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recommendation there was hardly any material before the committee when they took evidence on the subject. If we go through the volume of evidence before the Muddiman Committee, I think the Home Secretary can hardly point out any evidence worth the name given before the committee which justified such a recommendation as that which has been made, and on which the proposed legislation is to be undertaken.

The next point is the dangers of the proposed legislation. If we go through the provisions of the bill, we would find that the provisions are extremely wide, and probably they will cover every action of any honourable member. Thirdly, there is a point of the utmost importance which we must take into account, and that is the position of the various parties in this country at present. You know, Sir, that at present even honest differences of opinion on pressing questions of the day are represented in certain quarters as being selfish and in this position it would be quite possible for certain interested persons to get up false accusations against certain members of this House or the Legislative Assembly, and perhaps Government who have to give their sanction might, in a weak moment, do so; and in this way the independence of the elected members will be seriously jeopardised. With these remarks, I support the motion.

Mr. R. G. PRADHAN (Nasik District): Sir, I feel it my duty to oppose the motion. At the outset, however, I must express my very great surprise at the attitude of the Government in dealing with this matter. When, Sir, a few days ago, I suggested that a resolution on this question should be tabled by the Government, the Honourable the Home Member said that it was the opinion of this honourable House that the Indian Government wanted, and that therefore the motion should be tabled not by the Government but by some non-official member. He distinctly gave the impression that what we wanted was a clear expression of opinion among the non-official members of this House. But now we find the honourable member the Home Secretary opposing this resolution, and probably trying to induce some honourable members of the House to oppose the resolution. I do feel, Sir, that there is an inconsistency between the position which has been just now taken up by the Government and the position which was indicated by them a few days ago on the subject. After having dealt with this point, I shall now turn to the merits of the resolution. It appears to me extremely strange why so many honourable members of this House should fight shy of this piece of legislation. In dealing with this matter, it would be desirable for the honourable members of this House to bear in mind certain facts in connection with the proposed piece of legislation. When the question of reforms was being inquired into, a sub-committee was appointed consisting of Mr. Jinnah and other members of the Reforms Enquiry Committee. That sub-committee recommended that legislation on this matter was desirable. The recommendation of this sub-committee was unanimously accepted by the Reforms Enquiry Committee. In pursuance of that unanimous recommendation, the Government of India brought forward

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in the Legislative Assembly the bill which we are discussing to-day. It will interest honourable members to note that the principle of the bill was accepted by all parties in the Legislative Assembly. I would particularly invite attention of the honourable members to the fact that the principle of the bill was accepted by no less a person than the leader of the Swaraj party in the Legislative Assembly, Pandit Motilal Nehru. Among the papers circulated on this question to the honourable members of this House they will find on page 3.....

The Honourable the PRESIDENT: That passage has been read by the honourable member Mr. Surve.

Mr. R. G. PRADHAN: Very well, Sir, I did not know.

What I want to emphasise is that the principle was unanimously accepted by all parties and it was accepted by no less a person than the leader of the Swaraj party in the Legislative Assembly.

Now, it has been stated that this bill is derogatory to this House. The resolution towards the end says: "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." I quite agree with that; I will go even further and say that confidence should be reposed in the sense of honour of not only of members of this House but in the sense of honour of all men. But, Sir, the confidence may be betrayed; it may be abused. It is certainly our duty to provide by legislation against the betrayal or abuse of such confidence. What this bill seeks is to provide against the betrayal or abuse of such confidence. When members of legislatures do not realise their responsibility, and do something which ought to be condemned and condemned in the severest terms possible, it should be regarded as an offence and they should be punished. In the Municipal Act and in the District Local Boards Act there exist similar provisions; and electors and candidates have been made liable to punishment for corrupt practices. This has never been considered a serious infringement upon their sense of honour or dignity by either the candidates or electors to such bodies. If that is not so considered, I do not at all see how this legislation can be an infringement of their dignity and self-respect. It seems to me that the argument about dignity and self-respect has no substance.

On the contrary what I would submit is this. Representative institutions are new in this country. Therefore it is our duty to jealously guard their reputation and to see that they are properly nourished and developed. It is our duty to see that we as members of Council are above suspicion. In the present infant stage of our representative institutions, we must take care to safeguard their purity to maintain them at a high level of honour and purity. I therefore submit that it is necessary to have this legislation. The House ought to support such a piece of legislation. Personally I think that this bill does not go far enough. I would go much further and say that the bill should be so amended as to make punishable any undue or corrupt influencing of votes within the four corners of the

[Mr. R. G. Pradhan]

council chamber. I, Sir, approve of the principle of the bill and strongly oppose the resolution.

Mr. D. R. PATIL (East Khandesh): Sir, I agree with the view expressed by my honourable friend Mr. Shinde. It is only very recently we have been given these reforms. Let us see how we work them out. I am of opinion that this bill is premature. If we look to the debate that took place in the Legislative Assembly, we find the following funny speech. Moulvi Abdul Kassim, a Bengal member, says:

"I did not want to take part in this debate but for the speech made by my honourable friend Dewan Bahadur Ramachandra Rao. I think the Government have done wisely in bringing forward this bill for the sake of the good name of the legislatures in this country. Purity of public life is essential for the advance of any nation and specially for a nation that is striving for responsible self-government. There is no doubt that corrupt practice exists in legislative bodies...."

Mr. Shanmugam Chetty: Who practises it?

Another honourable member: The nominated members."

Nominated or elected, that does not matter. This legislation may be acceptable to members from Bengal. So far as Bombay Council is concerned, there is no necessity for such a legislation. We may take one view. Others may take another view.

There are parties in this Council and one party might set up something against the other even for honest difference of opinion. My honourable friend Mr. Shinde has rightly pointed out that as a result of this legislation factions will increase and the consequence will be immense trouble. The reforms are still in their infancy and as time goes on if we find such a legislation is necessary, then we shall accept that. But at this stage we must not hasten such a measure and consent to the desirability of this bill.

Mr. S. N. ANGADI (Belgaum District): Sir, I rise to support the resolution, which has been moved by my honourable friend Mr. Baptista. My reason for supporting this resolution is this: The public always regards any political legislation with great suspicion. The public as well as honourable members of this House, whenever Government introduce any piece of political legislation, think that the measure has been intended for punishing the best people in India. The honourable member the Home Secretary taunted by saying that the people of India are law-abiding and very orderly, and if that be really so, where is the necessity of the Indian Penal Code? To draw a comparison between the Indian Penal Code and the proposed piece of legislation is ridiculous. This legislation is going to be applied to the intelligentsia of the country, to the best people of the society who come here as representatives of the masses, whereas the Indian Penal Code is made applicable to every one, whether good, bad or indifferent. Therefore, to draw a comparison between a piece of legislation like this and the Indian Penal Code, which is applicable to one and all is, in my opinion, not quite correct. Besides, under the present conditions, it is not quite safe to arm the executive with greater and greater weapons of punishment. That might end in many disastrous results to the country at large. The non-official members are always reluctant to arm the executive with greater powers so long as the

[Mr. S. N. Angadi]

executive is not responsible to the people. To think that members of the legislature are capable of being bribed is simply ridiculous. I cannot conceive for one moment that the honourable members of this House could be bribed by either outsiders or insiders, as the honourable member Mr. Baptista put it. Therefore, I support the resolution moved by the honourable member Mr. Baptista. Such a bill may be necessary in the case of Canada, the conditions whereof are entirely different from the conditions prevailing here. Canada is an independent country and the executive there is responsible to the people. The present conditions in India do not justify such a piece of legislation being taken up.

Mr. N. E. NAVLE (Ahmednagar District) : Sir, I support the resolution moved by my honourable friend Mr. Baptista. In the unsettled and chaotic political and social conditions which obtain in our country at present, it is not desirable to have such a piece of legislation at this time. Because, there will not be wanting people in this country to come forward and put forth accusations against one another. There will not be wanting unsuccessful candidates of one party to come forward and accuse successful candidates of other parties, and evidence also will not be wanting at all. Therefore instead of any good resulting out of such a measure, the social and political life of the country will be made worse. This bill instead of stopping bribery and corruption, will encourage and induce people to find out some other methods of doing the same thing under some cover or other. So, in my opinion, the bill though intended for good purposes will not serve those purposes, and instead of doing good it will do harm to the people of the country at large. So, I support the resolution that is before the House.

Mr. S. T. KAMBLI (Dharwar District) : Sir, nobody can deny the necessity or the importance of securing and maintaining purity of public life in members of the various legislative bodies in the country. But looking to the present condition, the transitional state of things in this country, it is necessary that the members of the legislative bodies should be able to discharge their duties fearlessly and independently. There are no organised parties in all the legislative councils in India. Of course, the Swarajists have formed an organised party in the various councils, but it is common knowledge that the other parties except the non-Brahmins in certain places have not been sufficiently organised, and on many an occasion bitterness of feeling is created when the opinion of one party is opposed to that of the other. If we look to the reports of the speeches and proceedings in this Council, as published in some of the party papers, it will be seen that the criticisms on them are not such as are desirable. Imputation of bad faith is freely made against members who express their views honestly and in their own light. Under these circumstances, to enact a law of such a nature would be to give a powerful handle or weapon to unscrupulous persons who are not wanting in this country. Undoubtedly in ordinary conditions such a law would have been welcome indeed, but looking to the special state of transition through which the country is passing, I think that this legislation will prove more detrimental than beneficial to the country. The bill may well be deferred

[Mr. S. T. Kambli]

for some years. I, therefore, support the resolution moved by the honourable member Mr. Baptista.

Mr. W. G. MCKEE: Sir, I rise to oppose this motion. As a new member of this Council, the first thing I noticed was that we were always addressed as honourable members. I have no doubt all members are honourable and so long as we remain so, this proposed legislation does not affect us. I welcome the new bill as it places in our hands an additional weapon to deal with anyone who dares to try and corrupt any of us. With these words I oppose the motion.

Mr. S. A. SARDESAI (Bijapur District): Mr. President, I wholeheartedly support the resolution brought by my honourable friend Mr. Baptista. In doing so, I associate myself with the sentiments expressed by him, and I agree with him that the bill is derogatory to the sense of honour of this House and also that it is absolutely unnecessary. This piece of legislation may, perhaps, be introduced in India at a later stage, but at present it is very unnecessary. One man's food is another man's poison. What may be working well in other countries may not work well in some other country. For instance, in England and some other civilised countries, the whole country is guided by case-law, but in India we have many codified laws under which no discretion is left to magistrates to exercise their option. In civilised countries of Europe people will not tolerate that amount of codified laws that exists in this country, but they will depend upon case-law. This piece of legislation is a danger because there are so many parties in India. I go further and say—and you will certainly pardon me for a little digression—that even the magisterial courts in India are unsuited to the needs of the people of India. In those old days even criminal cases were being disposed of by the village Panchayats. Members who constituted the Panchayat were a highly dignified people equal in dignity to the High Court Judges of the present day and these people disposed of justice to one and all. The village Panchayat system, for which Dr. Annie Beasant has been asking, is not even thought of by the British Government. I think the old system would meet the needs and requirements of India and not the magisterial system which is useless to the needs and requirements of India. In these circumstances if any such piece of legislation is attempted to be introduced in India, I think, Sir, it will be disastrous, and I even go further and say, that it will completely darken the annals of legislation in India. With these few remarks, I beg to support the resolution moved by my honourable friend the honourable member Mr. Baptista.

Mr. J. BAPTISTA (Bombay City, North): Sir, we have had an interesting discussion, and I have no doubt that my resolution commends itself to the majority of the members of this House, apart from Government members. I am not quite sure whether Mr. Montgomerie expressed the views of Government or expressed his personal opinion as a member of this House. In the first place I am sorry that Mr. Montgomerie has deemed it proper to accuse me of not having studied the bill carefully. He said that I have overlooked one-half of the bill. I have not overlooked. It is such a prominent and essential feature of

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the bill that it would not be overlooked even by a blind man who does not wish to see. But is it possible to legislate for one-half only? Is it possible to legislate for corruptors outside the Council and exclude the corruptors or the corrupted inside the Councils? I cannot conceive of a more absurd idea. I should like to ask him whether the Government of India would take the trouble for legislating for one-half only. I do not think so. Apart from it, I distinctly observed that the bill is chiefly directed against the corruption of law-makers. Had Mr. Montgomerie paid due attention to what I said, he could not have with reason alleged that I had overlooked half the bill.

Mr. L. J. MOUNTFORD: Is it in order, Mr. President, to name an honourable member by name and say "Mr. so and so"?

The Honourable the PRESIDENT: I have repeatedly drawn attention of honourable members to the fact that they should address their colleagues as the honourable member Mr. so and so.

Mr. J. BAPTISTA: I did not say the honourable Mr. Montgomerie.

Mr. A. MONTGOMERIE: You missed out the honourableness.

Mr. J. BAPTISTA: The honourable member, Mr. Montgomerie—it is such a long thing—(laughter)—the honourable member the Home Secretary said that the people of India are peaceful, and that therefore on the basis of my contention, there would be no necessity for the Penal Code. This is a very fanciful analogy. We are dealing with one thousand members and not with 320 millions of the people of India. I am quite sure that out of the 320 millions of people in India not one in ten thousand would require the Penal Code. The argument is absurd. Then, Sir, the honourable member the Home Secretary said that even I could not say that there is no one who could be ever corrupted. Evidently he did not pay due attention to what I actually said. I distinctly declared at the very outset that no one would venture to dogmatise upon the absolute incorruptibility of law-makers in any part of the world. But, Sir, he was so wholly absorbed with what he was going to say that he did not listen to what I said. The honourable member Mr. Montgomerie has a peculiar knack of turning every thing topsy-turvy. He referred to the cases of election petitions which were once tried in the House of Commons but are now triable in the High Court. This is true although the House of Commons is not wholly divested of its powers as a Court, but the point I should like to make is that though the House of Commons has already passed a legislation to transfer the trial of election petitions to the High Court of England, it has not yet thought it desirable to transfer the trial of members of Parliament for corrupt practices from the House of Commons to the High Court. I have already stated that I am prepared to give the Indian legislatures the same powers as are possessed by the House of Commons by law or convention and to make corrupt practices an offence as in England to be dealt with by the Councils themselves.

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There is one other aspect of this bill which I should like to mention and that is about the sanction that is necessary under section 196 of the Criminal Procedure Code before launching a prosecution. It is entirely at the discretion of Government to sanction prosecution. Government are not likely to sanction the prosecution of their own Whips or officers. In effect, therefore, this necessity of sanction would protect offenders when Government would like to protect, and create a special privilege for Government Whips and officers and encourage canvassing of a very questionable character. There is a kind of corruptibility, which is worse than gratification consisting of rupees, annas and pies, I mean honours and titles and the loaves and fishes of office. That is entirely in the hands of Government. Even the wealthy succumb to this kind of corruption without losing their sense of honour. But this is quite outside the province of the bill and the Penal Code. I did not refer to this in my opening remarks because I thought the official benches would leave us severely alone and not participate in the debate. I hope at least that they will refrain from voting.

The honourable member from Karachi distinguished between men of honour and men who have lost their sense of honour. But how is he going to penetrate into the mind of man? One great lawyer in England said that devil himself cannot know the mind of man. All of us are anxious to repress corrupt practices. Our sense of honour emphatically condemns corruption. I would do all I can to sharpen this sense of honour by reposing confidence on members' sense of honour. I disapprove of any lowering of the standard of honour by this bill. Apart from it I anticipate abuse of this kind of legislation with disastrous consequences. It will inflame party feelings and encourage false partisan accusations. If it is evidently premature as we cannot foresee the lines of evolution in India, I hope this House will wait for 10 years at least before entering upon a legislation of this character.

The Honourable Sir MAURICE HAYWARD: I was considerably surprised, Sir, at the opposition to this measure, and I regret, Sir, very much the light tone in which it has been dealt with by the honourable mover of this resolution. I had hoped that from him we should have had a more ample and serious discussion of what is a very important matter relating to the Legislative Councils and the Legislative Assembly. I stated the other day, Sir, that it would be left to an unofficial member to move any resolution which he might think fit to move in this matter. My position at the time, Sir, was that the desirability of some such measure was so obvious that it would probably save the time of the House to leave it to an unofficial member, if he thought fit, to move any amendment pointing out any possible directions in which this measure might be improved. But I certainly was not then expecting that the whole measure would be objected to as unnecessary and as derogatory to the dignity and independence of members of this honourable House. I think, Sir, that the position taken up by the honourable mover is a sufficient justification for the position taken up by the official benches in deciding to take part in this debate. The official members, under the

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constitution, are the members of this Legislative Council just as much as are those who are elected and sitting on the opposite benches, and we should, Sir, be failing in our duty if in a matter of this importance we did not take part in the discussion and register, by our vote, our opinions upon this matter so important to this honourable House. It is in matters of this sort particularly that the official element has been introduced into this House in order that their views upon matters of this importance may be at the disposal of other honourable members and that the result may be the decision of the whole of the Legislative Council as constituted under the Government of India Act.

I am glad, Sir, exceedingly glad, and I entirely endorse the opinion expressed that, so far as this honourable House is concerned, this measure is unnecessary (Hear, hear). I do not for a moment suppose that any members of this honourable House would themselves submit to any attempt at corruption. But I do think that we should declare—should not only hold this opinion but should declare—that no member of this House shall be corrupted, and that if any man so debased as to allow himself to be corrupted should unfortunately obtain the privilege of entry into the precincts of this House, then he should at once be handed over to the processes of the law and that anybody who should venture to make any attempt on the honour of any member of this House should similarly be handed over to the law courts, the criminal courts. I think, Sir, that much of the opposition to this measure is due to misapprehension. A number of fanciful arguments have been put forward, pictures have been drawn of honourable members who would be dragged from their seats in this House by the myrmidons of the law, by policemen in uniform, and locked up in the lock-up during the night and produced the next day before a magistrate. Sir, the picture is absurd. It is not in accordance with the proposed bill. My honourable friend stated he has very carefully studied this bill. I will ask him: Would that be the process under the bill? Would it be open to a policeman to seize an honourable member, drag him from his seat in this House, lock him up in the lock-up and produce him next morning in the police court?

Mr. J. BAPTISTA: May I correct the honourable member, Sir? The Honourable the PRESIDENT: Yes, if the honourable member gives way.

Mr. J. BAPTISTA: I never said that. I said "dragged to the police court by the processes of law by a police officer lodging a complaint before a court". I did not say that a policeman would come here.

The Honourable Sir MAURICE HAYWARD: I am glad, Sir, of the honourable member's correction. The honourable member spoke so lightly about this matter that I unfortunately received from what he said the impression that we were in danger of being dragged off to the police court by a policeman from our seats in this House. Sir, the process would be by summons, and the offences would be non-cognisable offences; therefore it would be quite impossible for this fanciful picture to have effect in this House. And over and beyond that, there is the

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fact that no prosecution could be instituted without an enquiry and sanction by the Government. It is extremely unlikely that any such case would occur here. But if it should occur, then there would be a preliminary enquiry, and not until then would it be possible to proceed, after obtaining the sanction of the Government. I think also that the arguments of other honourable members were advanced largely under misapprehension when they referred to the probability of false complaints being made by one party against another party. Surely, Sir, that itself is rather derogatory to the dignity of this House to suggest that one party would bring false complaints against another party simply because they differed in their political opinions. I do not, Sir, myself believe that any party in this House would ever be so unscrupulous as to bring false charges against another party simply because they differed in their political opinions and found themselves in the opposite lobbies in this honourable House. I submit, Sir, that we should as a House declare that we do not intend that any of our members should be subjected to offers of corruption from any persons outside this House and declare that, if it should unfortunately occur that any member open to corruption should obtain entry into this House he should be immediately expelled and handed over to the criminal courts.

I submit, Sir, that there is strong reason for supporting this measure. It was unanimously recommended by the Muddiman Committee. It has passed the first reading in the Legislative Assembly. It is now before the select committee of that honourable House. If it was not considered derogatory to the dignity of the members of that House, why should we consider it derogatory to the dignity of the members of this House? (Mr. J. Baptista : Higher sense of honour). Surely, Sir, we can send up our opinion and say that we know of no case here, and we believe there will never be any case here, which will require the working of this bill so far as any member is concerned inside this House. But why should we refuse our support to this measure with regard to people outside this House? I think, Sir, that we ought to accept the principle of this bill. We ought to say that we fully recognise that this is a principle which ought to be accepted. We know that it will be very seldom used, but it should be on the statute book, that it is our considered opinion that the highest standard of conduct should be observed by all members of the local legislatures. We ought not to feel that it is derogatory in any way or detrimental to our dignity to say that we will be above corruption. Where is the loss of dignity in saying that we will be above corruption and that we will have anybody punished who approached any of us with a view to corruption? Where is the occasion for declaring it derogatory to our dignity when a similar Act has been passed by the United States of America and a similar Act has been put on the Canadian statute book? My honourable friend (the mover) laughs, but he hardly knows what he is laughing at. Does he know the United States of America so well that he is in a position to tell us exactly why there has been a statute of this kind in the United States of America and Canada just as in the United Kingdom? Does he think that this law was passed only in the United

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States? The law in the United States and Canada simply followed the law in the United Kingdom. In the United Kingdom it is an offence to corrupt a member of Parliament, but no member of Parliament ever thought that this was derogatory to his dignity. No member of Parliament ever thought that it was an interference with his independence....

The Honourable the PRESIDENT: Will the Honourable the Leader of the House allow me to answer a question that the honourable member, Mr. Baptista, has asked? The only right that the honourable member, Mr. Baptista, now possesses is to make a personal explanation and nothing more.

The Honourable Sir MAURICE HAYWARD: I am sorry that my honourable friend, Mr. Baptista, has not the right of reply, if I have misunderstood his position, but I was simply stating what my impression was of his speech. I would strongly recommend to the honourable members of this House not to be carried away by any sense of dignity or independence, but to boldly declare that they believe that corruption of any member of any local legislature ought to be treated as a crime and that they support this proposed law which is based upon the law not only in the United States of America, not only in Canada but on the law of England as expressed in the practice of the British House of Commons.

I wish to add only one thing, namely that if it is necessary to go to division upon so simple a matter, we will see that the division lists are duly forwarded with a copy of this debate, so that the discussion upon this matter and the opinions of all members of this honourable House not excluding those of the official benches, shall be placed fully before the Government of India.

Question put. House divided. Ayes-24; Noes 27. Resolution lost.

Division No. 13.

ABDULPURKAR, Mr. N. A.

ANGADI, Mr. S. N.

BAPTISTA, Mr. J.

BHURGI, Mr. J. M.

BOLE, Mr. S. K.

COOPER, Khan Bahadur D. B.

DADACHANJI, Dr. K. E.

KAMBLI, Mr. S. T.

KHURRO, Mr. M. S.

LALJI NARANJI, Mr.

MANSURI, Khan Saheb A. M.

MUJUMDAR, Sardar G. N.

Ayes.

MUKHI JETHANAND PRITAMDAS

NAVLE, Mr. N. E.

NEKALJAY, Mr. R. S.

NOOR MAHOMED, Mr.

PATEL, Mr. A. E.

PATHAN, Khan Bahadur JAN MAHOMED-KHAN.

PATHAN, Mr. A. F. I. K.

PATIL, Mr. D. R.

RAHMTOOLA, Mr. HOOSENALLY M.

SARDESAI, Mr. S. A.

SAYED GHULAM NABI SHAH.

SHINDE, Mr. R. D.

Tellers for the Ayes: MR. NOOR MAHOMED and MR. R. D. SHINDE.

Noes.

BEDREKAR, Khan Bahadur I. M.

BUNTEE, Mr. J. P.

CHAUDHARI, Mr. L. S.

CLEMENTS, Mr. E.

DEHLAVI, the Honourable Mr. A. M. K.

FRAMJI, Mr. K. S.

GHOSAL, Mr. J.

GHULAM HUSSAIN, the Honourable Khan Bahadur SHAJKE.

HAMID M. ABDUL ALI, Mr.

HARRISON, Mr. R. T.

HATCH, Mr. G. W.

Noes—*contd.*

HAYWARD, the Honourable Sir MAURICE	MOUNTFORD, Mr. L. J.
JADHAV, the Honourable Mr. B. V.	OWEN, Mr. A. C.
JEHANGIR, the Honourable Mr. COWASJI	PAINTER, Mr. H. L.
LAWRENCE, the Honourable Mr. H. S.	PRADHAN, Mr. R. G.
MASTER, Mr. A.	SAYED SHAHJADE Saheb HAIDAR Saheb.
MCKEE, Mr. W. G.	SURVE, Mr. A. N.
MEHTA, the Honourable Sir CHUNLAL	THOMAS, Mr. G. A.
MONTGOMERIE, Mr. A.	WILES, Mr. G.

Tellers for the Noes : MR. R. G. PRADHAN and MR. W. G. MCKEE.

The Honourable the PRESIDENT : The House will now adjourn till 2 o'clock, to-morrow, Saturday, the 31st October 1925.

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Saturday, the 31st October 1925.

The Council re-assembled at the Council Hall, Poona, on Saturday, the 31st October 1925, at 2 p.m., the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

ABDULPURKAR, Mr. N. A.
 ADWANI, Mr. D. B.
 AHMAD, MOULVI RAPIUDDIN
 ANGADI, Mr. S. N.
 BEDREKAR, Khan Bahadur I. M.
 BHOPATKAR, Mr. L. B.
 BHURGRI, Mr. J. M.
 BOLE, Mr. S. K.
 BUNTER, Mr. J. P.
 CHAUDHARI, Mr. L. S.
 CLEMENTS, Mr. E.
 COOPER, Khan Bahadur D. B.
 DABHOLKAR, Sir VASANTRAO A.
 DADACHANJI, Dr. K. E.
 DEHLAVI, the Honourable Mr. A. M. K.
 DEV, Mr. S. S.
 DIXIT, Dr. M. K.
 FERNANDEZ, Dr. COSMAS
 FRAMJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
 GUNJAL, Mr. N. R.
 HAMID M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JEHANGIR, the Honourable Mr. COWASJI
 JOG, Mr. V. N.
 JOSHI, Mr. P. G.
 KALBHOR, Mr. G. M.
 KAMBLI, Mr. S. T.
 KAZI INAITULLAKHAN
 KHUHO, Mr. M. S.
 KOTHARI, Mr. V. R.
 LAWRENCE, the Honourable Mr. H. S.

MANSURI, Khan Sahab A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MCKEE, Mr. W. G.
 MEHTA, the Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 MUKADAM, Mr. W. S.
 MUKHI JETHANAND PRITAMDAS
 NARIELVALA, Mr. H. H.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAHALAJANI, Mr. B. G.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATHAN, Khan Bahadur JAN MAHOMED KHAN
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. G. B.
 PRADHAN, Mr. R. G.
 PUNJABHAI THAKERSI, Mr.
 RAHIMTOOLA, Mr. HOOSENALLY M.
 SAHEBA, Mr. H. D.
 SAPTARSHI, Mr. C. M.
 SARDESAL, Mr. S. A.
 SAYED GHULAM NABI SHAH
 SAYED SHAHJADE SAHEB HAIDAR SAHEB
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. D.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order. Questions.

DRINKING WATER-SUPPLY AT RAILWAY STATIONS.

Mr. N. A. ABDULPURKAR (Sholapur City): Will Government be pleased to state—

(a) whether they are aware of the fact that there are no adequate arrangements for drinking water on several railway stations, especially small ones, of the different railway companies in the presidency?

(b) If so, do they propose to take any action in the matter ?

The Honourable Sir CHUNILAL MEHTA: (a) and (b) Enquiry is being made.

SUB-TELEGRAPH OFFICE FOR MANGALWAR PETH.

Mr. N. A. ABDULPURKAR (Sholapur City): Will Government be pleased to state—

(a) whether the Sholapur merchants had applied once to the Government telegraph authorities to open a new sub-telegraph office in the city in Mangalwar Peth ;

(b) if so, when they intend to undertake the work ?

The Honourable Sir CHUNILAL MEHTA: Information has been called for.

BOMBAY COTTON CESS.

Mr. S. T. KAMBLI (Dharwar District): Will Government be pleased to give in a tabular statement the total amounts of money received each year on account of the cotton cess duty imposed on cotton bales imported into Bombay from the year of imposition down to the end of 1924 with the following particulars, *viz.*:—

(a) the utilisation in each year of the proceeds of the said tax ;

(b) the place where the proceeds of the tax are invested in case the whole amount is not expended in any year ;

(c) the rate of interest at which the investment is made ;

(d) the cost of collection in each year ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: A tabular statement containing the information required is appended.*

(a), (b) and (c) The honourable member's attention is invited to the answer given by Government to part (b) of his question at the last session (*Vide* Vol. XV, page 882).

(d) The information is included in the statement appended.

MINIMUM QUALIFICATIONS FOR GOVERNMENT SERVICE.

Khan Sahab A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(a) what are the minimum qualifications for a clerk in Government service ;

(b) whether a duly qualified vernacular final candidate with knowledge of English up to standard VII is eligible for appointment as a clerk ?

The Honourable Mr. H. S. LAWRENCE: (a) As for educational qualifications, the honourable member's attention is drawn to Nos. II and III of the rules laid down in Government Notification, Educational Department, No. 1273-A, dated 3rd March 1921, a copy of which is placed on the Council table.† As regards other qualifications, the candidate must be physically fit and of good moral character.

(b) Yes ; to a vernacular office.

* *Vide* Appendix No. 51.

† *Vide* Appendix No. 52.

Khan Saheb A. M. MANSURI: Is the honourable member aware that a Mahomedan clerk having the qualifications mentioned, that is, the vernacular final examination, was sent away from the office of the Collector in Gujarat ?

The Honourable Mr. H. S. LAWRENCE: I do not know the reasons for his dismissal.

Khan Saheb A. M. MANSURI: Because he has not passed his matric.

The Honourable Mr. H. S. LAWRENCE: If the honourable member gives the necessary information, the Honourable the Revenue Member, will be able to do full justice to it.

KANNADA PANDIT IN THE KARNATAK COLLEGE.

Mr. S. A. SARDESAI (Bijapur District): Will Government be pleased to state—

(a) why the post of the Kanarese pandit in the Karnatak College has not been filled as yet ;

(b) whether it is a fact that the whole of the first term was spent idly by those students whose optional subject was Kanarese ;

(c) if so, why the post was not filled up before the commencement of the first term ?

The Honourable Mr. B. V. JADHAV: (a) The post was filled on 28th September 1925.

(b) The students had no instruction in Kanarese from 20th June 1925 unto 28th September 1925 when the post of Lecturer in Kanarese was filled as stated in the answer to clause (a) above.

(c) The status of the post was changed with effect from 20th June 1925. Another incumbent had to be obtained and time was taken in reconsidering his case and in finding out a more suitable person.

Mr. S. T. KAMBLI: May I know the name of the gentleman ?

The Honourable Mr. B. V. JADHAV: Mr. Kundanjar.

Mr. S. T. KAMBLI: What is his qualification ?

The Honourable Mr. B. V. JADHAV: M.A.

MOULVI RAFIUDDIN AHMAD: When was it proposed to change the status of this post ?

The Honourable Mr. B. V. JADHAV: In April.

MOULVI RAFIUDDIN AHMAD: Has it taken three months ?

Mr. S. A. SARDESAI: May I know how many persons applied for this post ?

The Honourable Mr. B. V. JADHAV: More than a dozen.

Mr. S. T. KAMBLI: What is the salary of this post ?

The Honourable Mr. B. V. JADHAV: I do not just remember.

POONA RAILWAY STATION GATES FOR THIRD CLASS
PASSENGERS.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state whether it is a fact that there are two gates for the use of third class passengers in the new railway station at Poona of which only one is kept open and the other is kept closed?

The Honourable Sir CHUNILAL MEHTA: The information has been called for.

ENTRY OF THIRD CLASS PASSENGERS ON POONA STATION
PLATFORM.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) whether it is a fact that third class passengers are allowed to enter upon the platform of the new railway station at Poona only 5 or 10 minutes before the time fixed for the departure of trains and till that time they are kept out waiting for admission;

(b) whether there is any rule fixing how long before the arrival of trains third class passengers should be allowed to enter the platform?

The Honourable Sir CHUNILAL MEHTA: (a) and (b) The information has been called for.

COMPULSORY VACCINATION.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) the number of prosecutions for refusal to vaccinate children instituted during the last two years in Hyderabad (Sind);

(b) whether it is a fact that resolutions have been passed by the Hyderabad (Sind) Municipal Council against the enforcement of the Vaccination Act;

(c) whether it is a fact that prior to the Act of 1919 the India Office intervened on several occasions on behalf of objectors to vaccination in India who were being prosecuted and stopped the prosecutions?

The Honourable Mr. B. V. JADHAV: (a) Information has been called for.

(b) Yes.

(c) The Government of India have from time to time brought certain correspondence of the Anti-Vaccination League with the India Office on the subject of compulsory vaccination in India to the notice of this Government.

Mr. N. A. ABDULPURKAR: May I know whether Government will make any further statement on the Sholapur rioting and whether Government intend to take any action in connection with it?

The Honourable Sir MAURICE HAYWARD: I am in a position to give further information. As for the casualties there were two Mahomedans killed, four Mahomedans injured, 4 or 5 policemen injured and 36 Hindus injured. There were probably some other cases treated at

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private dispensaries. The number is not actually known. Most of the injuries were inflicted not at the scene of actual rioting but in other places of the town. The enquiry into the firing is proceeding and it has not yet finished. Reinforcements of police have been received and no further trouble is now anticipated. A further report on the completion of the enquiry into the responsibility for firing will be submitted in due course to Government.

Mr. R. G. PRADHAN : May I know by whom the inquiry is being made ?

MOULVI RAFIUDDIN AHMAD : The Honourable the Home Member stated that persons were injured in other parts of the city, besides the scene of the riot. Are we to understand that firing took place at random in other parts of the city also ?

The Honourable Sir MAURICE HAYWARD : There was no firing except at the scene of the riot.

MOULVI RAFIUDDIN AHMAD : Then how were these injuries caused ?

The Honourable Sir MAURICE HAYWARD : They were caused probably by sticks or stones. There is no full information before Government.

Mr. N. E. NAVLE : With regard to the statement made by the honourable member Mr. Lalji Naranji that some Hindu women were molested, may I know whether Government intend making any inquiries into the matter ?

The Honourable Sir MAURICE HAYWARD : I have no information as to that fact at present ; but full inquiries will be made by Government.

Mr. NOOR MAHOMED : To which caste the police inspector and the city magistrate belong ?

The Honourable Sir MAURICE HAYWARD : The city magistrate is a Hindu and I am not aware of the community of the police inspector. The District Magistrate and the Superintendent of Police are Europeans.

MOULVI RAFIUDDIN AHMAD : Who were fired at : whether Hindus or Mahomedans ?

The Honourable Sir MAURICE HAYWARD : I have no information on that point.

BILL No. IV OF 1925 (A BILL TO ENABLE THE HINDUS OF SIND TO RESRICT THEMSELVES TO MONOGAMOUS MARRIAGES).

(As amended by the Select Committee.)

The Honourable the PRESIDENT : Bill No. IV of 1925. Mr. D. B. Adwani. (The honourable member was absent). The bill drops.

BILL No. VIII OF 1925 (A BILL FURTHER TO AMEND THE 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.)

Mr. D. R. PATIL (East Khandesh): Sir, I present the report* of the select committee.

The Honourable the PRESIDENT: The report of the select committee is presented.

Mr. D. R. PATIL (East Khandesh): Sir, I move that Bill No. VIII* of 1925 be read a second time. When I introduced my original bill, I wanted thereby to invest the police patel with the power of inflicting fine also for cases under section 14, that is for petty assault or abuse. My object in investing the patel with this power of fine is that in cases where he is convinced that the convicted person is a person of respectability he should be given the option to fine him, as under the present law in the event of conviction there is no other alternative but to pass the sentence of confinement. But, Sir, when the bill was referred to the select committee my contention was not upheld. I do not make a long speech now about that, but when the amendment is moved I am sure I will be able to satisfy the House that my demand was reasonable.

Question proposed.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the second reading of the bill. The Village Police Act enacts that persons who have committed petty assaults and abuse may be confined by the police patel in the village *chawli* for the period of a certain number of hours, provided the complaint is made within seven or eight days. The honourable mover of the bill wanted to invest the police patel with the power of inflicting fines in the alternative. The select committee have made two important changes in the bill. They have reduced the period within which the complaint can be made from eight days to 24 hours. That, I think, is a right step taken by the select committee. With regard to the power of the police patel they have omitted the word "confinement" and substituted therefor the word "detention". By this change the select committee has continued unaltered the power of the police patel to detain a person accused of petty assault or abuse in the village *chawli* for a certain period of hours. But with regard to the alternative power of inflicting fine, I beg to submit the select committee have not met the desire of the House. It would have been desirable if the police patel had been given the power of inflicting fine as an alternative or in lieu of a sentence of detention. I hope that point will be fully discussed when the bill is read clause by clause. With these words, I support the second reading of the bill.

Mr. R. D. SHINDE (Nasik District): I think, Sir, that the object of the honourable mover of the bill has been to a certain extent frustrated

**Vide* Appendix P.

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by the labour of the select committee, in so far as the option of levying a fine to the extent of Rs. 5 has been omitted. As has been pointed out, in a certain number of cases when the police patel finds that certain persons have committed petty assaults or abuse and there is evidence to show that they have committed the offence, then there is no option left to the police patel except to confine those offenders in the village *chavdi*, a punishment which is generally looked upon as a social obloquy, and it was to prevent such a state of affairs that the honourable member from East Khandesh had introduced his bill, under which the police patel could discriminate between offenders and offenders and inflict a punishment of fine, when, in his opinion, imprisonment in the village *chavdi* for a certain number of hours would not be desirable. My submission to this honourable House is that they should not accept that finding of the select committee. As regards also the period within which complaints to the police patel shall be made, I think, Sir, the recommendation of the select committee has been retrograde. Up to this time the period within which complaints had to be made to the police patel was eight days. The select committee has reduced it to 24 hours, which, in my opinion, is too short. It will hardly give time to persons who have to make complaints against villagers, and I think this will also increase the work before the stipendiary magistrates, because if any person is not able to lodge a complaint with the police patel within 24 hours after the occurrence of the offence he will have to go a considerable distance to lodge a complaint before the stipendiary magistrate and in that way litigation in the criminal courts will be increased. In those particulars the select committee's report does not meet with my approval. With this reservation, I support the second reading of the bill.

Mr. L. S. CHAUDHARI (East Khandesh District): I rise to support the second reading of the bill. When the first reading was moved, there was one amendment moved by the honourable member, Mr. Joshi, and I supported that amendment. That amendment was to the effect that instead of the punishment of confinement, the punishment of fine only should be inflicted. As that amendment failed on that occasion, I think it my duty to support the original bill, namely, to invest the police patel with the alternative punishment of fine. The select committee has not accepted the whole object of the honourable mover of the bill. I think that when this bill is considered clause by clause, the original intention should be carried out.

Mr. S. A. SARDESAI (Bijapur District): Mr. President, the select committee, I think, was not right in omitting the option of fine. In my humble opinion, the option of fine is quite necessary. In this connection, I am glad to tell the House that the whole class of patels in the Bombay presidency is highly obliged to the Honourable Sir Maurice Hayward for declaring in this House that this power (of confinement) should be given to the patels and that if that power is taken away the whole class of patels would resent. That is what Sir Maurice declared on behalf of Government last time, and the whole class of patels are obliged to Government and to Sir Maurice Hayward for that. As for this option

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of fine, it is absolutely necessary in the interests of justice, because in some cases the patel might think that an accused should not be confined but only sentenced to a punishment of fine. I think, therefore, that the decision of the select committee should not be upheld and the option of fine should be embodied in the bill. With these few remarks, I beg to support the bill.

Mr. S. K. BOLE : Sir, I rise to support the second reading of the bill. As the bill has emerged from the select committee, it provides only that the patel shall be possessed of the power of confining, but I think it is better that he is also invested with the power of inflicting a fine instead of detention. That will be an improvement in the right direction. With these words, I support the second reading of the bill.

Mr. NOOR MAHOMED (Hyderabad District) : Sir, I beg to support the second reading. The amendment which has been suggested is very reasonable and I hope the Honourable the Home Member will accept it and restore the clause as it originally stood.

Mr. M. S. KHUHRO (Larkana District) : Sir, I also support my honourable friend Mr. Patil. As Government have already agreed to invest the police patel with the power of detaining a person in the village *chavdi*, I think they should also agree to give them the power of inflicting fine.

The Honourable Sir MAURICE HAYWARD : Sir, I suggest that we should now get on with the clause by clause reading, because we are not particular about this one way or the other.

Mr. J. BAPTISTA : Sir, I had a mind to speak on the subject, but after the observation of the Honourable the Home Member, I shall refrain from doing so.

Mr. D. R. PATIL : Sir, I thank all honourable members who have approved of my amendment. Of course I shall deal with it at length at the proper time.

Bill read a second time.

Question put and motion carried.

(Bill read clause by clause.)

Clause 1 (*Short title*) ordered to stand part of the bill.

Clause 2 (*Amendment of section 14 of Bombay Act No. VIII of 1867*) :

In section 14 of the said Act for the word "confinement" substitute the word "detention" and for the words "eight days" substitute the words "twenty-four hours".

Mr. D. R. PATIL (East Khandesh District) : I beg to move the following amendment to clause 2 which stands in my name :—

Delete the whole clause and substitute the following in its stead :—

"In 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 and in default of payment thereof with confinement which may extend to twelve hours or' shall be added."

[Mr. D. R. Patil]

Sir, the first thing that I want is that the village police patil should be invested with the optional power of fine. The second is that the word "detention" should be removed and the original word "confinement" be restored. The third thing is that the original period of 8 days for lodging a complaint should be retained. Sir, I will take up the first point, namely, the question of fine. From the days of the Marathas and the Peshwas the patil is the head of the village and he is made responsible for the village administration. Even the honourable member Mr. Mountford will support me when I say that the village patils are really good administrators, even with small remuneration. They are really in charge of peace and order. The object of giving the village police patil the power of confinement in the original Act was that so far as petty offences were concerned the persons concerned should not be required to go to courts and fight out their cases spending a lot of money. Thus the power of confinement was conferred upon the patil. He has been using this power for a long time and no case has been made out that he has been oppressive. Even when the police patil is satisfied that the convicted person is a respectable man he is bound under the present law to order the confinement of that convicted person in the village *chavdi*. If my bill is passed, the police patil can discriminate between accused and accused and will be able to pass either the sentence of confinement or of fine according to the merits of the particular case. Even three District Magistrates are in favour of allowing this power of fine to police patils. I am sure the honourable member Mr. Mountford will be kind enough to make a speech. As a Commissioner, he knows the value of the work of these police patils and while once discussing the village administration he had expressed his view that the village police patils were good administrators. There are no reasons to think that the police patils have misused their powers. I know that there is one section, namely, section 15, where particular patils are allowed to inflict fine to the extent of Rs. 5. The power to inflict fine under discussion is one meant for every village police patil. So I would very gladly accept that the maximum fine should be Rs. 2 or something of that kind under section 14. This is so far as the question of fine is concerned.

Now, I will deal with the word "confinement". Even if we look up any law, we shall never come across the word "detention" in any section prescribed as punishment. The Indian Penal Code does not have it. There the punishment is described as "sentence of imprisonment or fine, etc." So "detention" as punishment is unknown to any legal enactment. Not only that, but I may go further and say that "detention" as punishment is a word against legal decency. I am sure that my point will be appreciated by the Honourable Leader of the House. He had been a judge of the High Court and if he says "detention" will do I shall be glad to accept his word. But according to my submission "detention" is not suited to legal decency. If, anyone were to argue that there is no difference between "confinement" and "detention" and both are really synonymous, then, Sir, there is no sense in substituting the word detention for confinement. Detention is the result of sentence

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of confinement and therefore, Sir, I strongly oppose the use of the word "detention" for "confinement".

As regards the period of eight days, I have no objection to accept the period of four days which the honourable member, Mr. Shinde, suggested.

The Honourable the PRESIDENT: The honourable member Mr. Shinde, suggested two days and not four days.

Mr. D. R. PATIL: I would accept two days. Before concluding I would like, Mr. President, that you will be pleased while putting my amendment before the House to take votes separately on the three points proposed by me. With these words, I hope the honourable House will accept my amendment.

The Honourable the PRESIDENT: I understand the honourable member wishes that the three points in the amendment should be separately put to vote. But the honourable member need not in the course of his observations discuss them separately.

Mr. D. R. PATIL: That was my idea, and I have to say nothing more now.

The Honourable the PRESIDENT: I take it that the honourable member wishes that the three points involved in the consideration of this amendment, namely, whether after the words "to punish" the words "by fine" should be inserted or not, whether the word "detention" should be substituted for the word "confinement", and whether the expression "24 hours" should be changed into "eight days", should be put to the House separately when the amendment comes up for voting. These three issues will be put before the House separately, though the amendment will be discussed as a whole. Honourable members who are in favour of any one or more of the three issues will be given an opportunity of recording their votes separately.

I notice that the honourable member Mr. Shinde has also an amendment to this clause. As far as I have been able to find out, the only difference between the amendment put by the honourable member, Mr. Patil, and the one tabled by the honourable member, Mr. Shinde, is that instead of "24 hours" "two days" should be substituted. If he wishes to move it as an amendment to this amendment, I will allow him to do so.

Mr. R. D. SHINDE (Nasik District): I beg to move, Sir, the following amendment:

Delete the whole clause and substitute the following in its stead:

"The police patil shall have authority to try and on conviction to punish with confinement in the village *chalis* for a period not exceeding twenty-four hours or with fine not exceeding five rupees and in default of payment thereof with confinement which may extend to twelve hours any person charged with committing within the limits of the village petty assault or abuse provided the charge be laid within two days of the offence having been committed."

I move this as an amendment to the amendment moved by the honourable member, Mr. Patil.

Mr. D. R. PATIL: I accept the amendment, Sir.

The Honourable Sir MAURICE HAYWARD : I suggest the wording of the honourable mover as the better wording, and all that the honourable member might suggest is that for the words in the original amendment substitute "two days" for "eight days".

Mr. R. D. SHINDE : I accept the suggestion of the Honourable the Leader of the House.

The Honourable the PRESIDENT : The honourable member may move it as an amendment which the honourable mover is, I understand prepared to accept. The only difference between the amendment of the honourable member, Mr. Shinde, and the one that has been proposed by the honourable member Mr. Patil, is that instead of the words "twenty-four hours" as appearing in the select committee's report....

The Honourable Sir MAURICE HAYWARD : It would go like this, Sir : To add to the amendment proposed the words "For the words 'eight days' substitute 'two days'.....

The Honourable the PRESIDENT : That is not what I was referring to. What I wanted to say was that I understand the mover of the amendment is agreeable to amend his amendment by inserting, "two days" instead of "eight days". That being so, I will ask the honourable members whether they will consent to allow the honourable mover to amend the amendment accordingly.

Question put and leave granted.

The Honourable the PRESIDENT : I take it, therefore, that the honourable member, Mr. Shinde, does not wish to press his amendment.

Mr. R. D. SHINDE : No, Sir. I heartily support the amendment.

The Honourable the PRESIDENT : In order to remove all possibility of misunderstanding, I take it that the honourable member, Mr. Patil, agrees to substitute the words "two days" for the words "twenty-four hours" and to add that to his amendment. I take it that no one objects to permit the honourable member to amend his amendment accordingly.

Question put and leave granted.

The Honourable the PRESIDENT : Now, let the discussion proceed.

Mr. S. A. SARDESAI (Bijapur District) : Mr, President, it gives me great pleasure to support the amendment moved by my honourable friend Mr. Patil, because I have got patilki watans and kulkarni watans. I am both a patil and a kulkarni and also a sardesai. As I have got jahagirs in these three respects, I am proud to support this amendment and it would not be exaggeration if I say that these patils are very dignified persons. Whether you look to the Peshwa Government or to the Badshahi Government, these patils were very dignified persons. They had the power of increasing or decreasing the revenues and they were endowed with powers to try persons accused of several crimes. So I suggest that the British Government will also give them some dignified status and social position.

As for the amendment in question, I am completely against the word "detention" and I think that the word "confinement" should be

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substituted. We may detain anybody. We sometimes detain the Collector or any other person for various reasons when they pay us private visits. So "detention" may mean anything. It is a very bad word in the English language (Laughter). Therefore, "confinement" should be substituted. As for the other part in the amendment, to substitute 'two days' for 'eight days', that is alright. As for the amendment which provides for a fine of Rs. 5, that also is alright, and even with this little fine of Rs. 5 the patils will be content. I wholeheartedly support this amendment. I think that this bill, even so amended, is not in a perfect condition and in the further stages I will try to amend this Act probably in the next session. With these few remarks, Sir, I beg to support the amendment.

Mr. L. J. MOUNTFORD: Sir, after the lucid speech which has been delivered by the honourable member from Bijapur, there is not very much left for me to say. But I would like, in the first place, to impress upon the House, especially upon members who come from the cities, the amount of work which falls on a village patil, a man of whom we have heard a great deal during the last session. He is asked to maintain law and order in the village and must have the necessary power to do so. Now, in very many talukas we have large unprotected areas, no police stations and no police posts, and there the work of law and order falls upon the humble patil. The patil is a man who has been in charge of the village for generations long before our present rule. He is a man who was, in the days of the Peshwas, entrusted with the authority of collecting revenue and of punishing crimes, and he is a relic of the old system of the village community which this House is so jealous to maintain. Now, the duties of the patil and his responsibilities are very great, and his powers must be, therefore, also great to cope with those responsibilities. In the first place he controls the entire village establishment and upon him lies the duty imposed by law of taking precaution against commitment of robbery, breach of peace, etc. He acts therefore as the local police officer. In the case of every crime against property if the perpetrator cannot be found, he has to immediately call attention of the police to the offence. He must follow the perpetrator of that crime even outside the precincts of the village and when the perpetrator is found he has to bring him to justice. In the case of unnatural or sudden death, upon him lies the duty of holding an inquest upon the corpse and he must send for the police or a civil surgeon, and he must take proper measures to dispose of the dead body. He has power to arrest under section 12 anyone who, he considers, has committed a serious offence. This is the man who, we are told, ought not to have the power to fine a person a few rupees. He has authority to call and examine witnesses. He is a man who wields great authority and influence in the village. Yet he is not to be given power even to fine. Under section 13 he administers oaths. He has power to search for property and pursue criminals outside the boundaries of his village. In the case of unclaimed property which is frequently found in every village, it is the business of the patil to take charge of that unclaimed property and, as an

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honest man, to hold it until the proper owner is found or to hand it over to the courts for disposal.

What does he get for performing all these responsible and necessary duties? He gets, first of all, a high position in the village. His emoluments are small, but you will be told by any district officer that at any time, when there is a vacancy among patils, there are several claimants for that post. The high position and power which a patil enjoys in a village is sufficient to compensate him for the enormous responsibility and task he has to undergo. I may be told by some cynics that possibly there is probably a good reason why people should be desirous of obtaining a post so poorly paid. I would like to say that the patil works under the fiercest light possible which beats down upon the head of anyone. He works under the fiercest light of village criticism in a small village where there are rivals on all sides who are prepared to snap him up at any moment and where the rivals are watching him as keenly as could be imagined in case he makes any false step. He is not a man who holds his court in camera but he is a man who holds his court in the open village and any mistake he ever commits comes immediately to the notice of the District Magistrate.

If a patil has to perform his duties properly and if he has to obtain the assistance of villagers in the performance of those duties, it is necessary that he must be given the power to fine those who disobey or misbehave. I do not press for large fines in villages; we are not dealing in villages with millionaires but we are dealing with small people for whom a fine of Rs. 2 is ample. That is all we need to start with; we only want the patil to have the power to fine to the extent of rupees two.

A patil has not only to look to the safety of life and property in his village but also to look to the safety of the health of the village. A patil has to make a report on the very first appearance of any epidemic, either among humans or among animals, to enable us to at once apply proper remedies by sending for doctors or veterinary assistants in order to deal with human or cattle disease.

All the records and statistics of disease that go to the Government of India and are eventually laid upon the table of the Houses of Parliament are compiled by whom? By the village patil. He is the man who sends up the material for our returns. It is true that these returns are checked by the sanitary authorities but the patils have by long experience and practice become fair y proficient in these matters, although they cannot be looked upon as experts. I know a case where Sanitary Commissioner held a patil to blame for an epidemic of cholera, which as you know is not easy to distinguish because the patil failed to notify the occurrence of the first case of cholera in his village and reported it merely as bowel complaint. This is the man who has to look after the sanitation and even after such events as births and deaths in his village.

We heard the other day at the Government House Dr. Mann holding forth upon the desirability of a perfect and a happy village. We all wish that a village should be a place where peace, prosperity and progress reign supreme. The best way to bring about and maintain such a

[Mr. L. J. Mountford]

happy condition in a village is to have a man there who can preserve law and order and control the residents of his village. This he cannot do successfully unless he has the power to enforce his orders. We do not wish to give him power more than is absolutely necessary to ensure that he will be listened to and obeyed; the more power we give him, the more influence he will be able to command if he is eventually to be able to lead us towards that happy time when village factions will be no more and all discord and strife will be at rest.

Mr. J. BAPTISTA (Bombay City, North): Sir, I have listened with great interest to the able speech made by the honourable member, Mr. Mountford. It is quite clear from that that a village patil is a very venerable institution and has very arduous duties to perform. But under the Act as it exists at present a patil can confine but cannot fine. The object of this bill is to give him the option either to fine or to confine. Now, Sir, I should have thought that the power to confine was a larger power than the power merely to impose a fine. A patil who can be entrusted with the larger power of confining a man can surely be entrusted with the smaller power of fining him. The fine that he may impose is not exceeding five rupees. I am sorry and surprised to find that the honourable member, Mr. Mountford, wishes to limit the power to fine to only two rupees. From the speech he has made I should have thought that he would have given the patil the power to fine up to Rs. 50 instead of Rs. 2. I have risen to speak merely to appeal to Government not to oppose the amendment. It is consistent with the power that is usually conferred on magistrates, namely, the power of fining or confining, that is to say, sentencing a man to imprisonment. I do not know what the distinction is between confinement and detention. It may be that the word "detention" is milder and does not mean that the man can be placed in a dark room or a cell or something of that kind which may be derogatory to the dignity of the person who is convicted. I have never come across the word "detention" used as a word of punishment. Up to now I have not seen in any criminal code the word "detention" used by way of punishment. I have seen the word "detention" used as the definition of some offence under the Indian Penal Code but not as punishment. Sir, I am not quarrelling with the words. I agree with Shakespeare that "a rose by any other name would smell as sweet". I think, Sir, that it is necessary that this option of fining should be given to the patil. I do not think we should insult the patil by fixing the maximum limit at Rs. 2. I hope this House will accept the amendment.

Mr. A. MONTGOMERIE: Sir, I am afraid that there are many people in the villages who would quarrel with the honourable member. Mr. Baptist's idea that Rs. 5 is a very moderate amount to be inflicted as a fine. I think if Mr. Baptist knew more about village life, he would realise that five rupees, at least to a villager out in a village in the Deccan, is a very large sum and that it means several days wages to him. I think that in the select committee it was generally recognised that that was so. The power of fining Rs. 5 is a very considerable

[Mr. A. Montgomerie]

power indeed, and it would be very much better if the honourable mover would be prepared to substitute Rs. 2 for Rs. 5.

With regard to the word 'detention', I am very grateful for the lessons I have received in the use of my own language. It was I who suggested the word 'detention' as more likely to bring the section into relation with the actual facts as they exist. Ordinarily, a patil exercising this power does not confine a man in the *chavdi*, or confine him in a cell. What he does is to tell the man "Look here, you have been abusing so and so by his mother and sisters, you sit there until I have finished with the kulkarni doing the collections, and then when I have finished you can get out". That is the actual sort of thing that occurs. It is actually detention. It is in no way confinement. However, I do not quarrel with the word 'confinement' in any way. The word 'detention' as a matter of fact is used in penal enactments in India and England, but I do not stand for it particularly. But, at the same time, I would ask the honourable member to accept Rs. 2 as a proper fine. It really deals with the most petty offences in the village, and Rs. 5 to a villager is undoubtedly a very serious fine indeed. If the honourable mover of the amendment would accept Rs. 2 instead of Rs. 5, I shall have no quarrel whatever with his amendment.

Mr. D. R. PATIL : Sir, I have great pleasure in accepting the suggestion made by the honourable member the Home Secretary, and I accept the amendment to substitute Rs. 2 for Rs. 5.

Question put and leave granted to the honourable member to amend his amendment accordingly.

The Honourable the PRESIDENT : I made a suggestion to the Honourable the Leader of the House that, as this is a matter of legislation, and as the first amendment has been amended by the amendment of the honourable member Mr. Shinde, and then by the suggestion that the honourable member the Home Secretary made, it would be much better if the language was settled by Government. An amendment in legal language may be substituted for the amendment which the honourable member wishes the House to pass.

The Honourable Sir MAURICE HAYWARD : Sir, I suggest that the amendment should be in these words :

"In section 14 of the said Act, after the words 'to punish' and before the words 'with confinement' the words 'with fine not exceeding Rs. 2 and in default of payment thereof with confinement which may extend to 12 hours or' shall be inserted, and for the words '3 days' the words '2 days' shall be substituted".

The Honourable the PRESIDENT : I take it that the House is agreeable to allow the honourable member to substitute this amendment for the amendment which is now before the House. The amendment in that form is now before the House for consideration.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I was a member of the select committee, of which my honourable friend the Honourable Leader of the House was the chairman. I do not rise to

[Moulvi Rafiuddin Ahmad]

oppose the motion, but only to make a few observations regarding one aspect of the question.

☞ The other day when some honourable members desired that the report of the select committee of the Improvement Trust Transfer Bill should be accepted by Government with some fresh amendments the Honourable Leader of the House laid down a dictum that there was something sacred in the report of the select committee, which prevented its being amended without any protest from him. But in this bill the report of the select committee is being amended with his consent which is very strange. I know not whether it was the speech of the honourable member the Commissioner, Southern Division, as magnifying the patel into a governor of the village, or whether it was the witty speech of my honourable friend the honourable member Mr. Baptista, or whether it was the clever canvassing of my honourable friend the honourable member Mr. Patil, which has led the Government itself to propose this amendment. What has happened, I do not know. But it is astonishing that the chairman of the select committee has no explanation to offer for this sudden change nor has the honourable member the Home Secretary at whose insistence the select committee modified the bill, has anything to say. Under the circumstances, I shall not come in the way of the amendment being accepted.

Mr. D. R. PATIL: I have nothing to add.

The Honourable Sir MAURICE HAYWARD: I have nothing to add.

Question put

In section 14 of the said Act, after the words "to punish" and before the words "with confinement" the words "with fine not exceeding Rs. 2 and in default of payment thereof with confinement which may extend to 12 hours or" shall be inserted, and for the words "8 days" the words "2 days" shall be substituted.

and carried.

Clause 2, as amended, ordered to stand part of the bill.

The preamble ordered to stand part of the bill.

The Honourable the PRESIDENT: That concludes consideration of the bill clause by clause.

Mr. D. R. PATIL: Sir, I move that Bill No. VIII of 1925 (A Bill further to amend the Bombay Village Police Act, 1867) be now read a third time.

Third Reading.

Question proposed.

Mr. S. A. SARDESAI (Bijapur District): Sir, I have great pleasure in supporting the third reading of this bill.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT: The bill is now read a third time and passed.

**BILL No. X OF 1925 (A BILL FURTHER TO AMEND THE
BOMBAY HEREDITARY OFFICES ACT, 1874.)**

(As amended by the Select Committee.)

Mr. D. R. PATIL (East Khandesh District) : Sir, I present the report of the select committee on Bill No. X of 1925 (a Bill further to amend the Bombay Hereditary Offices Act, 1874).

The Honourable the PRESIDENT : The report of the select committee is presented.

Mr. D. R. PATIL : Sir, I rise to move that Bill * No. X of 1925 (a Bill further to amend the Bombay Hereditary Offices Act, 1874) be read a second time.

Second Reading.

Question proposed.

Mr. S. T. KAMBLI (Dharwar District) : Sir, I rise to support the second reading of the bill. The select committee has made certain alterations in the bill which meet with the wishes of the mover of the bill to a certain extent. There are some amendments which are tabled with regard to the various clauses in the bill as modified in the select committee. These amendments raise important questions with regard to the right of Government to forfeit the life interest or the whole interest of the representative watandar for the fault of the deputy. I will not deal with the merits of the amendments now, but will reserve my criticism with regard to them at the time when those amendments are moved. With these words, I support the second reading of the bill.

Mr. S. A. SARDESAI (Bijapur District) : Sir, I rise to support the second reading of this bill, and I should like to make a very few remarks on this subject. I think the select committee has not met with the wishes of the honourable mover or of this honourable House, and in order to make this bill perfect many amendments are necessary. The Government, it seems, are very anxious to retain their powers of attaching the property of the original watandar patel. Although this privilege has been enjoyed by Government for a very long time, I think it is high time that they should show some concession to these watandars. I do not object to punishing the man actually guilty ; but my contention is that the watandar should not be punished for the fault of his deputy, which I consider to be not equitable. In many countries such things prevailed. Even in England three hundred years ago the lawyers were held responsible for the correctness or otherwise of the statements made by their clients. Those days are gone and now-a-days lawyers are not so held responsible for the incorrect statements of their clients. In this very Council some discussion took place some years ago upon this subject ; but Government did not then think it proper to agree to the view that the watandar should not be punished for the fault of his deputy. Now, it is high time that the Government should show some concession ; but I am not against punishing the watandar who is really concerned in the crime. If the original watandar is punished for the fault of his substitute,

* *Vide* Appendix Q.

[Mr. S. A. Sardesai]

it is really doing the original watandar a great injustice. Now-a-days a good many things which existed before have disappeared. Supposition is one thing and practice is another. For instance, some years ago, in England, the profession of barristers was said to be an honorary one. The barristers were looked upon as men who were to do some honorary duties by appearing in court on behalf of clients and getting them justice. These barristers were clergymen and they used to appear in court in their ecclesiastical robes and perform the honorary duty of obtaining justice for their clients. Now, this system has disappeared. In a similar manner a good many things have disappeared. Now, barristers are receiving remuneration for appearance in courts on behalf of their clients. In the same manner, still to retain the law on the statute book which inflicts punishment on the watandar patel for the fault of his substitute is a mistake and the sooner it is taken out of the statute book the better would it be for the public. I humbly request Government to do away with this sort of thing and amend the bill accordingly. I heartily support the bill moved by my honourable friend the honourable member Mr. Patil.

Mr. L. S. CHAUDHARI (East Khandesh District): Sir, I support the motion before the House that the bill be read a second time. From the speech of the honourable member Mr. Mountford, it will be evident to the House what an important position the patel holds in the village, and therefore how important the question of watan is. Looking to the importance of his position, it is only desirable that his dignity and his position should be maintained. The object of this bill is to keep up that dignity, which was taken away by the old Act. The principle underlying the bill that is before the House came up for consideration in the old Council in the nineteenth century. But that view was not acceptable to Government then. Fortunately for patels this bill has been introduced by my honourable friend, and it has become acceptable at this stage. The underlying principle of this bill is that one man should not be punished for the fault of another. In order to achieve this object, all the clauses of the present bill are proposed to be incorporated in the old Act. Reserving my remarks till the bill comes up for discussion clause by clause, I support the second reading of the bill.

Mr. D. R. PATIL: I have nothing more to say.

Bill read a second time. Question put and carried.

(Bill read clause by clause.)

Clause 1 (*Short title*) ordered to stand part of the bill.

Clause 2 (*Amendment of section 60 of Bombay Act No. III of 1874*):

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", 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,

“(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 watanar also of the representative watanar.”

Mr. D. R. PATIL (East Khandesh): Sir, I beg to move the following amendment:

In clause 2 (a) delete the words “any watan in which he has interest” before the words “Such forfeiture may be” and insert in their stead the following “the interest in the watan of the person convicted”.

Sir, under the Watan Act, the provision is that if the deputy commits any of the offences mentioned in section 60, the watan of the watanar is liable to be forfeited. When this bill was referred to the select committee, a great improvement has been made to this extent that the forfeiture of the watan will be operative only when the deputy of the representative watanar commits an offence against the State, mentioned in Chapter VI of the Indian Penal Code. I regard this as a great improvement. But my contention is that if the representative watanar is not proved to be guilty of any offence against the State in a court of law, and his act falls short of abetment of State offence but comes under the proviso to clause 3, no more than his life-interest in the watan should be liable to be forfeited. To that effect an amendment has been given notice of by my honourable friend Mr. Navle. Sir, the forfeiture of a watan is a serious thing. I quite admit that the State should be given the right to forfeit that watan, whose watanar has committed an offence against the State. But when that offence is not proved in a court of law, there should be no forfeiture of watan. The proviso to clause 3 says:

“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.”

Clause 3 is a little safeguard but it is not a proper safeguard. If Government want to forfeit the whole watan or part thereof, then let them drag the watanar to a court of law and prove the State offence against him. If by means of departmental enquiry Government find that he has previous knowledge of or connived at the offence of his deputy, then his life-interest can be forfeited. When Government cannot prove any State offence in a court of law, but are convinced only after a departmental enquiry, then they should not go the length of forfeiting the whole of the watan, but should punish the watanar with only forfeiting his life-interest. That is my submission so far as this amendment is concerned. By proposing this amendment, what do I demand? I grant to the State the right of forfeiting the watan if any offence against the State is proved against a watanar, but if Government cannot prove that offence they should not forfeit the whole watan, because it is not the property of one person but of so many persons born and unborn. I am willing to give even much more latitude to the State, and I am ready to drop my amendment in favour of Mr. Navle's which is acceptable to me. My amendment is to the effect that if the watanar is not proved to be guilty in open court, the forfeiture of his watan should not be directed but I am willing to go further and say that even if Government do not prove any

[Mr. D. R. Patil]

state offence in an open court but are only satisfied after a departmental enquiry that the offence has been committed, then let them forfeit the life interest only of the guilty person. My amendment is very reasonable, of course taken along with Mr. Navle's amendment. This present amendment is only so far as clause (a) is concerned. As regards clause (b) I shall deal with it afterwards.

The Honourable the PRESIDENT: The honourable member is perfectly cognizant of the procedure. He has been called upon to move his first amendment.

Mr. D. R. PATIL: Sir, I move the first amendment. If Government is pleased to accept the amendment of Mr. Navle, I also shall be very glad to accept that.

Question proposed.

Mr. N. E. NAVLE (Ahmednagar District): Sir, I have great pleasure in supporting the amendment moved by my honourable friend Mr. Patil. Sir, the honourable member has rather confused the matter. His amendment deals only with one thing. For the words "any watan in which he has interest" he wants to substitute "the interest in the watan of the person convicted". (Mr. D. R. Patil: I have said so.) I think, Sir, he ought to have restricted his remarks to that amendment.

I wish to place a few remarks before this House in this connection. At present the state of things is this: when a representative watan is convicted of any offence under chapter VI, which deals with State offences, then the whole watan is forfeited. That is rather hard upon the watan. For the fault of one representative watan, the generations that come after him are deprived of their interest in the watan. At the most the punishment should be only forfeiture of the life interest of the person convicted. For his fault to punish all his descendants and all the future watan-dars that are to succeed him is rather too harsh a punishment. I think the amendment proposed is reasonable and I hope it will be accepted by the House.

The Honourable the PRESIDENT: I have asked the honourable member to move his amendment as an amendment to the honourable member Mr. Patil's amendment.

Mr. N. E. NAVLE: Sir, I beg to move (as an amendment to the amendment moved by the honourable member Mr. D. R. Patil):

In clause 2 line 15 delete the words "any watan in which he has an interest" and insert for them the following "the interest in the watan of the person convicted. But if the representative watan-dar is a person other than the person convicted, the forfeiture shall extend only to his life interest in the watan, if the Governor in Council is satisfied that he had a previous knowledge of or had connived at the commission of the offence proved against his deputy".

Sir, my amendment deals with and covers all cases. Where a representative watan-dar has allowed his deputy to commit an offence under chapter VI, or he has previous knowledge of, or has connived at, his deputy's offence, then in that case his life interest should go and not the whole watan. Clause 2 (a) as it stands is rather hard upon watan-dars,

[Mr. N. E. Navle]

as I have already stated, because all the successors of the representative watandar are made to lose their future share in the watan property. Therefore, I have provided that if he had a previous knowledge of, or had connived at, the commission of the offence proved against his deputy, then his life interest only should be forfeited. I have also provided that this need not be proved in a court of law, but only that the Governor in Council should be satisfied officially that the representative watandar had previous knowledge of, or had connived at, the commission of the offence proved against his deputy. I hope therefore, Sir, my amendment will be accepted by the House.

Question proposed.

Mr. D. R. PATIL (East Khandesh District): Sir, I accept the amendment of my honourable friend Mr. Navle.

The Honourable the PRESIDENT: The best procedure would then be for the honourable member to ask the permission of the House to withdraw his amendment in favour of the amendment proposed.

Mr. D. R. PATIL: Sir, I beg permission to withdraw my amendment in favour of my honourable friend Mr. Navle's amendment.

Question put and leave granted.

The Honourable the PRESIDENT: The amendment is by leave withdrawn. Mr. Navle's amendment is now before the House.

Mr. E. CLEMENTS: Sir, may I be permitted to point out that this amendment is rather badly worded? The clause as proposed reads:—

"If the offence is as is described in Chapter VI of the Indian Penal Code, direct the forfeiture of the whole or any part of the watan of the person convicted. But if the representative watandar is a person other than the person convicted the forfeiture shall extend only to his life-interest in the watan, if the Governor in Council is satisfied that he had a previous knowledge of or had connived at the commission of the offence proved against his deputy."

The forfeiture where it appears a second time is a different thing from the forfeiture first mentioned. I would propose that the amendment should be in the following form:—

After the word "forfeiture" insert the words "either absolute or for such period as the Governor in Council thinks fit". Then for the word "he" in line 15 substitute the words "person convicted". Then delete the words "such forfeiture..... thinks fit" and substitute the words "and may if the person convicted be other than the representative watandar also direct the forfeiture of the life interest of the representative watandar."

The Honourable the PRESIDENT: May I make a suggestion to the honourable member, the Remembrancer of Legal Affairs? It is difficult for honourable members to know the amendment in that way. I should like him to write down the amendment he suggests, so that I can read it to the House to enable honourable members to follow it.

Mr. E. CLEMENTS: I am not bringing in a fresh amendment, but it is only a fresh draft. I must explain first of all that the provision regarding the Governor in Council being satisfied as regards previous knowledge is covered by clause 3 of this amending bill and so I have omitted it. My draft of the amendment would read:

"If the offence is as is described in Chapter VI of the Indian Penal Code, direct the forfeiture either absolute or for such period as the Governor in Council thinks fit, of the

[Mr. E. Clements]

whole or any part of any watan in which the person convicted has an interest, and may if the person convicted be other than the representative watandar also direct the forfeiture of the life interest of the representative watandar.

Mr. N. E. NAVLE : I accept the amendment.

The Honourable Sir CHUNILAL MEHTA : The honourable member the Legal Remembrancer is not moving an amendment.

The Honourable the PRESIDENT : He is only suggesting the draft which the honourable the mover accepts. I should like honourable members to consider whether this draft meets with their wishes. If it does and they ask the permission of the House to substitute it for the amendment moved, I will ask the House for their permission. If this draft does not carry out the intentions of the honourable movers, then they might say so and decline to accept it. In that case I will allow, if he so desires, the honourable member the Legal Remembrancer to move this as an amendment.

Mr. N. E. NAVLE : I do not accept it, Sir.

The Honourable the PRESIDENT : Very well, then we will proceed with the further consideration of the amendment as proposed by the honourable member Mr. Navle.

Mr. G. W. HATCH : Do I understand, Sir, that the amendment as drafted by the Legal Remembrancer has been accepted ?

The Honourable the PRESIDENT : No, it has not been accepted. The original amendment stands.

Mr. G. W. HATCH : Sir, it seems to me that in this matter our friends on the other side of the table are asking us to go too far. When the honourable member Mr. Patil introduced this bill, he gave some of us to understand that if we would modify section 60 so as to save the watan from forfeiture in the event of most of the offences mentioned in that section being brought home to the officiator, he would be satisfied and he would not go so far as to suggest that for offences against the State, the State should not have the power of abolishing the watan. However, the honourable member Mr. Patil has been so successful in his legislation that he now thinks that he has only to rise and demand, "and it shall be given". Personally I have very strong objection to the proposal now put forward. I do not think we should altogether surrender the position we have always adopted in this matter, namely that the watan is a matter of joint responsibility. No one here, I suppose, will deny that it is a grant from the State, a grant given by the State out of its own free will. It is given to a selected family, not to an individual but to a selected family, and in return for that grant and the powers attached to that grant—in return for that grant to a family—it is not too much to expect that the family will continue to exercise its influence in maintaining proper service to the State. That influence can only be properly exercised if the family is held responsible for the proper work of the officiator. Well, we have gone a great deal to meet the honourable member Mr. Patil's wishes and we have surrendered the greater part of section 60. We no longer say that in the event of any conviction by a court of

[Mr. G. W. Hatch]

session we will retain the power of abolishing the watan. But I do say that any Government that surrenders the power of abolishing the watan which is its own gift, when that watan is misused by its enemies,—Chapter VI deals with offences against the State, therefore persons convicted under that section are enemies of the State—I do say that any Government that allowed such a watan to continue in the hands of its enemies, would be mad. I believe, Sir, that it will be many years before any Government sitting on these benches will give up the power that the honourable member Mr. Patil now asks us to give up in his present amendment.

Mr. D. R. PATIL (East Khandesh District): Mr. President, the view expressed by the honourable member the Commissioner, Central Division, I think, is very reasonable, because if a man actually commits an offence against the State, I do not mind if the whole of his watan is forfeited by Government, because he deserves forfeiture by that kind of action. If some person can acquire a watan from the State for good service, then the man in possession of the watan committing an offence against the State, must lose that watan. I agree to this. The form suggested by the honourable member, the Legal Secretary, I think, is very reasonable. Sir, I would agree with the honourable member the Commissioner of the Central Division, provided he agrees to make certain changes in the proviso to clause 3. Sir, there are certain words.

The Honourable the PRESIDENT: The honourable member can only speak on the new matter introduced in the honourable member Mr. Navle's amendment. He cannot deal with the whole bill at this stage.

Mr. D. R. PATIL: I think if only the life interest of the watandar is forfeited, there is no objection to that.

The Honourable the PRESIDENT: Is the honourable member supporting or opposing Mr. Navle's amendment?

Mr. D. R. PATIL: I am supporting the honourable member Mr. Navle's amendment, Sir.

Mr. N. E. NAVLE (Ahmednagar District): Sir, as I think that Government is rather opposed to the amendment which has been moved by me, I am prepared to accept the draft suggested by the honourable member, the Remembrancer of Legal Affairs.

The Honourable the PRESIDENT: In that case the procedure is that the honourable member Mr. Navle must ask permission of the House to allow him to amend his amendment in terms of the draft suggested by the Remembrancer of Legal Affairs.

Mr. N. E. NAVLE: Sir, I beg permission of the House to amend my amendment in terms of the draft suggested by the honourable member, the Remembrancer of Legal Affairs.

Question put and lost.

The Honourable the PRESIDENT: The original amendment as moved by the honourable member, Mr. Navle, is now before the House

Mr. N. E. NAVLE : I have nothing further to add except to show my regret that Government have not accepted the draft suggested by the Remembrancer of Legal Affairs. I think my original amendment is a reasonable one and should be accepted by the House.

The Honourable Sir CHUNILAL MEHTA : Mr. President I should like to clear the situation first, because there is no doubt that there is a considerable amount of confusion. The honourable member who moved the first amendment accepted an amendment to his amendment moved by the honourable member, Mr. Navle. As Mr. Navle's amendment was not in proper legal phraseology, the Legal Remembrancer, in order to help him, suggested a draft which would carry out what Mr. Navle intended to move. There was no indication either from the Remembrancer of Legal Affairs or from any other officer of Government that the draft suggested by the Remembrancer of Legal Affairs met with the approval of Government. In spite of the misunderstanding which was in the mind of the honourable member that it met with the approval of Government, he refused to accept the suggested draft of the R. L. A. Further the honourable member, Mr. Patil, when he rose to speak on this question again, seemed to disagree with Mr. Navle. It seems to me that there is so much confusion that the Council cannot do better than accept the amendment as it has been drafted by the select committee; the more so, as the select committee consisted of 11 members, of which only 3 were officials and of the rest, 5 non-official members were opposed to the view that Mr. Patil strenuously put forward in the select committee and whose view was lost. I do not think that it would be reasonable to accept this amendment in view of so much confusion and in view of the decision to which the select committee came after very considerable discussion. I, therefore, regret that I cannot accept the amendment moved by the honourable member, Mr. Navle, in the form in which it stands.

Question put. House divided. Ayes 14 : Noes 27. Amendment lost.

Division No. 14.

Ayes.

ANGADI, Mr. S. N.
BOLE, Mr. S. K.
CHAUDHARI, Mr. L. S.
COOPER, Khan Bahadur D. B.
KALBHOR, Mr. G. M.
KAMBLI, Mr. S. T.
KURHRO, Mr. M. S.
MANSURI, Khan Sahab A. M.

NAVLE, Mr. N. E.
NOOB MAHOMED, Mr.
PATIL, Mr. D. R.
SARDESAL, Mr. S. A.
SHANKARRAO JAYARAMBAO ZUNZARRAO,
Mr.
SHINDE, Mr. R. D.

Tellers for the Ayes : Mr. N. E. NAVLE and Mr. D. R. PATIL.

Noes.

BHURGI, Mr. J. M.
BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
FERNANDEZ, Dr. COSMAS

FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan
Bahadur SHAIKH
HAMID M. ABDUL ALI, Mr.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE

Nees—contd.

JAPHAY, the Honourable Mr. B. V.	MUKHI JETHANAND PRITAMDAS
JEHANGIR, the Honourable Mr. COWASJI	NEKALJAY, Mr. N. S.
LAWRENCE, the Honourable Mr. H. S.	OWEN, Mr. A. C.
MASTEE, Mr. A.	PAINTER, Mr. H. L.
MEHTA, the Honourable Sir CHUNILAL	SAYED SHAHJADE SAHEB HAIDAR SAHEB
MONTGOMERIE, Mr. A.	THOMAS, Mr. G. A.
MOUNTFORD, Mr. L. J.	WILES, Mr. G.

Tellers for the Nees : Mr. A. MASTER and Mr. E. CLEMENTS.

After Recess.

Mr. D. R. PATIL (East Khandesh District): Sir, I beg to move the following amendment which stands in my name :

In clause 2 (b) delete the words " or if he be not the representative watandar also of the representative watandar "

Clause 2 (b) deals with offences which are not so very serious as offences against the State. Therefore, in this case, I submit, Sir, that the representative watandar should not suffer in any way for the offence committed by a deputy. Therefore, I suggest that my amendment should be accepted by the House.

Question proposed.

Mr. L. S. CHAUDHARI (East Khandesh District): Sir, I wish to move an amendment to the amendment which has been proposed by the honourable member Mr. Patil. My amendment runs thus :

" Retain the words ' or if he be not the representative watandar ' and add thereafter the following words :

' the representative watandar should be disqualified to work as patil in his life-time if he ' "

The Honourable the PRESIDENT : The first part of the amendment is not necessary. The honourable member Mr. Patil wishes to delete those words and the honourable member Mr. Chaudhari wants to retain them. Therefore, he may simply move the latter part of it. The words are there already. It will become a new amendment, and not an amendment to the amendment proposed.

Mr. L. S. CHAUDHARI : I shall move the amendment in a different form. It will be as follows :

" After the words ' representative watandar ' add the following words :

' Then the representative watandar should be disqualified to work as patil in his life-time ' "

The Honourable the PRESIDENT : That is a new amendment, and not an amendment to the amendment. The honourable member Mr. Patil wishes to delete certain words, whereas the honourable member Mr. Chaudhari wishes to add certain words. If the honourable member asks me afterwards whether I will allow him to move his amendment I will consider it. It cannot be an amendment to this amendment. If the honourable member asks me after this amendment is disposed of, and if the House has no objection, I will consider his request.

The Honourable Sir CHUNILAL MEHTA : Sir, here again, I do not understand whether my honourable friend wishes to press his amendment, or whether he wishes to accept the amendment of the honourable member

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Mr. Chaudhari, or what he really desires. The amendment as it now stands will make the provisions of the bill more or less nugatory. Joint responsibility is necessary in watan cases, and I do not see how we can do away with that joint responsibility. I do not know what additional reasons the honourable member has—at least I have not heard any additional reasons now. This matter was also fully discussed in the select committee, and the select committee, by a substantial majority and also by a majority of non-official members threw his amendment out. Under the circumstances, I regret we must oppose the amendment.

Question put and lost.

Mr. L. S. CHAUDHARI (East Khandesh): Sir, I beg leave of the House to move my amendment.

The Honourable the PRESIDENT: Very well, I will allow you to move it.

Mr. L. S. CHAUDHARI: I beg to move the following amendment:

"That in clause 2 (b) after the words 'representative watandar' delete 'also of the representative watandar' and insert 'then the representative watandar should be disqualified to work as patil during his life-time'."

Sir, these watans are acquired not by the present generation of patils but by their ancestors for valuable and loyal services rendered to the then existing Government. These watans have been in existence for generations and this institution has got very great importance from the view point of patels concerned. It has been stated just now that these watans were grants made not to an individual, but to selected families, for the valuable services rendered to the then existing government. After these watans were conferred upon those families, they have expanded and divided themselves into many families called taxims, and they still keep their joint responsibility. Therefore I say that in view of the joint responsibility which is thrown upon all members of the watandar family, it is highly desirable that for the fault of a member of a watan family, all other members of that taxim should not be made to suffer.

In the select committee, clause 2 was divided into sub-clauses (a) and (b). The offences mentioned in Chapter IV are dealt with in sub-clause (a) of clause 2 and the remaining offences are given in sub-clause (b). These offences are mentioned in items 2 to 6. They were considered by the select committee and on account of the comparatively less importance of these offences they are put in the sub-clause separately. Therefore it is quite in conformity with the spirit in which the select committee thought that offences under Chapter IV should be dealt with by a more severe punishment and that the offences in 2 (b) should be dealt with milder punishment. Therefore there is no objection to the forfeiture of the life interest of a member of a watandar family, whether he is an officiating watandar, representative watandar or deputy appointed by the representative watandar if he commits offences under 2 (a). But that is not the case with minor offences. These are ordinary offences occurring in the course of the discharge of daily official duties, such as, the harbouring of offenders

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and so on. Therefore, the punishment that should be inflicted on the offender, should not be as severe as is provided in the bill, but it should be to disqualify him for service during his life-time. Under the present bill, the life interest not only of the man who is negligent of his duty becomes liable to forfeiture of life interest but other persons also who have no hand in the perpetration of that offence. I shall give a concrete case. Suppose the father commits an offence, then his son who has got a vested interest in the watan loses his interest during the life of his father. My object is that no other person, except the offender, of a watan family should be made to suffer. And the object of my amendment will be achieved if the man who is the actual perpetrator will be disqualified from doing service as patil during his life-time, therefore, the clause which seeks to deprive the life interest of the whole family should be amended; and the amendment I have moved is a simple one, and I hope it will be accepted by the House.

Question proposed.

The Honourable Sir CHUNILAL MEHTA : Sir, in the first place, I would like to know whether this amendment is in order, because it says that the representative watandar should be disqualified to work as police patel during his life-time. This is an Act which applies to all hereditary offices. How can we move an amendment which confines itself solely to patels. There are the watandar kulkarnis as well—all hereditary offices. I should like to clear that point whether the amendment is in order.

The Honourable the PRESIDENT : I do not see any objection to the House considering a part of the whole. If the hereditary officers include patels, then the House can amend a part of the whole. I am not concerned with the merits of the case. I have to deal with only the point of order. When a whole Act deals with several parts, any one part of that Act can be amended and the amendment is therefore in order.

The Honourable Sir CHUNILAL MEHTA : Very well, Sir. Then on this particular account we are certainly opposed to this amendment. We cannot possibly have the Act made applicable to one set of hereditary officers only and not to others, whatever the merits on the point raised by the honourable member may be. Even on other grounds it is questionable whether this amendment should be allowed. The honourable mover suggested that as clause 2 was divided into (a) and (b), there was no necessity for making a representative watandar responsible for the acts of his deputy. The honourable member will correct me if I am not representing his argument correctly.

Mr. L. S. CHAUDHARI : No, Sir. I do think the representative watandar should be made responsible for the acts of his deputy, but instead of his being deprived of his life interest he should only be disqualified to work as an officiator or to appoint a deputy.

The Honourable Sir CHUNILAL MEHTA : Then, I do not see what difference it does make. If he is disqualified, then he would not be

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allowed for his life to officiate. The section only says the life interest of this man should be forfeited.

Mr. L. S. CHAUDHARI : There is great difference. If he is deprived of his life interest in the watan no man nearest to him will be appointed. If he is only disqualified to officiate, his brother or other nearest relative will be appointed by Government.

The Honourable Sir CHUNILAL MEHTA : Sir, the select committee very carefully considered this. Under section 61 of the old Act it was not provided that the representative watandar should have knowledge of, or should connive at, the misdeeds of this deputy. The select committee have now provided in clause 3 that unless it is proved to the satisfaction of the Governor in Council that the person had previous knowledge of, or had connived at, his deputy's misdeeds, no forfeiture of any kind shall be made. I think, Sir, if it is proved that the representative watandar had previous knowledge of, or had connived at, the misdeeds of this deputy, then the representative watandar should be liable to the punishment that is here provided. Let it be remembered, Sir, that it is not at the option of Government that any watandar is appointed : he is there by right. He has the right to appoint a proper deputy. If the deputy goes wrong to the previous knowledge of the representative watandar or with his connivance, then surely the representative watandar ought to be liable to the punishment that is provided by the select committee.

Question put and lost.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move :

In clause 2, sub-clause (b), substitute the words " if he be the representative watandar " for the words " or if he be not the representative watandar also of the representative watandar ".

After the amendment, clause (b) will read as follows :

(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 if he be the representative watandar.

Sir, the object underlying this amendment is that the person who does the Act should suffer its consequences, but another person, who had no direct hand and who could not or did not take any direct or indirect part, should not suffer punishment. The clause as it stands contemplates that case. Even persons who do absolutely nothing can be punished under the clause. There are various cases in which the widows of previous watandars are interested in the watan property and have rights in it. If the representative, or the deputy or the substitute, does anything, they are likely to suffer for it. For that reason, my humble suggestion is, let the offending party be punished—there can be absolutely no objection to that, but when under a section of the law another party who is altogether innocent runs the risk of being penalised, there is good reason to see whether what we are doing is quite right. I trust my amendment will be accepted.

Question proposed.

Mr. G. A. THOMAS : Sir, I think that the honourable member's object is already secured. He says that a person who is not guilty should not be punished. Clause 3 provides that "the Governor in Council shall not direct. . . . unless it is proved to his satisfaction that that person had previous knowledge of or connived at the offence or misconduct." That means that only if the Governor in Council is satisfied that a person had previous knowledge of or connived at the offence Government will take action. Therefore, the man who is not guilty will not suffer.

Mr. A. N. SURVE : Sir, I have nothing to say.

The Honourable Sir CHUNILAL MEHTA : I have nothing to add.
Question put and lost.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move :

In clause 2, mark sub-clause (a) as (b) and (b) as (a) and transpose them.

This amendment relates to drafting. In the old section the order given is, the offence covered by sub-clause (a) comes after the offence covered by sub-clause (b). In order to preserve the same sequence, I suggest that (b) should be marked (a) and (a) should be marked (b).

Question proposed.

The Honourable Sir CHUNILAL MEHTA : Sir, I accept the amendment.

Question put and carried.

Clause 2, as amended, ordered to stand part of the bill.

Clause 3 (*Amendment of section 61 of Bombay Act III of 1874*).

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."

Mr. D. R. PATIL (East Khandesh District) : Mr. President, as two of my amendments are lost, I wish to get your permission to move the present amendment not in its present form, but in a modified form.

The Honourable the PRESIDENT : Let me see what you wish to move.

Mr. D. R. PATIL : I would like to move my present amendment like this :

For the words "that person had previous knowledge of or connived at the offence", substitute the words "that person had knowingly connived at the offence".

The Honourable the PRESIDENT : Please read the proviso as you propose to amend it.

Mr. D. R. PATIL : The proviso will read :—

"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 knowingly connived at the offence or misconduct."

The distinction between previous knowledge of an offence and knowingly conniving at an offence is this. Previous knowledge is an indefinite expression. Two witnesses can come forward and say "we know that this person had previous knowledge of the offence". It is very easy

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to prove. Any two witnesses can do that. If the House accepts my amendment and if the clause reads "knowingly connived" one must have a stronger proof and that is a thing necessary to affect the interests of watandars. With this idea I have moved my amendment, namely, delete the words "previous knowledge of or" and substitute the word "knowingly" for them.

The Honourable Sir CHUNILAL MEHTA: The distinction is too subtle for me to follow and I will not say anything but simply oppose it.

Question put and lost.

Clause 3 ordered to stand part of the bill.

Clause 4 (*Amendment of section 62 of Bombay Act III of 1874*).

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."

Mr. D. R. PATIL (East Khandesh District): Mr. President, I beg to move the following amendment which stands in my name:—

In clause 4 insert the following words "either in person or through pleader" between the words "of being heard" and "shall be given".

Sir, this is the last amendment of mine. If you want to punish a man, you have got to give him a chance of being heard. I think, Sir, that he must be given such a chance in order that he may be able to say his full say before the authorities concerned. If he is a man of position and can afford to spend money, he must be given the help of a pleader. This is a very reasonable amendment and as the Honourable the Revenue Member has got success after success, I hope he will accept at least this amendment.

Question proposed.

Mr. N. E. NAVLE (Ahmednagar District): I support the amendment that is moved by my honourable friend Mr. Patil. Sir, where the representative watandar is given the right of appearing in person, I don't see why he should not be allowed to engage a pleader to represent his case in a proper manner before the investigating authority. I see, Sir, that there is no harm in accepting this amendment and I therefore support it.

Mr. L. S. CHAUDHARI (East Khandesh District): I rise to support the amendment brought forward by my honourable friend from East Khandesh. We have learnt on the floor of this House that the village patils are valuable peace-makers of the village. Looking to the present illiteracy that prevails among the village patils, it is highly desirable to give some assistance by law to these patils. We know some of these police patils do not know how to sign their names; they do not understand the questions put to them and in order to assist them it is highly desirable to give this help of being heard through a pleader. If this help is not given to them and if any patil is punished, it is not a punishment to him, Sir, but it is a punishment on the future generation of that family. In these circumstances, this request should be granted.

Mr. A. N. SURVE (Bombay City, North) : Sir, I rise to support the amendment and in doing so I beg to draw the attention of this House and also of the Honourable the Revenue Member to the practice that is generally being observed in investigating cases of this sort. As an instance, I am submitting the case of one Nana Bivaji, patil of Othoor, taluka Junnar, district Poona. This man was disqualified under section 45E of the Watan Act. The charges that were brought against this man were five or six, but I am drawing the attention of honourable members to only 3 of them. First he was charged with having extorted Rs. 25 from a villager and the only thing that was established in evidence was this. The accuser himself admitted that he had absolutely no evidence to substantiate the charge against this man. The second was that he was charged with having received stolen property. In the trial court he was fined. Therefore he had moved the High Court and there he was let off. The conviction was set aside and the fine was directed to be refunded. The third charge was that he was in involved circumstances and the only thing that came out in the evidence was that one khatha was produced in which it appeared that the man owed Rs. 150 to his creditor. I really do not know of any case in which a man did not owe some money to others. But if Rs. 150 were found due by him, then Government have to declare that the man was in the worst circumstances and therefore unfit to hold police patilki in a village. That, I think, is an inference which is rather too excessive. Now, the deputy collector who held the enquiry himself did not take all the evidence. He had deputed the mamlatdar for some local investigation and the enquiry was made by that mamlatdar. The mamlatdar simply says this :

Mr. Dev, the then Mamlatdar, who inquired into his conduct on the spot was satisfied that the patil's conduct was bad and he deserved removal. The patil has made many enemies among his castemen in the village. He has incurred heavy debts. I do not think he deserves to officiate as patil of such a large village as Othoor.

So, the deputy collector accepts this finding of the mamlatdar himself. He did not examine witnesses on this point. Then, when the order was passed, the man appealed to the Collector and the answer given to him by the Collector was

Sir VASANTRAO A. DABHOLKAR : May I rise to a point of order Sir ? Is all this relevant to the amendment before the House ?

The Honourable the PRESIDENT : I was myself wondering what relevance there was to the present amendment. I cannot see any. The amending Act provides that the party shall be heard. The question is not that the party will not get an opportunity of being heard, but whether a special provision should be made that the party should be heard either in person or through a pleader. That is the only issue. The honourable member could not be justified in pointing out cases in which the parties were not heard, because the bill itself provides that the parties shall be heard in the future. That being so, the only issue before the House is whether the words inserted in the bill are adequate for the purpose or whether a special provision of pleaders has to be introduced in the clause.

Mr. A. N. SURVE : With due respect, I submit that I was putting this as an instance of the present practice, and I was suggesting that as this practice is followed, therefore the option should be given

The Honourable the PRESIDENT: But that practice is now going to be done away with and a provision that they shall be heard is already there. The only issue, therefore, is whether the words are adequate for the purpose or whether special words are needed to emphasize the fact that pleaders shall be permitted to appear.

Mr. A. N. SURVE: Yes, Sir, I submit that pleaders should be allowed to appear and to be heard, owing to the fact that when the orders go up for revision to the higher authorities, the parties are not at all given an opportunity of placing what they have to say before them. When the party appeals to the Collector for revision, the only order he receives is that "The Collector sees no sufficient reason to interfere with the order passed by the deputy collector. The appeal is rejected". Now, Sir, from such an order the person concerned does not know on what particular grounds his appeal is rejected. Being dissatisfied with this order, he goes to the Commissioner—appeals to the Commissioner—and that Commissioner on a quarter sheet of paper passes the following order: "The petition is summarily rejected". Whether the papers were read, whether any consideration was given to the points heard, the outside people have absolutely no opportunity of knowing. When he goes still further, the answer given by Government is this:

"In reply to his petition received on 5th April.....
.....is informed that Government decline to interfere."

Then, all his rights of appeal are exhausted. Now, I place these three orders before this House and also before the Honourable the Revenue Member and humbly ask him if the aggrieved party gets any opportunity of vindicating his innocence. I should, therefore, suggest that proper procedure should be laid down whereby there can be no miscarriage of justice.

Mr. H. L. PAINTER: Sir, I rise to oppose this amendment. It has been stated by the honourable mover that in the case of educated persons who come within the purview of section 62, they are quite able to understand what the charges against them are and to make their defence. But in the case of other persons not so gifted, it is impossible for them to understand the charge against them or to defend themselves except with the aid of a pleader, and therefore he has suggested this amendment that pleaders shall have the right of being heard in any proceedings under this section. I would suggest that, in the first place, proceedings under this section are hardly judicial proceedings. But quite apart from that, it is well known to everyone in this House and outside it that pleaders already perform in practice the function of drafting petitions and of preparing defences for people, whether illiterate or otherwise, who are charged in any proceedings in which pleaders are not by law entitled to appear. Any person who comes within the purview of this section and is not in a position to understand what he is charged with or to make his defence will, without this amendment being adopted as part of the law, go, as a matter of course, to his own pleader or, if he has not got one, to some local pleader, put the whole case before him and get his advice and have his petition or his grounds of defence drafted by that pleader. If the pleader himself has not the right to appear, the man will bring with

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him a typewritten document, written in excellent English, stating the reasons he has to urge in defence, and this will be accepted by the officer who is dealing with the case and will form part of the proceedings. I fail entirely to see, Sir, why anything beyond that is necessary in the interests of justice.

As regards the remarks of the honourable member who just spoke (Mr. A. N. Surve), I could not altogether follow the cases he quoted but I rather think that they were cases dealt with by Government in revision, and not original proceedings before the officer who was acting under section 62. I do not know whether the honourable mover of this amendment desires that pleaders should be allowed to appear in all subsequent appellate or revisional applications which may follow as the result of proceedings under all that part of the Act covered by section 62. But, whether it is his intention or not, I submit that it is absolutely unnecessary that the pleaders should have the right to appear in such cases, for the simple reason that they will be able to reduce the arguments of the person who is charged under section 62 to paper and they will be considered and form part of the record of the proceedings.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I rise to support this amendment. I do so in the interests both of the watandars and of the legal profession. I also protest against undue apprehension in the minds of district officers of lawyers and of their kind. I fail to understand what possible objection can be raised to allowing a harmless pleader to put in an appearance before a district officer to argue a case or to read out a petition when there is no objection to the same being presented by his client. My honourable friend, the honourable member Mr. Painter, said that he had no objection to a petition being drafted in good English by a pleader and presented by his client, that is to say, by the watandar. Now, read the amendment, Sir. It reads "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'". The only inference drawn from the objection is that Government seems to be frightened by the very face of a pleader. We all know that these patils and watandars are illiterate people. In all other revenue matters, Government do allow pleaders to appear. In the present instance the pleader has nothing more vicious to do after appearing before a district officer than he is already doing in other revenue matters. The district officer is at liberty after hearing him, to tell him that he does not want to do anything and to ask him to go away. I do not think it is fair that Government should concede the right to the watandar of being heard and refusing to hear his pleader. I believe it is merely an old prejudice against pleaders in the minds of district officers that is causing this difficulty. I do not think that Government in this matter can enlist even commonsense in its favour. I do not know what view my honourable friend, the Honourable the Revenue Member, will take of the matter. But I doubt if he will venture to differ as the past shows that very often he is only the

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mouthpiece of district officers. I know he faithfully performs the duty of administration, but I wish him to go further and perform the functions of Government. I do say that there is nothing in it to frighten the Government; I do not see any serious harm in it. It is not a matter in which sedition is involved or other charges against the State. In an ordinary investigation an ordinary pleader is to be heard on behalf of a simple illiterate man. It seems to me that Government is afraid of shadows. I was very much moved by the piteous and frantic appeal to Government made by my honourable friend, the honourable member Mr. Patil; I am however taking my stand upon the rights of the Bar to be heard. I hope the Honourable the Revenue Member will make up his mind to accept the amendment.

Mr. L. J. MOUNTFORD: Mr. President, as I am one of the officers who are supposed to be frightened by the intervention of the Bar, I would like to say a few words against this amendment. I think that district officers as well as other people yield to no one in the respect they have for the legal acumen of the gentlemen who form the Bar of this presidency, and I have no doubt all pleaders will naturally feel interested in this amendment. It is only natural, but let us look at it from rather a higher plane than that which has just been put before you by the honourable member who has just sat down.

In the first place, is there any good having a pleader to plead a case before a court which has not the power of deciding? It is not the Collector who decides these cases at all, it is Government. If you read section 58, you will see that the Collector with the previous sanction of Government passes the order. If you go further and if your interest carries you to section 60, you will find that it is the Governor in Council who takes action and directs the forfeiture of the whole or any part of the watan. If you go further to section 61, you will find that it is the Government who directs the forfeiture of the life interest of the watandar. The Collector merely makes a report, expresses his opinion and that opinion is based not on arguments but on facts. Government then weighs those facts and any arguments that may be urged in the representation that is produced by the watandar. To what extent therefore would this pleader be of use? You must admit that he would merely be an additional expense on the unfortunate watandar whose interest is now in jeopardy, and whose interest is now assailed. How will he use that pleader? Can he use that pleader before, say, the Revenue Secretary or before His Excellency the Governor in Council? Where would he use the pleader except in so far as stated by the honourable member, the Commissioner, Northern Division? A pleader is required, as a matter of fact, to put facts in their right light, to marshal arguments and to take part in the various intricacies of law before the court which will pass the final decision. We do not want pleaders here to place matters before the Collector or the Assistant Collector who holds the preliminary enquiry and who frames that report. It is open to the representative watandar to have his draft prepared by the pleader and put before Government officers. That is always the case. I know of no case where there has

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been a proposal put forward by a representative watandar that has not gone before Government with the representation of a pleader. If it is his wish to have his case prepared by a pleader to be put before the Collector, it is open to him to do so. In any case, with the Collector's permission, he can be represented and this should meet the wishes of the honourable member who moves this amendment; and, if that is so, there is no point in having a pleader at all by statute.

Again I would like this House to remember that the sanad which is held by a pleader is granted to him by the High Court. And the pleader is therefore subject to certain conditions and penalties so long as he practises in the courts subordinate to the High Courts; and when he practises in the revenue courts he is not subordinate to the High Court. The High Court has no authority over Revenue Courts and the pleader cannot appear in the revenue courts, except by courtesy, just as a representative watandar might also engage people known as mukhtyars. Therefore, there is no particular object in bringing in a pleader; he could use a mukhtyar to appear before the district officer and for drafting his petition he could engage a pleader. That is the crux of the whole question—a petition which is properly drafted to be put before the enquiring officer. The final decision rests with the Governor in Council, and I cannot see myself that there is any point in having a pleader especially as he would merely add considerably to the cost of the case. If now you make it obligatory that a watandar shall be heard through a pleader, that will greatly add to the cost. The pleader will charge so much a day; he will take some time no doubt, and he will want some provision for witnesses and so forth, and the unfortunate watandar will be deprived of some portion of his emoluments, and if he wins his case he would find he has got nothing left. These watandars are not rich people. We give them a very careful and also a very exhaustive process of enquiry. First of all, we have the report of the mamlatdar, which is enquired into by the prant officer; that goes before the Collector, who hears any objections which the watandar may have to raise; the Collector then reports the matter to the Commissioner and to the Government. The Commissioner comments upon it, and it goes to Government. Surely, there is no question of the interests of the watandar being neglected to any extent. You know, as I said in the beginning of my remarks, that the Collector has no power to issue any drastic orders of this nature. So far, Government has been careful of the watandars, and Government has conserved the rights of the watandars to such an extent that only Government itself can pass any orders in any way affecting the interests of the watandars. There have been various enquiries into the position of the watandars, and amendments of the Watan Act from time to time, and when in the course of certain amendments the Commissioners asked to be given the power to deal with the watandars, Government refused and insisted on retaining the power itself. If you now introduce intricacies of the law and the presence of pleaders in what is practically an enquiry into the conduct of the watandar, it would serve no useful purpose at all, would not advance the interest of the watandar and would seriously embarrass his financial position.

Mr. S. A. SARDESAI (Bijapur District): Sir, I rise to support the amendment before the House. I think this amendment is a very reasonable one. The grievance against which this provision is sought to be made is a long-standing one, and, in my experience, I have seen that the Government have not given a hearing by pleaders in many of the cases against watandars, and that is a very long-standing grievance. Of course, I have carefully listened to the speeches of the honourable member the Commissioner, Central Division, and also of the honourable member the Commissioner, Southern Division, but I do not see any point in those speeches. The honourable member Mr. Painter says that because something is typed, or something is very nicely written, or something is received in the form of an application containing the grievances of the watandar, and is presented to Government, he does not want any provision to be included in the present bill that the watandar should be given a hearing through a pleader. That, I think, is not a legal objection. Again, coming to the arguments of the honourable member the Commissioner, Southern Division, I find that he says that everything comes in black and white, and everything is decided by Government. That is all true, but in making provision that the watandar should be heard through a pleader, it may be taken as a recommendation to Government. This is certainly a great grievance; it is a grievance of grievances, no doubt. Why should not a hearing be given to the pleader? The Commissioner of the Southern Division says that it will be a very costly thing. Let it be a costly thing. Government have not to spend anything; it will be a costly thing for the watandar. So far as I can see, I do not find any point in the speeches of the honourable members the Commissioners of both the Central and Southern Divisions. In making this provision, I think there is no legal objection, and the Government have not made out any case against it. I think such a valuable provision is very necessary in the interests of justice, and my suggestion is that Government should accept the amendment. I would appeal to the honourable members here not to omit this amendment. I think they should all wholeheartedly support this amendment, and Government also should accept it. With these few remarks, I support the amendment.

Mr. R. D. SHINDE (Nasik District): Sir, I have listened very carefully to the speech made by the honourable member Mr. Mountford, but I am sorry to say that there is some misunderstanding as regards his point. The bill, as it has emerged from the select committee, has made an amendment to section 62 which previously ran as follows:

"No order shall be passed under this Part except upon perusal of the judgment of a court or after investigation recorded in writing."

The amendment made is as follows:

"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'."

The point made by the honourable member the Commissioner, Southern Division (Mr. Mountford), is that it is not clear to him who is the exact officer before whom the pleader will appear. But it has

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already been conceded that when any action is proposed to be taken by the Governor in Council, before that order is actually passed, it has got to be communicated to the person affected, and that an opportunity of being heard is to be given to him. Government have in view a certain officer of Government who communicates the order of Government and to whom appeals will be made by the person to be affected. So, it is clear that the person whom Government have in view for the communication of the action to be taken will be the person before whom, if he is to be allowed, the pleader will appear. Otherwise, there would be no meaning in the alteration which has been adopted by the select committee. Government have in view some officer who is to communicate the order proposed to be passed, before that final order is passed by the Governor in Council. So, there would be no difficulty, and the accredited pleader will appear before that officer.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I rise with some diffidence to reply to some of the arguments—the united arguments—of the two Leaders of the Opposition facing me. The point that appeals to me most in this discussion is the great expense that will be caused throughout the Central and Southern Divisions of this presidency. When, after having served a good many years in the peaceful province of Sind, I came down to the Southern Maratha Country, and became Commissioner in Belgaum, I was horrified to see the turbulence that arose there chiefly out of watan disputes. It appeared to me that the majority of the population of the Southern Maratha Country must spend the whole of their time in watan disputes. The expense of these suits is perfectly enormous. The cost to Government seemed to me to be most abnormal. From these two points, both financial, I ask this House to regard this question. Is it worth while to increase the cost of this litigation? No doubt the members of the legal profession may not regard it as a very serious injury to the country. Those who are not of that persuasion, I believe, will look upon this matter with less jaundiced eyes. There can be no doubt that if you allow pleaders to represent these matters which can be expressed perfectly clearly in written documents, the ryot, who is prepared to go in matters of his watan to any expense will eventually lose his fields and his lands and will be reduced to miserable indebtedness. This further drain of paying pleaders' fees throughout the number of stages through which watarand cases are carried, will be a very serious economic injury to the ryot. We do not meet with the same degree of litigation in other parts of the presidency. In these matters Sind is practically free; but in the Southern Maratha Country and a portion of the Deccan, this canker is gnawing into the vitals of agricultural prosperity. I ask the House to reject this amendment.

Mr. S. T. KAMBLI (Dharwar District) : Sir, the argument has been advanced that as final orders will be passed by His Excellency in Council it is not desirable that opportunity should be given to the watarand of being heard either before His Excellency or before the Secretary, etc. It is an admitted fact that neither His Excellency nor any of the Members

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of the Executive Council will personally carry on or conduct the investigation referred to in the sections. The investigation will be carried on by some subordinate officer of Government, some district officer, as has been pointed out by the honourable mover of the amendment. The investigation is usually carried on by some district officer in the case of watans. The amendment before the House is that the watandar may be given an opportunity of being heard during the course of the investigation. I do not see that there is any inconvenience caused thereby either to the investigating officer or to the watandar concerned.

A considerable amount of sympathy was expressed by the Honourable the Finance Member with regard to the economic condition of the watandar. The Honourable the Finance Member stated that the economic condition of the watandar was already miserable and that the cost of litigation would still further impair or add to his already miserable economic condition. While we are much indebted to the honourable member for his expression of sympathy, I wish to point out that it is apart from the issue involved in the question before the House. The issue is very simple: whether these watandars whose very existence or whose character is at stake, and whose watan which they regard dearer than their very lives, are at stake should be given an opportunity of hearing? The hearing may be through a pleader or through a friend. From the enormous number of speeches that have been made on the floor of this House, it is abundantly made known that the watandar regards his watan as near and dear to his heart as his life and is prepared to defend it at any cost. An instance was quoted by the honourable member Mr. Mountford that when a vacancy occurred in the cadre of patels several applications poured in, not on account of the emoluments of the office but on account of the value and dignity or prestige attached to the position as patil. I beg to submit that it is not the cost of litigation that should be considered in this case but the question whether they are to be given the natural right of being heard in their defence. Under this section which is under consideration their conduct and character in the discharge of their official duty is to be enquired into. It is not only a case of the forfeiture of their watan, which indeed they value most, but in this particular case of investigation their character and conduct in the course of the discharge of his official duty will be one of the issues. All this may not take place and is not to take place in a court of law. Still to all intents and purposes, the final order that will be passed will be tantamount to a judgment of the highest court of appeal in this country. There is no appeal against this final order, passed after investigation. If such a final order is to be passed against which there is no appeal, I beg to submit that the watandars are only asking for their natural right of being heard in their defence. That is the natural right of every accused person to claim the right of hearing in his defence. The final order is as binding as any order passed by a court of law. The order will be final in this sense that it is not liable to be questioned or challenged in any proceedings in any court civil or otherwise. It cannot be retried in any civil court. Under these circumstances, I appeal to

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the honourable members of Government to reconsider this question in the light in which I have presented, *viz.*, that it involves not only their watan which they regard as very valuable but also their conduct and character in the discharge of their official duty which will form one of the issues. Under these circumstances it is only fair that Government should allow them the right of being heard, which is the natural right of every citizen. Their conduct and character will be called into question in the course of such investigation and therefore it is only fair, reasonable and just that they should be given the right of being heard in their defence, no matter what the expense is. It is for the watandars to see whether it will pay them to engage a pleader and defend their case. Intricate points of law may be involved in certain cases and the watandar is not expected to be conversant with the legal aspects of the case. They should be given the right of defending themselves either in person or through a pleader. I therefore appeal to Government benches to consider this point in favour of the watandars who are their best administrators and who bear the heavy responsibility of preserving peace and order. I appeal to Government to see that such valuable servants of Government are not unjustly and unfairly affected by denying to them the natural right of being heard in their defence. Therefore, Sir, I strongly support the amendment.

Mr. S. N. ANGADI (Belgaum District): Sir, we have just been told by the Honourable the Finance Member that if these watandars were given the right of being represented by pleaders their position will get so bad that in a short time they will be reduced to dust. We know very well that it is not only the watandars that litigate. All classes of people litigate everywhere, not only in India but also in the continental countries. We also know that criminal cases and civil suits are more in number than watan cases, and that Government will never be able to stop litigation nor will Government succeed in preventing these litigants from engaging pleaders whether in criminal courts or civil courts. And it is also true that when it is a question of prestige and a question of losing their very watan, which, as was stated by the honourable member Mr. Kambli, they regard as more valuable than their very lives, they should not be prevented from employing pleaders. The watandars themselves would consider it a petty expenditure to engage pleaders when they stand to lose the very watan. I do not think that the plea that it will lead to the financial ruin of the watandars will convince this honourable House. Sir, I think that it is the natural right of the watandars that they should be given an opportunity of being heard either in person or through a pleader, before they are made to lose their watan. There is no meaning in what has been stated before us this evening. I emphatically say that more harm will be done by denying this right of being heard than would otherwise be the case. I therefore strongly support the amendment.

Mr. D. R. PATIL (East Khandesh District): Mr. President, I am really surprised to see the attitude of the Government. When we asked them that before forfeiting the watans they should drag the watandar before a court of law and give him every sort of opportunity to prove

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his innocence, they told us "Do not ask us to do that in a court of law, and we shall give the watandar a full hearing and if he is not guilty we shall not do anything against him." With that assurance many of the members of the select committee approved of this proviso in clause 3. It is very clearly stated there that "an opportunity of being heard shall be given to the party against whom any order of forfeiture is proposed to be passed." When that proviso is there, why not allow that representative watandar, whose life interest Government want to forfeit, the chance of being represented by a pleader? It has been stated that the party will consult his pleader and can get the explanation drafted for him by his pleader in writing, and that will be sufficient. If we look to the proviso in the clause we find the wording :

" unless it is proved to his, i.e., Governor's satisfaction that that person had previous knowledge of or connived at the offence or misconduct "

If we strictly interpret this proviso, it means that some sort of enquiry will have to be made and witnesses examined to see whether the person whose watan is to be forfeited had previous knowledge of or connived at the offence. That is my submission. Otherwise, the words in the proviso will be only good on paper and will be useless. In that case, is it not necessary that the person whom you are going to deprive of his watan should be enabled to prove his innocence through the aid of a pleader? I do not understand why my amendment is opposed. Sir, this is not an ordinary case, in which the watandar is only suspended for the time being. Here is a serious question which affects the interests of all watandars. Sir, I for myself was against the forfeiture of watans in the case of offences against the State, but I give up that contention. Even then this is the treatment which we received at the hands of Government. Now, I strongly object to the attitude of the official benches. If they cannot give the watandar a chance of proving his innocence before a court of law, let them at least give him a chance of being heard through a pleader. If they want to give him a real hearing, they should allow him to be represented by a pleader. Let them not talk of justice and do injustice.

The Honourable Sir CHUNILAL MEHTA : Mr. President, honourable members have heard what an officer of very great experience, who has been recognised as a friend particularly of the non-Brahmin members of the Central and Southern Divisions, has had to say on this question after an experience of thirty years of service. I confess, Sir, that I was considerably impressed by what the Honourable the Finance Member said about the expenditure that would be involved in the litigation that is bound to ensue on a matter to which, as the honourable members say, the watandars attach such great importance. Sir, nevertheless, the members opposite desire that some kind of opportunity should be given to the watandar to be heard through pleaders. Well, I suppose it is the business of the members opposite. Not being a lawyer myself, I cannot fully see the extent to which litigation will be carried if the amendment is accepted or who are likely to be benefited, the watandars or

[Sir Chunilal Mehta]

the pleaders. I therefore suggest that we should look at this question from both points of view, the proper representation of a case and the expense. I want to know in the first place whether this amendment means that a pleader shall be allowed to appear before every successive authority before whom these papers go. If that is not intended, and if it is understood that it is not intended that all officers right up to the Governor in Council should hear the representation by pleaders, the honourable mover may agree to the addition of the words "at one stage of the proceedings" after the words he proposes to add.

An Honourable MEMBER: Will that not mean that the Governor in Council should hear?

The Honourable Sir CHUNILAL MEHTA: I want to avoid that. What we do not want is the recurring appearance of pleaders before every subsequent revising authority. Therefore if you will agree to restrict the appearance of pleaders to one stage of the proceedings I shall accept the amendment. It will almost always be at the investigation stage where a record is to be made in writing. I do not want it at every subsequent stage. Therefore I suggest the words "at one stage of the proceedings".

The Honourable the PRESIDENT: There is one objection which I want the House to consider before the Revenue Member's suggestion is accepted. He says "at one stage of the proceedings". Who is to determine at which stage? There is nothing definite about it. There ought to be the addition of some such words: "at such stage as the Governor in Council may notify in the Government Gazette". Some such definite provision is necessary. It is for the Honourable the Revenue Member to decide what form it should take. Let it be made quite definite so that no question may arise hereafter. If the Honourable the Revenue Member so wishes, I will postpone the consideration of this clause till Monday so that he may be able to consult his experts and suggest the exact words that should be added.

The Honourable Sir CHUNILAL MEHTA: It would be better if we postpone consideration of this clause till Monday.

The Honourable the PRESIDENT: The consideration of this clause stands over till Monday.

SIND COURTS BILL.

The Honourable Sir MAURICE HAYWARD: Mr. President, I should like to make a short statement with regard to the Sind Courts Bill. I am glad to say that we have received the necessary sanction to proceed with the bill and I trust that the final form in which the bill will appear will be placed on the table of this House on Monday with a view to our proceeding with the first reading at the earliest opportunity convenient to the honourable members and yourself, Sir.

BILL No. XIX OF 1925 (A BILL FURTHER TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888).

Mr. S. K. BOLE : Sir, I move that *Bill No. XIX (a Bill further to amend the City of Bombay Municipal Act, be read
First reading. for the first time. Sir, the object of the bill is to democratise the constitution of the Bombay Municipality. It is a matter of bitter experience that in a general election the members of the backward, working and depressed classes find it difficult to get in through general election, as a result of which there are very few on the corporation to represent their interests. This bill seeks to do away with this sad state of affairs and also proposes a scheme of reserved seats for the backward, working and depressed 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 filled up by nomination and co-option each one-half and adding them to the number of seats that are filled up by election. So that the seats that will be open for general election are 89 out of which 10 are reserved for the backward and working classes and 8 for the depressed classes.

Occasion has also been taken to see that the seats are fairly allocated to wards. There are 7 wards in the city of Bombay and the committee of the corporation is sitting for 10 years to decide the question of re-division of the wards and so it has been left out in this bill. A committee is also sitting to settle the question of redistribution of seats per ward, but it has not come to any conclusion. The schedule B attached to the Act was rushed through at the last moment when the last municipal amendment act was passed and no time was given to members to suggest an improvement. The seats are required to be fairly distributed. As a matter of fact a fair distribution of these seats per ward is very necessary. There are wards of a smaller area and there are wards of a larger area. There has been no change whatsoever in the matter of the adjustment of the areas of the wards, but it has been proposed to distribute the seats on the basis of population.

Another change that this bill seeks to make is to widen the franchise. By the last amending Act the franchise was lowered to a rental of Rs. 10 but that does not go far enough and does not help the working and depressed classes. That has been the result of the last elections. Sir, prior to the passing of the amendment Act some 3 members of the backward classes were elected on the corporation. And during the last election also not more than 3 members were elected on the corporation. . .

Mr. HOOSENALLY M. RAHIMTOOLA : How many were thrown out ?

Mr. S. K. BOLE : Some two or three were thrown out. That shows that the backward classes are not able to hold their own in these elections. Therefore, the widening of the franchise to the extent of Rs. 5 is necessary. The Bombay Corporation is termed as the democratic Corporation, but from the results it can be said that it is capitalistic Corporation. Sir,

* Vide Appendix R.

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taking the population basis, the number of Hindus in the city of Bombay is 8,37,690. They ought to have got in proportion to their population 52 seats, while they have got 37 seats and 4 are nominated, 4 are co-opted, and one representative comes through the Indian mercantile association. Thus they get in all 46 seats. Then take the case of the Mahomedans. Their population is 1,84,685. They ought to have got 12 members, but they have got 14 elected members and besides that 6 are nominated and 3 are co-opted. In all, they get 23, that is, nearly double the number. Then, the Parsi community. Their population is only 52,234. They ought to have got 3 seats in proportion, but they have got 18 elected, one nominated, 2 co-opted, 1 from Millowners' Association and 1 representing the Bombay University. So, in all they have got 23 members. Sir, it may be remembered what a hue and cry was raised in this Council when the amending Act was passed lowering the franchise to its present level. But, in spite of that, the Parsi community is able to hold their own in these elections owing to their wealth, influence education and solidarity. The Europeans and Christians form a population of only 68,169, and ought to have got 5 members, but they have got 7 elected, 5 nominated, 1 co-opted and 1 representing the Chamber of Commerce. So in all they have got 14. Sir, roughly speaking, the Hindus have got 46. Out of these 46, Gujaratis are 22 while the number of Gujarathi population is only 1,50,000. The population of the Deccanis is about 7,00,000 and they have got only 15 members. Out of these 15, there are 6 Brahmins, and besides, the Brahmins whose population is a few hundreds get 2 more seats through nomination and 3 more through co-option. Sir, that is the position of these other classes. But what is the position of the backward and depressed classes? No one from the depressed classes has a chance to get elected in the general elections. While the population of the backward classes and depressed classes is 5 lakhs, they have got only 3 elected representatives of their own, while Government give them only 1 nominated member for the backward classes and 1 for the depressed classes. In all they get 5. Is that fair representation, Sir? So, something ought to be done and the remedy which the bill proposes is to have reserved seats. Unless reserved seats are provided, these men will not get their due or proportionate number of the seats, and unless these men get their due number, the municipality of Bombay cannot be said to fully represent the people of Bombay and cannot be said to be a really democratic Corporation. Even the so-called Democratic Party in the Corporation did not elect even one member from the backward classes, while they elected 2 Brahmin members through co-option. So, great injustice is being done to these classes. There are many grievances of these classes that have got to be placed before the Corporation. As their number is inadequate, no proper attention is paid in the Corporation to their grievances. Take into consideration the roads, lights, drainage schemes in the localities where the people of the backward classes reside. Sir, they receive a differential treatment as far as these classes are concerned. If you take the services maintained by the municipality, what

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do you find? There are more than one thousand teachers employed by the municipality. But the proportion of the backward classes is only 1 per cent., even when you have got qualified candidates. As regards the depressed classes, nobody pays attention to them. Therefore, in this connection much dissatisfaction prevails amongst the masses in the city of Bombay. Sir, the other day—I shall cite one instance—when one proposition protesting against the action of the Bombay Government as regards the excise duty was brought forward before the municipal Corporation, the Government of Bombay came in for severe criticism. But when I proposed an amendment protesting against the unjust action of the millowners in making an $11\frac{1}{2}$ per cent. cut, it was thrown out. That shows what is the constitution of this Corporation. It is nothing but a purely capitalistic Corporation and it is a misnomer to call it a democratic Corporation, when the interests of the capitalist and advanced classes alone are looked after. Sir, it is said that the backward classes are not organised and that they should organise themselves and capture the seats. But it is very easy to say that they should be organised. In theory it is all right, but in practice it is very difficult. They are poor, they are illiterate, and they are not well-versed in the art of politics. They do not know the art of manœuvring elections. They do not know the art of issuing bombastic manifestoes and giving all sorts of possible and impossible promises which are never meant to be fulfilled. They are very simple and straightforward men and they cannot hold their own against the wealthy and influential persons residing in the city of Bombay. For these reasons some sort of special treatment is required to be given to this class and that treatment, I submit, is special representation. Much is said against communal representation, but we have to take things as they are and not what they ought to have been. When the late Right Honourable Mr. Montagu, the then Secretary of State for India, came to the city of Bombay, some members of the backward classes including the Honourable Minister for Education, Rao Bahadur Latthe, the honourable member Mr. Kothari and myself had a private interview with him. In the first place he found it very difficult to grasp the situation here; he could not distinguish between classes and castes. Some people say there are classes in European countries also, but there is a vast difference between classes and castes. This is because the castes in India are divided into water-tight compartments. No one man, however intelligent, however wealthy, however brilliant, he may be, can rise to the level of the higher classes. He has always to remain as backward as he was. That is the case in India and even Mr. Montagu had to admit the principle of communal representation. When the principle of communal representation has been accepted in the Council, I do not see any difficulty of accepting it in the municipal corporation. When the District Municipal and the District Local Boards Acts were recently passed in this Council we were told that our Mahomedan friends were not able to hold their own in major municipalities and in local boards and therefore they were given not only reserved seats but separate electorates. We non-Brahmin members of this House helped them that

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time and now it is the turn of the Mahomedans to sympathise with us. In the city of Bombay the Mahomedans are able to hold their own and they do not require any reserved seats and special electorates. I submit that we do not want any special electorates. What I urge is that we should be granted reserved seats through general electorates as is done in the Council elections. These reserved seats will help a great deal in uplifting the masses and many of their grievances which require to be redressed will receive that attention which has so far been denied to them. I therefore submit that this Council will accept this principle of special reserved seats for these classes; the reserved seats proposed so far are very small in number compared to their population, *viz.*, only ten are reserved for backward classes and eight for the depressed classes.

The other thing that is sought to be done by this bill is to redistribute the seats allotted to different wards. I know, Sir, that it is a difficult task, but however difficult it may be, it has got to be done. The corporation has been sleeping over the matter, as those who have got seats out of proportion to their population do not like to part with their seats, and therefore they will never come to any decision unless their hands are forced by Government. So that question requires to be considered. Now, take the case of A ward. It has been given 12 seats for a population of 60,000, whereas the population of G ward is more than double that of A ward and consists largely of industrial and working classes and yet the number of seats is six only, *i.e.*, half the number given to the A ward. That shows how uneven and unjust this distribution of seats has been.

Now as regards the franchise, I say it should be brought down to a rental of five rupees. It is true that the Honourable Minister deserves great credit for having lowered the old franchise and for having brought it down to a rental of Rs. 10. That, however, I submit has not helped the backward and working classes, many of whom have been left out. Out of 11 lakhs of the whole population of the city of Bombay only one lakh have been enfranchised and 10 lakhs have been left out in the cold. Is that a fair representation? Can you allow a lakh of people to govern the other 10 lakhs? That is very unfair and unjust. In the E, F and G wards it will be found that there are hundreds of rooms, the rent of which is less than Rs. 10. The number of rooms in the Development chawls is more than 15 thousand with a rent less than Rs. 10. All those people who live in those chawls go without any representation. This bill therefore proposes to make such changes as would give all these people a right to vote, and I, therefore, hope that the bill will be read a second time. . . .

The Honourable the PRESIDENT: Not a second time but a first time.

Mr. S. K. BOLE: I beg your pardon, Sir. I hope the bill will be read a first time and that it will reach the second reading stage without a hitch.

Question proposed.

Sir VASANTRAO A. DABHOLKAR: Sir, I rise to oppose the first reading of the bill. This Council is quite aware under what curious

[Sir Vasant Rao. A. Dabholkar]

circumstances the honourable mover got leave to introduce his bill in this House. He is trying to follow the principles of democracy, and in order to democratise the Corporation he is recommending that the backward communities should be given special reserved seats. I want to know from him whether these are the principles of democracy under which reserved seats are set apart specially for certain communities. He said that because the grievances of the backward classes were not redressed either by the old Corporation or even by the present one he is complaining about the Corporation as it is constituted at present. However, he has not been able to point out to this House how the old or the present Corporation has done harm to the backward classes. He says the interests of backward classes are not properly watched. Even assuming for a moment that according to his wishes the bill will be passed in all its stages, may I know whether the necessary legislation will be enacted so as to be ready for the elections of the next year? If it is not going to be so ready, where is the use of passing this bill when the Corporation has got a committee of its own appointed in order to divide the city into as many wards as possible and to re-arrange the allocation of seats? The honourable member appears to be in a great hurry to carry this bill through. I cannot understand the need for this hurry. I think in all fairness we should wait to hear what the Corporation has got to say on this subject and what its committee is going to do in the matter of the redistribution of seats. The mover of this proposition has stated that a committee of the Corporation has been sitting for the last ten years to allocate seats in the different wards and to divide the wards. Where did he get this information from, that a committee of the Corporation has been sitting for the last ten years? The fact is that in the old Corporation there were 72 members, while in the new Corporation there are 106 members, and there has been no such committee sitting for the last ten years to consider the matter.

An Honourable MEMBER: He said "ten months."

Sir VASANTRAO A. DABHOLKAR: He said "ten years". What is the use of misleading this Council?

Mr. S. K. BOLE: I said "ten years". I will explain the matter in my reply.

Sir VASANTRAO A. DABHOLKAR: He said "ten years". What is the use of misleading this Council by giving wrong information that a committee has been sitting for the last ten years? Sir, the next elections to the Corporation are to take place in the year 1926, and that being so, I do not think that this Legislative Council should pass the second or the third reading of this bill.

Sir, the honourable mover has been telling the House that the interests of the backward classes living in the north of the island are not watched. May I know what attempts he has made as a member of the Corporation for the last five years?

Mr. S. K. BOLE: I have not been there for five years.

Sir VASANTRAO A. DABHOLKAR: However, assuming that he has been there for two years, there were 24 agenda of the monthly meetings and so many meetings a week. Will the honourable member show from the proceedings of these meetings what he has done for the backward classes whose interests he alleges that the Corporation is ignoring?

The Honourable the PRESIDENT: The honourable member should address the Chair.

Sir VASANTRAO A. DABHOLKAR: If the honourable mover of this proposition has been there for the last two years, he must have attended so many meetings of the Corporation during that time, and as such, may I know from him what attempts he has made to advance the interests of the working classes? Absolutely none; and the honourable mover says that the Corporation failed to watch the interests of the working classes in point of drainage, in point of lighting, and in point of better roads in the north of the island. This information on the part of the honourable mover is absolutely incorrect. As regards the drainage of the north of the island, my friend the Honourable the General Member knows what the Corporation wants to do. The scheme of the Corporation to take the outfall on the east is being discussed with Government, the Port Trust and in the Corporation itself for more than five years. As regards better roads in the north of the island, my honourable friend conveniently forgets about all the new roads which have been newly constructed in the north of the island in F and G wards; on the east from the Byculla Bridge to Sion with cross roads, so also on the west from Worli to Mahim causeway. Crores of rupees have been spent over it by the Corporation as well as by the Improvement Trust. As regards lighting, the northern parts of the island enjoy better lighting than the southern parts. We have introduced electric lighting in the north of the island, which we have not even provided in the crowded streets of B and C wards.

Coming to the question of the representation of the working classes, he has given a very inaccurate figure to the House in support of it. I do not know what he means by backward non-Brahmins, and I should like to have a clear definition from him with regard to that expression. In that case, I could give him a more accurate figure. But it is not a question of Brahmins and non-Brahmins. He wants to give more representation to labour. Even on that question he has given a wrong figure to the House. He said there were three representatives of labour, but in my list I have got 10 including the President, Mr. Baptista, and there is Mr. Ginwala. (Mr. S. K. Bole made an observation which was inaudible.) I do not understand what the honourable member means by saying that. I can look upon Mr. Baptista as a more real leader of labour than the honourable mover (Mr. Bole), who has got only lip-sympathy for labour. What is the use of saying that there are 12 Brahmin members? There are only 10 high class Brahmins, and as against that, we have got 10 representatives of labour, leave alone the representatives of the backward community.

The Honourable Mr. B. V. JADHAV: Are there any low class Brahmins?

Sir VASANTRAO A. DABHOLKAR: Does the Honourable Minister want to have a third class of Brahmins?

The Honourable Mr. B. V. JADHAV: But you said high class Brahmins.

Sir VASANTRAO A. DABHOLKAR: The honourable mover of this proposition has said that there are 5 lakhs of working class people. I should like to know where he got this figure of population from. But assuming that 5 lakhs is correct, what does the total population of the whole city come to? Then it must come to 14 lakhs; which is not the population of Bombay, my information is that the working class population in Bombay, as far as the mill-hands are concerned, is about 1,75,000. Add to that 15,000 railway operatives; that comes to about 1,90,000 and adding another labour class say 50,000, it comes to 2,40,000. By giving inaccurate figures, he is trying to get the sympathy of the members of this House to induce them to vote for the first reading of the bill. He further says that out of 1 lakh of Gujaratis there are 16 representatives on the Corporation. May I know where he got those figures from? Assuming that is correct, may I enquire whether he includes the Gujaratis among the non-Brahmins and therefore among the backward classes? My information is that Gujaratis can be included among the non-Brahmins, and as such they can come among the backward communities.

The Honourable Mr. B. V. JADHAV: It is very good logic.

Sir VASANTRAO A. DABHOLKAR: Logic or not, the fact is there; the Gujaratis are non-Brahmins, and my honourable friend Mr. Narielvala will bear me out. If he says they are Brahmins, I will add to my list of Brahmin members. If they are not, they must go to the backward communities. If that is so, including the 16 Gujaratis, the backward classes are represented by 26 members, while the Brahmins are only 10.

Sir, it has been trotted out here that the Corporation consists of capitalists. Can the honourable mover of this proposition say with his hand on his heart that the present Corporation consists of capitalists? When it is the rent-payers that elect the representatives of the Corporation, I do not know how this question of capitalists being in large numbers on the Corporation comes in.

Then, Sir, in the schedule that he has appended to the bill, leaving aside the 26 representatives that he has got according to the formation of the present Corporation, what does he want to do? He wants 10 for himself, that is, for the backward communities, and 8 for the depressed classes in all the wards. That comes to 18. Adding 26 to 18, he wants 44 members, that is, nearly half of the present Corporation, to be reserved for his community. May I know from this House whether they are going to allow such a state of affairs as far as the Corporation is concerned, and to give 44 seats to one community alone?

[Sir Vasantao A. Dabholkar]

Then, Sir, my honourable friend the mover has stated that the Corporation has given 12 seats to A ward which has got a population of 60,000. He has taken only the number of people staying there, but he forgets how many citizens of Bombay out of the whole population attend the Fort ward during business hours and what is the revenue of this ward. I think it would be much more than the number of people living in F and G wards and so also the revenue, and as such the question is whether 12 seats are in any way more for that ward. I do not think they are. Then, if he is going to protect the interests of the minorities, following his own principle, if he wants the illiterate people to be protected, it is the bounden duty of the Council and of the Corporation to protect even the interests of the minorities. If that is so, it is only in that ward that the Parsi community can come in. They have got 50,000 voters in the City, and if we were to reduce the number of seats in the Fort ward, I do not think that we shall have more than 6 Parsi members in the Corporation. The honourable mover of the proposition says that there are 5 lakhs of working people and they have not got, according to his statement, more than 4 representatives. But my statement has been able to prove that they have got something like 44 representatives.

Coming to the question of the seats that he has added to F and G wards, I can quite understand that there has been an increase of population of the F ward, but on what grounds has he doubled the number of representatives for that ward. Has the population been doubled? Does he know the population of F ward? He has not given any figures to this House, nor is he giving any replies to my questions. That itself shows that he has not been able to prove that the 12 representatives he wants to allot to F ward are justified. In my opinion, Sir, there is no justification for this demand. As regards the E ward there has been an increase of population and the corporation is even thinking of giving more seats to E ward, by reducing the number of seats from C and D wards.

He told us that the population of Mahomedans is 2 lakhs and that they will be able to take care of themselves. Why? Are there not illiterate Mahomedans? Why should they not have reserved seats? why should not Mahomedan members ask for reserved seats for their community? I cannot recommend to give our Hindu friends more seats, because there is no need for it. The other day at question time the honourable member Moulvi Rafiuddin Ahmad protested that the Mahomedan education was neglected by the Hindu Minister and I as Hindu joined the protest at the state of affairs. If likewise the honourable member had brought in a bill on the ground of illiteracy of the backward communities and also of the Mahomedans, I would have supported him. Instead of that he is drawing a distinction between the backward and forward classes, and I hope the Council will not support the line of action the honourable mover has taken.

Moreover, it has been an established practice of this honourable House not to interfere with the affairs of the corporation without previously consulting that body. If he had moved this proposition in the corporation and the corporation had refused to accept it, it would have shown that he

[Sir Vasantrao A. Dabholkar]

was in a minority and his proposition was not accepted. In that event I would certainly have supported him. But without making any attempt in the Corporation, he has come to this House with his bill.

Mr. S. K. BOLE : I have got a right of reply. I will answer this point.

The Honourable the PRESIDENT : Order, order. The honourable member has got a right of reply.

Mr. S. K. BOLE : That is what I stated, Sir.

The Honourable the PRESIDENT : It is a well known fact that the honourable member has got a right of reply. It need not be stated.

Sir VASANTRAO A. DABHOLKAR : Without bringing his proposition before the corporation, he simply wants to take the Corporation by surprise and steal a march over that body by bringing a bill before this House and getting it passed. If this honourable House were to encourage such things, I shall be sorry about it and will enter my emphatic protest against such action of the mover.

The Honourable Mr. B. V. JADHAV : What are the facts ?

Sir VASANTRAO A. DABHOLKAR : The Honourable Minister is in charge of the portfolio for Education and this subject does not concern him but I am sorry for his constant interruptions. What is not a fact ? What meaning am I to understand from the interruptions of the Minister ?

Mr. S. K. BOLE : The bill was submitted to the Corporation.

Sir VASANTRAO A. DABHOLKAR : This question was discussed informally by some members of the Corporation soon after leave was granted to the honourable member Mr. Bole to introduce this bill. Many members of the corporation are of opinion that this House should not interfere with the allocation of seats in the wards by amending the Act as proposed now unless this House or the Honourable Minister in charge of that portfolio gets a requisition from the corporation.

The honourable mover of the bill has not shown into how many wards the city should be divided, what are their boundaries, and what is the population of each ward. He simply wants that it should be divided and in his haste he has not given the number of population for each ward. He gives some number at random. For authoritative reference on this subject he has got the last census report, and the last electoral roll ; these documents are available to any member of the corporation but he has made no reference to these documents nor are these in his possession. He has at present brought forward this bill with a selfish object and I appeal to the House and the Honourable Minister in charge of the portfolio of Local Self-Government to reject this bill.

Mr. N. E. NAVLE : Is such word as "selfish" allowed, Sir. It amounts to a censure.

The Honourable the PRESIDENT : It depends upon the sense in which it is used. If it is used in the sense of attributing motive to any honourable member, it is unparliamentary.

Sir VASANTRAO A. DABHOLKAR : I have no desire to attribute any motive to the honourable mover of the bill. The word "selfish" I use in the best of spirit. I have given my view that both the illiterate communities should be treated alike, and I will support such a movement. If I were to side with the mover I will also be charged with selfishness, as the sole object of the bill is to give reserved seats to illiterate Hindu backward class alone, which I sincerely deprecate. With these remarks I oppose the first reading of the bill.

Mr. R. S. NEKALJAY : Sir, I heartily congratulate the honourable mover of this bill and I think it is also my duty to congratulate the Honourable Minister for Local Self-Government. I may remind this honourable House that since the portfolio came into his hands he has not forgotten the interests of both the communities, I mean to say, the backward as well as the depressed classes. He has been nominating members on the major and minor municipalities and the municipal corporation of Bombay and local boards also, both from backward and depressed classes.

This bill has been brought in this honourable House on the ground that the political appetite of these communities is increasing day by day and such being the case the honourable mover is justified in bringing forward this bill and deserves congratulation for having taken so much trouble and for having exerted himself in public work for so many years. These two communities are very badly represented on these bodies. They are nowhere in the corporation. If anything that is in the interest of these two communities comes up before the corporation, it is simply laughed at. People who take great interest in civic affairs come to the tea-room and say that a certain thing has been brought and they are talking it out. A similar motion was brought in the corporation by a member (Mr. Gole) in connection with communal representation and when that motion was under discussion, many members joined in the tea-room and said that it was for the depressed classes, the Bhungis, etc. Certainly Bhungis are human beings and are at liberty to claim their rights and privileges. Why should they be ignored? I know for certain what the fate of this bill will be to-day; still, I think that it is my duty to support the first reading of this bill. I heartily support the motion for first reading.

Mr. A. N. SURVE (Bombay City, North) : Sir, I support the first reading of this bill. The honourable member to my left (Sir Vasant Rao Dabholkar) challenged a few statements made by the honourable mover of this bill. The first statement that he made was that the interests of the backward communities have not suffered on account of lack of representation or representatives belonging to that class. Sir, the honourable member lives somewhere at Chowpati, but if he will take the trouble of going round with some members connected with the movement which has been in existence for the past one year or so, called the Sanitation Round, he will find the condition of the people, in what dirt and squalor they live. Sir, there are places in the north of Bombay, where the sullage water of the gutters runs on the ground-floor of the rooms, the rooms are damp and the people there live the life of dogs and not of human beings. He

[Mr. A. N. Surve]

himself has admitted that the question of drainage is under consideration. Whether the defects are to be remedied in this generation or the next generation will not be a matter of concern to gentlemen living in the more sanitary parts of the city. I challenge him to follow me to some of these places and stay there for two hours, let alone all the 24 hours of the day.

The next point he referred to was about the roads in the north of the city. They are all newly constructed roads. May I just humbly remind him that those roads are the trunk roads connected with the improvement of the city? They are the roads along which the rich capitalists drive in motor cars from Bombay perhaps to the Juhu island. Those roads are made not for the convenience of the labouring classes: they are trunk roads to open a direct communication from the suburbs to the city.

The honourable member has also challenged the figure given by the honourable mover of this bill. He says that there are only 125,000 operatives or somewhere near that. He is talking only of the people who are actual workers. Have they got no families? Have they no children? Every workman must have a wife and he must have children. In that way does not the number swell? The honourable member is counting only the actual operatives. What about the women?

Another point he has raised is about the distribution of seats. He has made a great point of the fact that the honourable mover has not given the figures. I present him this sheet which gives the figures of all the wards, and for the information of this House I will state the figures which will show how out of date the allocation of seats is. Take, for instance, the B, E and F wards. The B ward has a population of 129,000; the E ward 276,000, and the F ward 145,000. The B ward, with its population of 129,000 has 16 seats; whereas the E ward with a population of 276,000 has only 10 seats, and the F ward with a population of 145,000 has only 6 seats. Now, Sir, may I enquire on what basis the seats are allocated? I think I need not carry the point any further. The information that the honourable member has given to this House is quite vague and misleading. He has stated that a committee has been appointed. We do not know what that committee is doing. I am an outsider and I do not belong to the Corporation. But this committee is thinking and thinking and time is passing. The honourable member has also charged the honourable mover that he is actuated with motives of self-betterment. Sir, was this question not moved in the Corporation itself? I am quite sure that it was. I will present him with the proceedings of the Corporation where this question was moved by members who sympathise with and who belong to these classes. The House will see what fate that motion received. That motion received a very dismal fate. Actually a committee was appointed with the following terms of reference:

"No. 6 Reservation of 6 seats for the backward classes in E, F and G wards, 2 seats for each ward. Adoption of the principle of reservation of seats."

[Mr. A. N. Surve]

These were the points which were referred to that committee and what was the decision of that magnanimous committee? Its decision is given as follows :

"As regards No. 5 a separate committee appointed by the Corporation resolution... is considering whether nomination of members by Government should not be done away with. This committee of the corporation are decidedly in favour of extending the system of election. It is for Government to consider whether any of the seats should be reserved for the particular communities."

With regard to the last point, No. 6 :

"The Committee are of opinion that reservation of seats for any community is not desirable."

Note the words "any community". Is there anybody in this House who will deny special representation to the depressed classes? This committee of the Corporation was so very magnanimous that it did not make a distinction even in the case of the depressed classes.

Sir, my honourable friend has raised the point that this House is not in the habit of coming to any decisions on a point relating to the city municipality unless on a recommendation from that body. It is that magnanimous body that has made this recommendation. They do not make a distinction in the case of anybody. Why would they make a distinction? The point is quite clear. I am stating these facts simply because the House should be in possession of accurate information.

The Honourable the PRESIDENT: Is the honourable member likely to take more time?

Mr. A. N. SURVE: I will take some time, Sir.

The Honourable the PRESIDENT: Will he finish in five minutes?

Mr. A. N. SURVE: No, Sir. It cannot be.

The Honourable the PRESIDENT: Then, the House will adjourn till 2 o'clock on Monday, the 2nd November 1925.

Monday, the 2nd November 1925.

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Monday, the 2nd November 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

AHMAD, MOULVI RAFIUDDIN
 ANGADI, Mr. S. N.
 BAPTISTA, Mr. J.
 BEDREKAR, Khan Bahadur I. M.
 BOLE, Mr. S. K.
 BUNTER, Mr. J. P.
 CHAUDHARI, Mr. L. S.
 CLEMENTS, Mr. E.
 COOPER, Khan Bahadur D. B.
 DABHOLKAR, Sir VASANTRAO A.
 DADACHANJI, Dr. K. E.
 DEHLAVI, the Honourable Mr. A. M. K.
 DESAI, Rao Saheb D. P.
 DEV, Mr. S. S.
 FERNANDEZ, Dr. COSMAS
 FRAMJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
 GUNJAL, Mr. N. R.
 HAMID M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JEHANGIR, the Honourable Mr. COWASJI
 JOG, Mr. V. N.
 KALBHOR, Mr. G. M.
 KAMBLI, Mr. S. T.
 KAZI INAITULLAKHAN
 KOTHARI, Mr. V. R.
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MEHTA, the Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.

MUKADAM, Mr. W. S.
 NARIELVALA, Mr. H. H.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. G. B.
 PRADHAN, Mr. R. G.
 RAHIMTOOLA, Mr. HOOSENALLY M.
 SAHEBA, Mr. H. D.
 SARDESAI, Mr. S. A.
 SAYED SHAHJADE SAHEB HAIDAR SAHEB
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SHINDE, Mr. R. D.
 SOMAN, Mr. R. G.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order. order. Questions.

CULTIVATION OF LANDS AT KARI, SHOLAPUR DISTRICT.

Mr. S. A. SARDESAI on behalf of Mr. N. A. ABDULPURKAR (Sholapur City): Will Government be pleased to state—

(a) Whether Government are aware of the fact that a very great acreage of lands at "Kari" in the Barsi taluka of the Sholapur district cannot be brought under cultivation, on account of the rowdyism of a section of the villagers as stated in the *Kesari*, page 15, issue 37, Volume 45, dated 15th September 1925?

(b) Whether they propose to take any action in the matter?

The Honourable Sir CHUNILAL MEHTA: Enquiry is being made.

ENGLISH CLASSES IN PRIMARY SCHOOLS.

MOULVI RAFIUDDIN AHMAD (Central Division): Will Government be pleased to state—

(a) how many English classes are opened by them in Marathi and Urdu primary schools in Central Division and in Southern Division?

(b) what is the regulation which fixes the number of such classes for Urdu and Marathi schools ?

The Honourable Mr. B. V. JADHAV :

<i>Revenue Division.</i>		<i>Marathi.</i>	<i>Urdu.</i>	<i>Total.</i>
(a) Central Division	.. ..	.. 4	1	5
Southern Division	.. ..	.. 2	1	3

(b) There are no special regulations for fixing either the number of classes or the proportion for Urdu and Marathi. However, when the proposals for opening these classes were sanctioned, it was intended that out of the five classes which were to be opened in the Central and Southern Divisions each, one should be attached to an Urdu School.

MOULVI RAFIUDDIN AHMAD : With regard to (b), is the Honourable Minister aware of the object for which English classes were proposed to be opened in vernacular schools ? May I remind him that it was because the Mahomedans have no Urdu side in the Government High Schools in the lower classes that the English classes were proposed to be opened in the vernacular primary Urdu schools ? That difficulty is not felt as far as Marathi schools were concerned. The demand of the Mahomedans for opening English classes in their Urdu schools being sound I desire to know whether in the light of the explanation the Honourable the Minister would consider the desirability of increasing the proportion fixed for Urdu schools with regard to English classes.

The Honourable Mr. B. V. JADHAV : The honourable member is I think under a misapprehension. The necessity for English classes is equally felt in the Urdu schools as well as in the Marathi and Kanarese schools. Taking into consideration the number of Urdu schools and the other vernacular schools this proportion was fixed.

MOULVI RAFIUDDIN AHMAD : The Honourable the Minister has not understood my question. My question is that in the High Schools there is provision in the lower classes for learning English through Marathi. But there is no Urdu side in the lower classes of High schools for Mahomedan boys to learn English through Urdu. If, therefore, they are enabled to learn English up to the fourth standard in the primary schools they would be able readily to join the High Schools after that.

The Honourable Mr. B. V. JADHAV : There are Urdu Middle Schools.

MOULVI RAFIUDDIN AHMAD : How many Urdu Middle Schools are there ?

The Honourable Mr. B. V. JADHAV : I shall find that out.

MOULVI RAFIUDDIN AHMAD : Will the Honourable the Minister kindly name one ? (No reply.)

The Honourable the PRESIDENT : The Honourable Minister does not want to reply.

ENQUIRY BY NON-OFFICIAL MEMBERS REGARDING WORKING OF
GOVERNMENT DEPARTMENTS.

Sir VASANTRAO A. DABHOLKAR: Will Government be pleased to state—

(a) Whether their attention has been drawn to a confidential circular sent by a non-official member of this Council to the Indian members of the Imperial, Provincial and Subordinate Forest Services requesting them to furnish him confidentially with information regarding the constitution and working of the Forest Department?

(b) If so, will they be pleased to place a copy of the circular on the Council Table?

The Honourable Sir MAURICE HAYWARD: (a) In the affirmative.

(b) A copy of the Circular* is placed on the Council Table.

Sir VASANTRAO A. DABHOLKAR: Will Government be pleased to state whether the circular conflicts in any way with the Government Servants' Conduct Rules?

The Honourable Sir MAURICE HAYWARD: Government servants are prohibited under rule 17 of the Government Servants' Conduct Rules from communicating to any one not specially authorised any information which has come into their possession in the course of their public duties, and the circular in question amounts to a direct incitement to officers and subordinates of the Forest Department to commit breaches of that most necessary and salutary rule. Government issued supplementary orders on the subject in 1922. Copies of the Rule 17 and of these orders will be laid on the Council table. Honourable Members of this Council have been vested with the special privilege of obtaining by means of questions in this House any information that is not included in published papers which it is possible to furnish them having due regard to the public interests and it is not open to them to seek it by direct reference to subordinate officials. The invitation to supply it "through channels which will avoid publicity" is particularly objectionable, tempting them to underhand methods subversive of the high standard of morality required of the public services of the State.

Sir VASANTRAO A. DABHOLKAR: May I know who is the author of this circular?

The Honourable Sir MAURICE HAYWARD: I see the circular printed does not contain the signature of the honourable member. I shall have no objection to stating the name provided there is no objection on the part of the particular member.

Sir VASANTRAO A. DABHOLKAR: Is the honourable member present in the House?

MOULVI RAFI UDDIN AHMAD: Will the Honourable the Leader of the House inform us where there was any circular issued in connection

*Vide Appendix No. 53.

with this letter and if so whether he would be pleased to place it on the Council table.

The Honourable Sir MAURICE HAYWARD: A circular is being issued but I am not quite sure whether it has already issued.

The Honourable Mr. A. M. K. DEHLAVI: I think it has gone.

MOULVI RAFIUDDIN AHMAD: Has the honourable member any objection to placing the circular on the Table?

The Honourable Sir MAURICE HAYWARD: That is a question for the honourable the Minister.

The Honourable Mr. A. M. K. DEHLAVI: I do not think any purpose will be served in doing so.

Mr. D. R. PATIL: Is the author of that circular the honourable member Mr. Mukadam?

The Honourable Sir MAURICE HAYWARD (after consulting the honourable member for Panch Mahals District): I am glad to say there is no objection to disclosing the name. It was the honourable member for the Panch Mahals District.

Mr. R. G. PRADHAN: Was not the circular issued with the best of intentions?

The Honourable Sir MAURICE HAYWARD: That is a question to be referred to the particular honourable member.

Mr. D. R. PATIL: Why was the name disclosed when the circular is marked confidential?

Khan Saheb A. M. MANSURI: Can the Swarajists take part in the proceedings after they kept themselves deaf and dumb?

The Honourable Sir MAURICE HAYWARD: I am not aware that any honourable member has broken his vow of silence.

THE URDU HIGH SCHOOL, HUBLI.

Mr. S. T. KAMBLI (Dharwar District): Will Government be pleased to state—

(a) the total amount of expenditure incurred by Government for Urdu High School at Hubli, during the year 1924-25;

(b) what was the income from fees of the said High School for the same period;

(c) The total number of boys in the said school during the same period?

The Honourable Mr. B. V. JADHAV: (a) Rs. 23,650.

(b) Rs. 4,227.

(c) 174 on 31st March 1925. The average monthly number was 159.

Mr. R. S. NEKALJAY: Was this amount spent for the maintenance of this High School or was it for any building purposes in this school.

The Honourable Mr. B. V. JADHAV: For maintenance, I presume.

ISMAILIA COLLEGE, ANDHERI.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(a) The amount estimated for the construction of the Ismailia College at Andheri.

(b) What is the amount spent out of the said funds towards its construction.

(c) How far the construction of the building for the said college has progressed.

(d) When they expect the college to begin working.

(e) Whether they have settled the details as to the staff of the college.

(f) Whether they are aware that the object of the donor of the college will be frustrated if the college be removed from its present site as recommended by the University Reforms Committee.

The Honourable Mr. B. V. JADHAV: (a) The main block of the Ismailia College is estimated to cost Rs. 4,67,854. This does not include the cost for hostel and other subsidiary buildings and the cost of compensation paid for the land acquired for the college.

(b) A sum of Rs. 2,55,247 has been spent from the fund up to now in paying compensation for the land acquired for the college.

(c) The work of construction has not yet been started. It is expected to be started very shortly.

(d) In June 1928 if the buildings are completed in October 1927.

(e) The Director of Public Instruction is being asked to submit proposals relating to the staff, equipment, etc., in good time next year for consideration as a budget item for 1927-28.

(f) The question of the removal of the college from the site referred to has not yet been considered by Government.

Khan Saheb A. M. MANSURI: With regard to (c) why is the word "expected" used and not the word "hoped"?

The Honourable Mr. B. V. JADHAV: It is a much stronger word.

Khan Saheb A. M. MANSURI: Why is the construction so long delayed.

The Honourable Mr. B. V. JADHAV: The honourable member is referred to the Honourable the Minister, Public Works Department.

Khan Saheb A. M. MANSURI: Will the Honourable the Minister, Public Works Department, answer that question?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: As far as I remember, the contract has been given.

MOULVI RAFIUDDIN AHMAD: Is the Honourable the Minister, Public Works Department, aware that when His Excellency opened this College he gave us to understand that the work of construction would be commenced at once? May I know why 18 months have been allowed to elapse without any work being done?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The honourable member should remember that there is such a thing as the preparation of plans and estimates.

MOULVI RAFIUDDIN AHMAD: I should have thought that His Excellency had taken all this into consideration when he made that statement.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The plans and estimates were not ready before but they were undertaken afterwards.

ALIENATED HOLDINGS IN GOVERNMENT VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state—

(a) the names of the surveyed Government and rayatwari villages, with their talukas and districts, in which there are alienated holdings, with the number of such holdings in each, for the year 1922-23?

(b) whether it is a fact that detailed information about these holdings is not given every year in the Annual Land Revenue Administration Report of this Presidency? If so, why?

The Honourable Sir CHUNILAL MEHTA: (a) Government regret they cannot furnish the information as the labour involved will be quite incommensurate with the result.

(b) Yes. The return is compiled every five years as the figures for each fifth year amply serve the purpose and their compilation involves great labour. This return was last embodied in the Annual Land Revenue Administration Report for the year 1921-22.

Mr. W. S. MUKADAM (Panch Mahals District): Sir, I do not put my questions.

The Honourable Sir MAURICE HAYWARD: I should like in the public interest to read the answer to question* No. 1 standing in the name of the honourable member for Panch Mahals District, as there seems to be some misapprehension as regards this particular question.

(The Honourable Sir Maurice Hayward then read the answer to question No.* 1 standing in the name of Mr. W. S. MUKADAM).

* The following question and answer were printed as Question No. 1 in the Eleventh List of Questions and Answers:—

DEATHS CAUSED BY EUROPEANS.

1. Mr. W. S. MUKADAM (Panch Mahals District): (1) Will Government be pleased to state how many deaths have been caused by Europeans in this Presidency during the last ten years giving details in the tabular form given below:—

- (1) Name of the accused.
- (2) His designation and profession, if any.
- (3) Name of the person killed.
- (4) Date of death.
- (5) Date of judgment.
- (6) Sentence inflicted.

FILLING OF VACANCIES IN CERTAIN GOVERNMENT OFFICES.

Mr. R. D. SHINDE (Nasik District): Will Government be pleased to lay on the Council table a statement showing the number of vacancies of clerks' posts, the number of such vacancies permanent or acting filled up and the castes of the persons so appointed from 1st January to 1st of July 1925 in the offices of the Executive Engineer, Public Works Department and Irrigation, Nasik, the Collector of Nasik, Forest offices at Nasik and the District Court and subordinate courts in the Nasik District?

The Honourable Mr. H. S. LAWRENCE: Information is being obtained.

LIQUOR SALES IN NASIK DISTRICT.

Mr. R. D. SHINDE (Nasik District): Will Government be pleased to give the total amount of liquor allotted to each of the liquor shops in the Nasik District and the amount of quantity actually sold at the same shops during the past years since the system of rationing was put into force?

Honourable Mr. A. M. K. DEHLAVI: Information has been called for.

CHEMICAL ANALYSER TO GOVERNMENT.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) Whether it is a fact that the Chemical Analyser to the Government of Bombay undertakes the work of conducting analysis, examining and reporting upon commercial and economic samples submitted to him for investigation by the mercantile community and the general public?

(b) for what purposes is the Chemical Analyser to Government appointed, *i.e.*, what are his duties?

(c) whether there has been a departure from these purposes by way of acceptance of other work, *e.g.*, products at mines or ware-houses, docks and railway yards in or out-side Bombay?

(d) whether it is true that certificates relating to work mentioned in the preceding question are issued on Government forms and over the official designation of Chemical Analyser to Government?

(e) whether the fees charged for work of this kind are credited to the public treasury; and if not, why?

(f) the scale of fees charged by the Chemical Analyser for work which he undertakes from the public?

(7) If the accused was released, the date of his release.

(8) District in which the offence took place.

2. If information for the last ten years is not available, will Government be pleased to give information for such period as is available?

The Honourable Sir MAURICE HAYWARD: A statement† is placed on the table.

† Vide Appendix No. 54.

(g) whether such work is treated as Government or private; and if it is treated as private work, whether it is done in Government premises, during office hours, and with Government apparatus?

(h) if the answer to (g) be in the affirmative whether Government get any share out of the fees charged for such private work to cover the rent of premises, use of Government apparatus and loss of time of a public officer involved in the carrying out of such work of a private nature?

The Honourable Mr. B. V. JADHAV : (a) The answer is in the affirmative.

(b) They are medico-legal experts to Government. It is also their duty to examine and report upon samples submitted to them for investigation by the Customs and Preventive Service; to conduct analyses for the Government of India, when required; to analyse and report on samples of water, food and drink when called upon to do so by municipalities and district boards or by authorized heads of the various Departments of Government; to act as testing Officer under the Petroleum and Explosive Acts; to examine medico-legal exhibits; to act as examining officer under the Food and Poisons Act; and to supply expert information within the scope of their duties to any of the departments of Government which may consult them. They have also to deal with medico-legal and toxicological specimens sent to them by Military Medical Officers, to attend courts-martial and to give evidence when required to do so.

(c) The Chemical Analyser is allowed to take up private work and its performance cannot, therefore, be considered as unregulated.

(d) The answer is in the affirmative.

(e) The Chemical Analyser is debarred from private practice, but is allowed to receive fees for all analyses not effected on behalf of Government and local bodies, less 4 per cent. to defray cost of materials.

(f) No scale of fees for charging for work undertaken by the offices from the public has been laid down.

(g) and (h) The work is private, done with the assistance of the Assistant Chemical Analysers in Government premises and with Government apparatus during or after office hours. 4 per cent. of the fees received by the Chemical Analyser is credited to Government to defray cost of materials, the remainder is distributed between the Chemical Analyser and his Assistants.

ANALYSIS WORK IN AGRICULTURAL COLLEGE AND VICTORIA JUBILEE TECHNICAL INSTITUTE.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) whether it is true that the College of Agriculture and the Victoria Jubilee Technical Institute, though purely educational institutions, accept work of analysis of and report on commercial samples, etc., as is done by the Chemical Analyser as mentioned in question No. 20;

(b) whether it is a fact that the former Principal of the College of Agriculture (Dr. Mann) had put a stop to this practice in the said College;

(c) whether it is true that after his leaving the College the practice has been revived;

(d) whether Government have received any representation on this subject from the Secretary, Indian Merchants' Chamber, Bombay;

(e) if so, what action have they taken or intend to take on it?

The Honourable Mr. A. M. K. DEHLAVI: (a) No analytical work has ever been done at the Agricultural College *as such* from the beginning. The Agricultural Chemist to Government has however his office in the same building, and he examines and analyses samples of agricultural interest, for the public. No charge however is made for this work.

(b) Does not arise.

(c) Does not arise.

(d) and (e). The honourable member is referred to the Honourable Minister for Education with regard to this as well as for information pertaining to the Victoria Jubilee Technical Institute referred to in clause (a) above.

Mr. J. C. SWAMINARAYAN (Ahmedabad District): I don't put my questions.

The Honourable the PRESIDENT: Order, order. I have to intimate to the House that the following Acts have received the assent of the Governor General:—

(1) An Act further to amend the Bombay Rent War Restrictions Act, 1918, and the Bombay Rent War Restrictions Act, No. II of 1918.

(2) An Act further to amend the Bombay Abkari Act, 1878.

SIND COURTS BILL.

The Honourable Sir MAURICE HAYWARD: I should just like, Sir, with your permission to invite attention to the copy of the Sind Courts Bill placed on the Council table and to say that I have been asked by certain Sind members to bring it up for first reading this afternoon if that would suit you and the honourable members of the House.

The Honourable the PRESIDENT: I have no objection of course, but I should like to consult the honourable members as to whether they desire that the first reading of this bill should be taken up to-day after the recess.

Question put and carried.

The Honourable the PRESIDENT: The first reading of this bill will be taken up to-day after the recess.

FURTHER CONSIDERATION OF BILL No. XIX OF 1925 (A BILL FURTHER TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888)—RESUMED.

Mr. A. N. SURVE (Bombay City North): Sir, when we adjourned the other day I was speaking about certain statements made by the honourable

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member, Sir Vasantrao Dabholkar, and I was endeavouring to show how they were all confusing. The honourable member has placed before the House figures which are quite, I may say, manipulated. He stated that even without reservation there are many non-Brahmins (that is the word he used, we are not using that word but we are using the words "backward and labouring classes") on the Bombay Municipal Corporation. I do not want to make any assertion as my individual assertion, but I want to place before the House the information which is elicited in questions and answers. Last time I had asked the Honourable the Minister for Local Self-government a question as to how many representatives belonging to the Hindu backward classes were on the Municipal Corporation of Bombay. His answer was that there are five elected and two nominated councillors, but as I know that the number five given was not quite correct, I asked a supplementary question requesting the Honourable Minister to state the names of those five councillors but the Honourable Minister replied "I am sorry I do not remember the names". Those five gentlemen are not really representatives of the Hindu backward communities. The only members who represent the Hindu backward communities and who have been returned to the Bombay Municipal Corporation are only two and not five. The other three who are tried to be brought into these classes do not really belong to these classes. They are two gentlemen whose names are Messrs. Parelkar; they are Somavanshiya Kshatriyas and as such they are grouped in the advanced communities. Then the fifth gentleman is a Kamati. The Kamati community does not properly belong to this presidency. Their mother-tongue is not Marathi. They have hardly anything in common with the Hindu backward communities whose mother tongue is Marathi. Therefore, Sir, even Government were not quite accurate in saying that there were five members belonging to the backward communities; there are only two of them.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN :
Are the Kamatis an advanced community ?

Mr. A. N. SURVE : I have never said so. What I said was that their mother-tongue is not Marathi. They hardly know what are the aspirations and what are the grievances of the Hindu backward communities in Bombay. That is my point. So, as a matter of fact, there are only two gentlemen in that body who have been returned by election, belonging to the backward classes, not ten : and two are returned by nomination, one is for labour and the other is for the depressed classes. So, the actual position is that in a body of 106 members, there are only four members who really belong to these two classes, the backward communities and the depressed classes. So, you will see that there is absolutely no adequate representation to these two communities. That is the point I am trying to emphasise ; and these gentlemen also came on the Corporation with the greatest difficulty. I will explain how it happened later on.

Then, we are told that the franchise has been extended and the members of the backward communities can come in any number. That is

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not quite a correct statement. The experience of the last elections to the Corporation does not confirm it. I may cite the instance of the G ward. There, there were two candidates, but not a single one was elected from the backward Hindu communities. We are accused of feathering our own nests. We are accused of being selfish; but may I place before this House the definition of the term Maratha or labouring classes? It gives a list of so many communities. So, when the charge of selfishness is brought against us, it will be seen how very wrong it is. It is not only one community. I am sorry to say that the Government are, to a certain extent, under a misapprehension. They consider the backward Hindu community as one single community, but that is a mistake. It is divided and sub-divided. Our point is this, that we do not want reservation for any particular caste; we want it for a very large section of the people, and that large section consists of numerous castes, and those castes have nothing in common with one another. The Government have always stated that those classes can organise themselves, but what sort of organisation is possible where this large section of the people is divided into castes and sub-castes. It is never possible for us members to organise it. That is our greatest difficulty. If any member from one community comes forward, a member from another community also comes forward as a rival, and as the communities are divided, the votes will also be divided, and a third gentleman, who has absolutely nothing in common with these communities gets representation. I may cite the instance of the G ward. In the G ward, in the last elections, there were two candidates, as I told you, and the number of votes secured by them was as follows: one member got 1,403 votes, and another member got 1,540 votes. If these two gentlemen had not belonged to different communities, then of course, perhaps those votes might have gone to one of them, and he might have been returned. But as two gentlemen belonging to different backward communities came forward, the votes were divided and both of them failed. That was the case in G ward. In F ward, there was no other competitor, and therefore one member was returned from that ward. Therefore, when it is stated that the franchise has been extended, and anybody can come in, it is a mistake to calculate it on that basis, because the gentleman who was elected from F ward came last. These two gentlemen whose names I have given were 7th and 8th. Therefore, it is not quite correct to say that the backward communities have been benefited by the lowering of the franchise. If the franchise is lowered still further, if it is brought down to Rs. 3 or Rs. 4, perhaps the working classes will be benefited. There are very few persons among the working classes who pay Rs. 10 rent, which is the qualification for becoming a voter. They are not in a position to afford to pay such a high rent. Therefore, it is absolutely necessary that if reservation is not to be given, then you must take the other course and lower the franchise. Take the instance of the Legislative Council elections. In the Council elections, there were no less than 12 candidates, and I, who am returned, stood fifth in the list. If no reservation had been given, then I would not have come here. Therefore, I have been suggesting that reservation of seats is the only

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way by which we can get representation. If it is denied to us, then we will never have the slightest chance of coming in. I have already stated the difficulty, and that is that we are already divided and sub-divided into several castes. Then there are other points also.

There are only one or two members belonging to the backward communities, and they are trying their best to make matters easy for our people, and the present bill, which is brought forward by the honourable member Mr. Bole is an instance of that. Had he not been there, I do not think that this bill would have been brought up here, after passing through the Corporation. He had first taken precautions to get this bill placed before the Corporation. You know that there are various difficulties, and that the Corporation, as it is constituted to-day, is a very happy family arrangement.

Sir VASANTRAO A. DABHOLKAR: The honourable member Mr. Bole is a member of that happy family.

Mr. A. N. SURVE: Take for instance a small community like that of the Parsis, whose numerical strength is hardly 50,000, or 4 per cent. of the total population. They are able to secure representation to the extent of 24 out of a total of 106. So, when there are vested interests, is it ever possible for the Corporation to agree to a proposition, whereby their vested interests will be retrenched? It is not in human nature. Again we have been making a reasonable and modest demand. We do not say: "Give us representation according to our numerical strength." We want at present some sort of representation. Let there be a few persons who belong to these classes, who know what the grievances of these classes are and who will endeavour to remedy those grievances which at present are not at all attended to. For these reasons I humbly submit that the reservation of seats which is the cardinal principle of this bill should be accepted by this honourable House.

Dr. K. E. DADACHANJI (Bombay City, South): Sir, I am sorry I have to oppose the first reading of this bill. This is a constitutional question which is sought to be introduced by means of a private bill. There are various conflicting interests in the city and they have not been consulted. The honourable member Mr. Bole, the champion of the depressed and backward classes, brings forward this bill without consulting any of them. Has he consulted the backward and depressed class members on whose behalf he is making the demand here? They do not know what is "franchise" and what is "vote". I will give the honourable House an instance. When the franchise was reduced to Rs. 10, many of the voters belonging to these classes were brought to the polling booth. When they were asked to put the papers in the brown box or the red box, they could not distinguish the colours. They cannot distinguish between a bullock-cart and a motor car symbols. These backward and the depressed classes are still in their primitive stage and without making efforts to bring them up, the honourable member Mr. Bole comes here and wants that they should be given the right of representation and that the franchise should be reduced to Rs. 5. This means universal suffrage which has

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not been given in any part of India, because there are very few who pay a rental of less than Rs. 5 in the city of Bombay.

He brought this proposition through one of his friends in the Corporation and the Corporation referred it to a committee, who threshed out the question. That committee recommended that nothing could be done at present until the members of the backward and depressed classes were educated, and until there was no illiteracy among them. Therefore the first and foremost necessity is to educate these classes and lift them up; and we will be the first to encourage steps taken in that direction. When this question was under the consideration of that committee, one big Mahratta gentleman asked my co-operation. He told me "If we lower the franchise, Dadachanji, we would get all the seats in the Corporation." There are six lakhs of people belonging to these classes and they will give all their votes to members of these classes. What does he mean by this? I do not understand this. Are there no other people living in the city of Bombay except the backward and depressed classes?

Besides, Sir, he wants 18 seats to be given to the depressed and backward classes. How he has calculated that number we do not know. He advanced the argument that the population should be taken into consideration. As regards the distribution of seats, the Corporation takes into consideration population, revenue and education. We consider in the Corporation these three things together and not only the population. In the Byculla and F and G wards the revenue is not much as compared with other wards and still they want more representation.

A complaint was made that because there are not many of the representatives of the depressed and backward classes their comforts are neglected. Sir, we have given them asphalted roads, lights and so on. But the places mentioned by the honourable members are private lanes and passages which municipality cannot take over. Under section 305, unless these private lanes are properly metalled, channelled, drained and lighted they cannot be handed over to the municipality. There are so many of them in the city of Bombay, and it is very difficult for the Corporation to take them over. It will be premature to bring this bill now. The honourable member must wait for 10 or 15 years more before he can bring a bill of this nature. At present the Corporation is sure to set its face against it.

Mr. D. R. PATIL (East Khandesh District): Sir, I rise to oppose the stormy opposition of my honourable friend Sir Vasantrao. Sir, he has sung the melodious song of democracy with the tone of aristocracy. The honourable member talked so much of democracy wishing the Corporation to be really a body representing the people of Bombay. What is the constitution of Bombay? Bombay consists of a large number of population of labouring classes. According to his own idea, if the labouring classes form the largest population it is only fair that they should be represented on the Bombay Corporation. What are the demands of the honourable mover of this bill? He says that some seats should be reserved for the backward classes and that the franchise should be lowered.

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Is it not just that there ought to be proper representation on the corporation of the backward classes in accordance with their numerical strength? Is that not in consonance with the sound principles of democracy? It is my opinion that the demand made by this bill is quite justified and in consonance with the principles of democracy. I should like to say of the honourable member Sir Vasantrao that destiny has placed him in such a happy position that he has the fortune of enjoying the sweet honey of nomination and therefore he avoids to taste the bitter tonic of election. Let him seek election and he will know what election means.

So far as the honourable member Dr. Dadachanji is concerned, if only we accept his argument it will come to this: "Let no single representative come from the backward and depressed classes. Let all the elected persons be Parsis and other educated persons from higher classes." If we accept his argument, then Parsis and others who are men of education will capture all the seats; and the backward and the depressed classes will be shut out. If we accept his suggestion the backward and the depressed classes will never be able to capture any seat either in the corporation or in the Legislative Council for generations to come. Under these circumstances I hope Government will see the justice of the demand and if they want real democracy I think they ought to pass the bill. Of course, I do not say that the number is quite justified, but it is a matter that can be left to the select committee to settle. I hope the Honourable Minister will accept the first reading of the bill.

Mr. N. E. NAVLE (Ahmednagar District): I support the first reading of the bill, brought by my honourable friend Mr. Bole. In doing so I would like to place before the House a few remarks dealing with this question. The corporation as at present constituted consists of capitalists and advanced class members, except a few representing the poorer classes. It has been placed before this House in plain terms that the backward classes who form the bulk of the population of Bombay have very meagre representation on the Bombay Corporation. This state of affairs ought to stop in these days. These days are days of democracy: the days of aristocracy are gone. The labouring and the backward and depressed classes ought to get representation, if not in proportion to their number, at least in fair numbers, on an important body like the Bombay Corporation. Sir, Bombay has been called the premier city in India, and it is the capital of the presidency, and it is therefore but fair that on its municipal corporation all classes should be represented in fair proportion, if not in their numerical proportion. Now, what does the honourable mover suggest in his bill? He has placed before us two things. The first is reservation of a certain number of seats for the backward and depressed classes (10 for the backward and 8 for the depressed classes). Let us consider whether this demand is exorbitant or out of proportion. My humble opinion is that this demand is quite moderate and therefore it may be granted. The second thing is that the franchise should be lowered. It has been placed before this House

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by previous speakers that only one lakh of the population of Bombay have been enfranchised, and the rest have not been. This state of affairs ought to stop and we ought to enfranchise more people, in order that their representatives may be returned to the municipal corporation. The honourable mover wishes to have as minimum qualification the payment of Rs. 5 by way of rent. This demand is quite fair and moderate.

Speaking on this bill, my honourable friend Sir Vasantao Dabholkar put before us many things. He put before us a very funny argument, which is familiar to wily politicians and selfish political agitators who want to deceive the masses. The argument was this. He challenged the honourable member Mr. Bole to show the occasions on which the interests of the backward and depressed classes were ignored by the present Corporation or the past Corporations. Sir, I am not able to quote instances, because I am not much familiar with Bombay and its municipal administration. But it cannot be denied that whenever the representation given to any class of people is vicarious, that representation does not properly serve the interests of that particular class. The viciousness, and the sins of commission and omission which are attendant on vicarious representation are patent enough. These things will ever be found in any body where there is no direct representation to the poor people and only indirect representation is allowed to them. This sort of thing should now stop, and people should be given direct representation. The franchise should be lowered so that the poor people may be able to send their representatives to the Corporation. Elections in these days are a very expensive business, and it is very difficult for poor people to return their own representatives, and if we do not lower the franchise it will be impossible for them to send their own representatives in fair proportion to their population. Sir, in these days, when the cry for Swaraj and provincial autonomy is resounding in our ears, it sounds quite unreasonable that the bulk of the population of Bombay should go without any franchise at all. An argument may perhaps be advanced that both reservation and lowering of the franchise is unnecessary at one and the same time. But I think that even if we lower the franchise it will be very difficult for the poor people of the backward classes to cope with the present system of elections and return their own representatives. Therefore the reservation of some seats for such people is a necessity.

My honourable friend Dr. Dadachanji told us that we should educate these poor people first and then come to the Council with a bill like this and ask for lowering of franchise. Sir, it is very easy to talk like that, but the difficulties are manifold. (Mr. Hoosenally M. Rahimtoola : What about the Minister for Education ?) The Minister alone cannot do that in two or three years. There is no doubt that the sepeople ought, to be educated, but it is quite contrary to fair play to say that unless these people are educated to a fair standard they should have no representation at all. It is quite unreasonable. I appeal to the House

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and to the Government that though this bill may in certain respects be demanding more than they are prepared to give, still they should accept the first reading and let it go to a select committee which will well represent both vested interests and the interests of labour and depressed classes. Let it go to the select committee and let it be shaped into proper form there. With these words Sir, I support the first reading of the bill.

Mr. S. N. ANGADI (Belgaum District): Sir, I rise to support the first reading of the bill. I was very much struck by the ingenuous arguments of my honourable friend Dr. Dadachanji. He says that these backward classes do not know what a franchise is; they do not know what a vote is; they cannot distinguish black from red, and therefore he asks why they should be represented. This argument instead of strengthening his case, weakens it. It is because they are very ignorant and educationally backward, and because they are under the thumb of the capitalists and of the legal profession that they cannot return their own people, even if there be a few educated people among them. That is why the honourable member Mr. Bole has come forward with this asking for special representation. It is for these reasons that communal representation was conceded to the Marathas in the Legislative Council and it is for these reasons that communal representation was conceded to the Mahomedans. In the face of these facts, I am really surprised that my honourable friend Dr. Dadachanji should trot out these hackneyed arguments. He says that the time has not yet come to give special representation, and that it will come after 15 years. He is unfortunately mistaken. After fifteen years, the time will have gone when we should give special representation for these backward classes. After fifteen years these backward classes will be sufficiently educated and when they will know how to protect their interests special representation will not be wanted and they will not demand it. Therefore, if there is any time when special representation should be given to these backward and depressed classes, it is now, and not after 15 years, when I think it will be considered an anachronism. Capitalists and other interested classes will always oppose such a democratic measure. Their fear is that they will be divested, in due course, of all their privileges, which they have been so safely enjoying, from times immemorial. Government ought to come forward, as they have always done before, to protect the interest of the backward classes. With these words I strongly support the bill.

Mr. L. S. CHAUDHARI (East Khandesh District): Sir, I rise to support the first reading of the bill. As I come from the mofussil I have got little knowledge of the internal affairs of the Bombay Corporation. Yet, Sir, I am tempted to say a few words in support of the bill. When I heard the aristocratic arguments advanced by these two members of the corporation, the honourable member Dr. Dadachanji and the honourable member Sir Vasantao Dabholkar, on the one side, and the honourable member Mr. Bole and the honourable member

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Mr. Surve on the other, it seems that this fight is between poverty and wealth. It is fortunate for them that Dr. Dadachanji and Sir Vasantao are put in a very favourable position and they can, at least the latter, very well enjoy—of course, I am using with your permission, the phrase which was intended to be used by the honourable member Mr. Patil—enjoy the easy pushes of nomination. He is not accustomed to the thorny bushes of election. Therefore, it is easy for him and even for Dr. Dadachanji to advance such arguments with such an indifferent tone. While this House was being addressed by the honourable member Mr. Navle, a voice was heard from behind that the Minister of Education is responsible for this. But the Honourable Minister has to do much and the corporation itself is responsible for keeping ignorant these masses who are living in such piteous condition and on whose labour the wealth is accumulated in the hands of the few rich people in the premier city of Bombay. Sir, it is a well known fact, when there is a fight between the weak and the strong, it is the bounden duty of Government to take up the side of the weak. And here we see, looking to the proportion of the population of the different communities in Bombay, it will come to your notice, Sir, that 2 lakhs of the whole population consist of Mahomedans, nearly 4 or 5 lakhs consist of the backward and depressed classes, and the remaining of wealthy merchants. I had a talk with one of my Mahomedan honourable friends, and his apprehension is that if the honourable member Mr. Bole's bill is accepted and the franchise is lowered to Rs. 5, the Mahomedan representation will be proportionately reduced. As a matter of fact, the Mahomedan community of Bombay is represented according to the population communal strength. They have 14 seats, for the population is 150,000. That is, they have got their proportionate share in the matter of the municipal corporation. As a matter of fact, the masses of the backward classes and depressed classes, which consist of over 4 lakhs, are really given not even one-third representation of what they are entitled to. It seems they have got hardly 4 representatives. Out of the 4 seats 1 is given to the share of the depressed classes 1 is given by nomination to the labouring classes.....

Sir VASANTAO A. DABHOLKAR: That is quite sufficient.

Mr. L. S. CHAUDHARI: Sir, that may be quite sufficient from the standpoint of my honourable friend Sir Vasantao Dabholkar, because he has not got to live in those filthy chawls where these unfortunate people are made to stay at present. It has been made very clear by my honourable friend Mr. Surve that these places which are the habitations of these masses are not fit to be made the habitations of dogs even, while my honourable friend (Sir Vasantao) thinks that that locality is quite fit for these labourers. But an open challenge was thrown to him by the honourable member Mr. Surve that Sir Vasantao should at least stay for two hours and see whether it is congenial to him to do so.

Sir VASANTAO A. DABHOLKAR: I consented.

Mr. L. S. CHAUDHARI: It is only the wearer, Sir, who knows where the shoe pinches. It is only those who mix with these masses and who

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have experience of the real condition of these masses, alone feel for them and know how they are made to live, and not those people who are the favoured sons of fortune and who can afford to live in palatial buildings in Bombay.

Sir, looking to the bill itself, it seems that there are only three requests made: the first is that some seats are to be reserved for the depressed and backward classes; the second is that reallocation of wards should be made, and the third is the lowering of the franchise. If the last request is granted, I think the object of the bill will be satisfied; so that, if the franchise which is now Rs. 10 is reduced to Rs. 5, a greater number of these backward and depressed classes will be brought on the voters' list and therefore the object of the honourable member Mr. Bole will be satisfied. But now we have heard how these people are ignorant. We can take the statement of Dr. Dadachanji as proof of the ignorance of these people as they are not able to distinguish the colours of boxes even. They are in most pitiable circumstances, and I therefore think that even by the lowering of the franchise the object of the mover will not be satisfied, and therefore the second request that reservation of seats should be given to these masses is made. For this purpose, these 18 seats which are demanded for the backward and the depressed classes should be given. Sir, even by granting these two requests the object will not be achieved, because it is our experience in smaller municipalities that though these different communities have got a numerical strength on the voters' list, still they happen to live in a particular locality and though the voters' strength is numerically big, still they cannot return a greater number than what may be allotted to a particular ward. Therefore, the third request of rearranging the wards is made. If it will not be convenient to the Minister in charge of Local Self government to grant the whole request of the honourable member Mr. Bole, it would be quite in accordance with my honourable friend's wishes that the third request of the lowering of the franchise should be granted. With these remarks I support the first reading of this bill.

MOULVI RAFI UDDIN AHMAD (Central Division): Sir, I should like to offer a few observations on this bill. In the first place, Sir, I heard the phrase "aristocratic members" of the corporation from all the previous speakers. The Corporation has no representative of the aristocratic class, as far as I know. What do you mean by the "aristocratic class"?

The Honourable the PRESIDENT: The honourable member should address the Chair.

MOULVI RAFI UDDIN AHMAD: Yes, Sir. Who are aristocrats? People who are born with blue blood. How many persons have got blue blood in the Corporation? What the honourable members mean is really plutocracy, and not aristocracy. There are capitalists in it, certainly, but not with very blue blood. (An Honourable Member: They have got blue blood.) They have got titles which do not always mean blue blood. It is not like the House of Lords.

[Moulvi Rafiuddin Ahmad]

Then, Sir, let me remind honourable members that as far as the Mahomedans in Bombay are concerned, there is no separate communal representation for them. That shows the fairness of our contention: Where we get our due representation without a communal register, we certainly do not insist upon separate electorates. I hope honourable members would bear that in mind. Then, Sir, I maintain that the honourable members from the backward classes should either take their stand upon the basis of theory or upon expediency. If their basis is population, then why do they fall short of their demand? Why do they not say that nothing but representation according to the population will satisfy them? The reason is clear. Because they know that practically it would be of no avail. We have found in this House that one able man like Sir Pheroze Shah, from the Parsi community, for instance, could do more than 20 or 30 people of inferior merits would do. Therefore, it is to their interest not to insist upon representation strictly according to population, but think of sending very able representatives to the Council or to the corporation. Take the case of labour in England. There, there are no seats reserved for labour. Labour organised itself and secured the Government of the country. Indian labour should organize itself and when they organize themselves they could easily return their representatives in larger numbers. It is also for the backward classes to organize their own people. Then, Sir, I was very much amused at the arguments advanced by my honourable friend Dr. Dadachanji. What was the argument of Government against Indians having enlarged and representative Councils? They said that the constituencies were very ignorant. But the Indians said "No, it does not matter, they will be educated later; we must have our representatives." That the advanced classes should now use arguments of the Government in keeping back the backward classes is very regrettable indeed. Certainly, the backward classes are backward in education, but Government would be justified in giving some representation to them by nomination and by reservation of one or two seats. But this is not really the remedy. The remedy lies with non-Brahmins themselves. They should insist upon lowering of the franchise. When the Municipal Act was passed this demand for reservation was insisted upon, but they withdrew it as the Honourable the Minister kindly offered to lower the franchise. I do not think it would be right for the backward classes to alienate the sympathy of the wealthy classes. There are some representatives of the wealthy classes who are really doing very good work for the backward classes. They will have to continue to represent the backward classes for some time to come. The backward classes should return them and insist upon them to be their mouth-piece. With these words I partially support the bill.

Mr. S. A. SARDESAI (Bijapur District): Mr. President, I rise to support the first reading of the bill moved by my honourable friend Mr. Bole. In doing so I would like to make a few observations. Sir, every action in this world has its merits and demerits. If you give

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reserved seats or nominate backward and depressed classes it is said that it will make them dull and less industrious. They must educate themselves and try to improve their condition. This is one line of argument. Again as pointed out by several honourable members, they should be nominated and both Government and the people should educate and improve their less fortunate brethren, the backward and depressed classes. This is a very important subject and even if I talk for hours and hours together I shall not be able to do justice in this matter. We have both backward communities and forward communities and it is impossible to arrive at a proper definition of the backward classes. Leaving these things aside, I now turn to the reservation of 18 seats. Even though this number is not reserved I think 10 or 12 seats may be reserved for them. I do not think the lowering of the franchise will help the backward classes but on the other hand it may make their case more intricate and complex. As for asking Government to nominate members to the municipalities and local boards, it is very reasonable. Government look to the numerical strength and population and they also look to justice being done to the classes. In this respect Government are very reasonable. As has been pointed out, I think the backward classes should also try to stand on their own legs; both Government and the people should try to educate and improve their condition. The backward communities also should make efforts in this direction. With these few words, I wholeheartedly support the first reading of the bill brought forward by my honourable friend Mr. Bole.

Mr. S. K. BOLE: I have been reminded of the circumstances under which leave was granted to me to move my bill. To my mind leave was granted with the desire of establishing a convention in this matter. Sir, my honourable friend Sir Vasantao when opposing my bill made a speech in which there is very little of reasoning but more of bluff to which he is accustomed in the Municipal Corporation. Sir, this House well remember that with the same vigour he opposed the last Municipal Amendment Act introduced by the Honourable Minister.

Sir VASANTAO A. DABHOLKAR: When was it?

Mr. S. K. BOLE: I am not surprised at the attitude of my honourable friend. It is very consistent.

Sir VASANTAO A. DABHOLKAR: On a point of correction. I was not in this House when the Act was introduced by the Honourable Minister.

Mr. S. K. BOLE: He did it in the Corporation. In spite of his opposition the backward and depressed classes are determined to survive. They have survived and they would survive. They would struggle even for their existence and they would not be wiped off the world. I am accused of selfishness and making false statements, but I am going to give one instance of selfishness and it will be for the House to see whose selfishness it was. When once I stood for election in the municipal corporation

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my honourable friend wrote a long letter praising the services which I have rendered in the interests of the working classes, and then he asked me to withdraw in favour of his brother Mr. Mangeshrao Dabholkar. It is my nature to help others and so I quietly submitted to his wish. That will show who is selfish, myself or Sir Vasantao ?

Sir VASANTAO A. DABHOLKAR: On a point of enquiry and correction. Will the honourable member, Mr. Bole, produce my letter here in the Council? He is again making an incorrect statement.

Mr. S. K. BOLE: Sir, I did not think that the honourable member Sir Vasantao would go so far as to charge me with having made a false statement or with selfishness, and so I did not bring the letter with me, but I am prepared to bring his letter and produce it on the floor of the House.

As to his advice given to us that we should get ourselves elected through the general electorates, I may tell him that though we are numerically strong, we are weak in influence and wealth. Even my honourable friend Sir Vasantao's brother, Mr. Mangeshrao Dabholkar, when he stood for election last time, could not hold his own against a member of the priestly class. He failed in spite of the wealth, influence and domineering character of his brother. Even in the city of Bombay a member of the priestly class can get himself elected merely because he belongs to the priestly class. Though Sir Vasantao considers himself to be a Brahmin, the priestly class regards his community as low class Brahmins. In his native place his community is called "Baman" and not "Brahman" and the "Brahmans" are called Bhats.....

The Honourable the **PRESIDENT:** I should like to know what relevancy all these matters have to the motion before the House.

Mr. S. K. BOLE: I was going to show, Sir, how difficult it is for a member of even Sir Vasantao's family to get himself elected and to show that his advice to the backward classes to get themselves elected through general electorates cannot hold good. It is far more difficult for backward classes to succeed in an election through the general electorates, when in spite of Mr. Mangeshrao Dabholkar's high position, high status and great influence through his brother whom the Governor-General has knighted, he could not succeed. The honourable member Sir Vasantao knows that though the backward and depressed classes are numerically strong, they are under the thumb of their masters. Even at the time of the elections influential members bring pressure even on intelligent persons such as clerks in offices through their employers and ask them to vote in favour of their own candidates. As to his argument about the redivision of wards you will see, Sir, that my bill makes no mention of redivision of wards. It has not been touched at all, but it is my honourable friend Sir Vasantao himself who has made a mess of the whole thing and confounded the issue. There is no mention of redivision of seats and I am right in the statement that the matter has been hanging for ten years, that the Committee is sitting over it and

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has not yet come to any conclusion. The question referred to in my bill is only about the redistribution of seats per ward, and what my bill seeks to do is to redistribute the seats on the more democratic basis of population. It has been said that the population should not be the basis and that revenue should be the basis, but in the city of Bombay no man can live without contributing his mite to the revenue of the Bombay Municipal Corporation. He has to pay rent, boarding charges, though he is alone and some portion of this eventually goes into the coffers of the Bombay Municipal Corporation in some form or another. Therefore population should be the proper basis in matters like these. My honourable friend, Sir Vasant Rao, says that I have not produced figures but I thought that my friend Sir Vasant Rao, being an *ex*-president of the Bombay Municipal Corporation and therefore conversant with all these figures would have been the last person to ask for them on the floor of this House. However, for his information and also for the information of the House I quote the following figures:—

Backward classes	463,514
Depressed classes	157,733
Mahomedans	184,685
Christians	68,169
Parsees	52,234
Other advanced classes	218,147

As I said yesterday the backward and depressed classes are represented only by some five members, two by election and two by nomination, whilst those who are fully represented get nomination to the extent of about five and six. Though these backward and depressed classes are ignored in this manner, it must be said to the credit of the Honourable Minister that during his régime a member of the depressed classes got his seat through nomination on the Bombay Municipal Corporation. The Brahmins though only a few hundreds in number have got 11 members, 9 by election and 2 by nomination. Mahomedans 23; Parsees with a population of 50,000 have got 23. As for Gujerathis, there is no question of forward and backward classes amongst them and therefore they have been omitted from my bill. Then again my bill refers only to the Marathi-speaking Hindu backward classes and therefore in my whole bill the word non-Brahmin does not appear. What I, therefore, urge is that a due proportion of seats should be given to the Hindu backward classes. As to the wards, I give the following approximate figures:—

Ward.	Population.	Number of members.
A	60,000	12
B	125,000	16
C	200,000	16
D	150,000	10
E	260,000	10
F	125,000	6
G	150,000	6

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If you look to the allotment of the seats per ward you will see that the distribution is not fair and just. There is no principle observed in allotting these seats to the different wards. The Corporation is sitting over the matter, but I do not think, when their interests are concerned, they will come to any decision. As to the charge that I did not submit this bill to the Corporation, I would say that I moved in the matter, and I have got a printed reply from the Corporation in my hand. In the year 1923, I referred to the Corporation some questions, and the first of which was altering the number and boundaries of the wards into which the city should be divided for the purposes of election of municipal councillors; the second question was reappportioning the councillors elected at ward elections among the wards; the third question was the reservation of 6 seats for the backward classes in the E, F and G wards, 2 in each ward. This was a very moderate demand; the demand made was only for six seats; the fourth question was the adoption of the principle of reservation of seats in the Corporation for the members of the Maratha and allied castes and the depressed classes. The reply of the Corporation was: "With regard to the first two points, the committee are awaiting the report from the Commissioner and would submit their recommendations in the matter on receipt of the report." Now, this happened in the year 1923, and they are still sitting over the matter. The reply further says: "With regard to the last two points, the committee are of opinion that the reservation of seats for any communities is not desirable." That being the reply, two other non-Brahmin members submitted resolutions in the Corporation, recommending the reservation of seats, but those resolutions were thrown out. Then my bill was submitted to the Corporation before I came to the Council, and it was pressed before the Corporation by one of us. My honourable friend Dr. Dadachanji is wrong in saying that the bill was sent to the committee. The Corporation did not agree to send it to the committee; it was thrown out. That is the position. We cannot expect anything from the present Corporation which is constituted of aristocrats and capitalists and the advanced classes. These facts would show, Sir, who is making incorrect statements and this is the knowledge the honourable member possesses of the proceedings of the Corporation.

My honourable friend Sir Vasantao asked me what I have done for the backward classes in the Corporation. I have been in the Corporation only for two years, but may I ask him in the same tone, what he has done for the backward communities for the last fifteen years when he was nominated a member by Government. Can he show his record to me and to the House? But his record in one respect is very important. When any person from his own community has got to be appointed to a high post, he moves heaven and earth and gets him appointed. I may tell the honourable member that I have worked in my own humble way, and the Corporation proceedings will show what I have done. But our voice, as we are few, does not count there.

As to the picture drawn by my honourable friend Sir Vasantao, the beautiful picture of electric lights and asphalt roads, and many other

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things, I may tell him that these are meant for the pleasures of the wealthy.

My honourable friend Dr. Dadachanji has given us paternal advice that we should get our people educated. But whose duty is it? The Corporation collects the taxes, and it is the duty of the Bombay Municipal Corporation to impart primary education to the citizens of Bombay. You know very well, Sir, that when you were a member of the Corporation some influential elements were against the introduction of free and compulsory primary education in the city of Bombay. Then, Sir, at that time, you took up the cause of the poor people, and you moved a resolution to that effect, and got the principle passed that free and compulsory education should be introduced. That is the position, Sir, and all these gentlemen are talking of education and so many other things. The light of knowledge and education was very badly wanted for the advancement of the backward classes, and it is only to-day, Sir, that compulsory primary education in the city of Bombay is to be introduced, though it has already been introduced in minor municipalities and cities. Sir, after resorting to every other remedy, of course, I deemed it desirable to come to this House, which is a court of appeal, and we expect to get justice for us in this House.

Sir, as regards improved roads and lights in the north of the island I may tell the honourable member Sir Vasantryao that there were sanitary rounds carried on by the Social Service League of Bombay, and some few members of the Corporation who took an interest in these rounds—others did not care for the welfare of the backward and depressed and other classes, they left them to their fate—some few members who took part in these rounds have submitted a report, wherein they have said that those parts of Bombay which they visited were nothing less than hell on earth. That is the other side of the picture drawn by my honourable friend Sir Vasantryao Dabholkar.

Then as to the management of the primary schools committee and its affairs, look at the number of schools conducted in areas inhabited by the wealthier and advanced classes, and look at the number of schools conducted in the areas wherein the backward classes reside. The difference will show you the differential treatment given by the Corporation. There also, as to the number of teachers of the backward classes, I have already pointed out the other day that the percentage of teachers belonging to the backward classes is only 1 per cent., among a total number of some 1,500 teachers. That is the position, Sir. This thing is happening when we have got qualified teachers belonging to the backward communities. When we had unqualified men, they said "How can you be taken in service without any qualification?" But here, when we have got qualified men, no heed is paid to their demands. This sort of thing happens on account of almost all the seats being occupied by the members of the capitalist and advanced classes. My friend Sir Vasantryao would be pleased to give representation to members of the non-Hindu classes; he would like to include even non-Hindus among representatives

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of labour, when this bill refers only to the Hindu backward and working classes, and he would take up the cause of the Mahomedans. But he would not like to give fair representation to the people belonging to his own Hindu community. That is the thing. These members of the advanced classes would not give us help and do not want us to rise.

Sir VASANTRAO A. DABHOLKAR: On a point of correction, Sir. What I said was that I wished to give representation to the Mahomedans. As there are illiterate people among the backward Hindu classes, there are also illiterate people among the Mahomedan community and so they should also be given a separate representation. Instead of that the honourable member says that I wanted to give representation to Mahomedans only. It is incorrect.

Mr. S. K. BOLE: I did not say that. What I say is that the honourable member wants to give representation to Mahomedans along with us. Not to us alone. That is playing one community against another. That is his dodge. These members of the advanced classes want us Hindus belonging to the working, backward and depressed classes to join them in the Sangathan movement. With all this how can we join that movement of the high class Hindus? They want to remain a high class for ever, and want us to remain members of the low caste for ever.

On the basis of the population I have made the minimum demand—10 seats for the members of the backward classes and 8 seats for the members of the depressed classes. It is only a minimum demand. I am not encroaching upon the rights of the general public. I have reduced the seats given by nomination. At present 16 seats are given by nomination. Those of us who do not come by nomination say that it is coming by the back-door. But I know so may patriotic men have come by the back-door, at least as patriotic as the critics of nomination in the initial stages of the Councils and other local bodies and we are also in our initial stage of politics and there is no harm in our coming by the back-door of nomination. If they take objection they should reduce the number of seats by half and give that number to us in the reserved seats. I would not go into the method of nomination. For a population of nearly 5 lakhs, Government gives one for labour and one for the depressed classes. Is that a fair representation?

The last principle which has been urged in the bill is of franchise. The figures will show to how many people the present franchise is giving the power of vote. Almost all the members of the backward classes are being excluded from enjoying this franchise as many of them pay rent below Rs. 10. Therefore unless the franchise is reduced to some low figure to the extent of rupees five, I do not think the backward classes will enjoy the privilege of franchise. I moved a proposition in the Corporation to reduce it to Rs. 3 but they did not care, and they did not accept the suggestion contained in this bill also. Under these circumstances I have placed my bill before this House and I hope they

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will be pleased to accept the principles underlying my bill and refer it to the consideration of the select committee.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I am in sympathy with the aspirations of the backward communities and the depressed classes; but I am sorry that I cannot accept the principles underlying this bill, because they do not suit the conditions prevailing in the city of Bombay. When honourable members of this House hear me, they will be convinced that the attitude I have taken towards this bill is quite justified by the facts and circumstances. Honourable members representing the depressed and backward classes cannot deny that I have been their very good friend (Honourable Members: Hear hear) and that I am as democratic in my feelings and action as any member of the House. I have actually shown by various enactments that I have introduced in this House with regard to the district local boards, district municipalities and the municipal corporation of the city of Bombay that the backward and depressed classes should be able to capture all these bodies and come into their own. I am sure in the city municipalities they will be able to capture almost all the seats. I had undertaken to democratise the Bombay city municipal constitution some two years ago with a view to associate the masses with their local affairs.

Before I deal with this bill, I will refer to an important fact, and that is that the provisions of this bill were fully discussed in the corporation, and, as I understand from the mover of the bill, the corporation set its face against it. Honourable members are aware that with regard to every piece of legislation that has been introduced in this House with regard to the local bodies, Government have always made it a point to consult those bodies and ascertain their views. Now, in this case, we know what the views of the Corporation are. The Corporation have decided against any such provisions. The franchise in the city of Bombay was widened only two years ago. Before that, the number of voters in the city of Bombay was only 17,000 or 18,000. Owing to the new Act, that is my amending Act, the number has increased to nearly a lakh. In other words, the number has increased about five-fold. We should not forget one fact in this connection, and that is that the total population of Bombay is about 12 lakhs. Under the City of Bombay Municipal Act every occupier of a tenement of a rental of Rs. 10 is entitled to a vote. Ordinarily that tenement is occupied by four or five persons—that is the number of an ordinary family. Out of these four or five, one man pays the rent, and he gets the vote. That means that the population of twelve lakhs, may be divided into three lakhs of families, and out of these three lakhs, one lakh are entitled to vote. That means that one in every three has got a vote. That is a wide enough franchise. Besides, my honourable friend has not given us any figures regarding the extra number of voters that will result from the proposed reduction of the franchise qualification from Rs. 10 to Rs. 5. It will be simply a leap in the dark as we do not know what will be the number of voters. Another fact is that after the lowering of the franchise to

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Rs. 10, we have had only one election, and the new election is coming. I think we ought to wait and see the result of the new elections. At the first election, moreover, the voters had very little time to organise, and there was very little time to get voters enlisted, because the Act had come into operation only a little while before. As far as I know—I am open to correction—before the Act came into force, the backward classes had not sent a single representative to the Corporation. But after the Act came into operation, they got five seats by election and two by nomination—a thing which they never enjoyed before. My honourable friend opposite me said that one of these five was a Kamati. He admitted that he was a member of a backward community, but he said that he did not belong to the Bombay city and that he did not know Marathi. I think that that is creditable to Bombay and speaks volumes in its favour. That shows that Bombay city is very cosmopolitan....

Mr. S. K. BOLE: Sir, may I correct the Honourable Minister? He said that there were no persons returned to the Bombay Corporation by the backward classes before the amending Act came into operation. There was the same number of members of the backward communities elected to the Corporation before the Act, and the number has remained the same after the Act. There were three members elected before the Act.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: But now they have five elected and three nominated (Mr. S. K. Bole: No.) The honourable member may think what he likes. That is the information I have from the Municipal Commissioner who knows the position much better. That shows that the city of Bombay does not find fault with A because he is a Kamati and with B because he is a Kamati: but that the people of Bombay vote without distinction of creed or caste. Here is a case of a man who belonged to a backward community—not an aristocrat or capitalist—not a permanent resident of Bombay, not a very rich man, with not many of his caste residing in the city, being elected. Look at the fairness of the city of Bombay! They have elected a Kamati. (Mr. A. N. Surve: He has a very large following.) Similarly, my honourable friends have a very large following, they have six lakhs of people belonging to them. Why don't they copy the example of the Kamati and return their people in large numbers? If it is the fault of any one, it is their own fault.

Now, I come to the two demands. First they want the reservation of seats—eighteen seats to themselves,—and secondly they want at the same time a lowering of the franchise to Rs. 5. But these propositions are inconsistent with each other. If they get reservation, whether the franchise is Rs. 10 or Rs. 25, should not effect them. I cannot understand their logic. If they get reservation, it does not matter whether the franchise is Rs. 10 or Rs. 5: they will get a certain number of seats and no more. After reservation where is the necessity of lowering the franchise? Therefore, Sir, the proposals are inconsistent with each

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other. (Mr. D. R. Patil: Then, accept one of them). I am coming to that presently.

Sir, I do not want to be responsible for spoiling the good name of the city of Bombay by introducing the principle of communal representation in it. Bombay is a most cosmopolitan city, and has proved true to its traditions. Now, my honourable friend said that the vote is mostly with the Hindus, Mahomedans and other communities, and that the Parsis are a small number but that in spite of that the Corporation is monopolised by the Parsis. That shows, Sir, that the Bombay people vote without any distinction of creed or caste; they vote for the best man. If, in view of the services that the Parsi community has rendered to the city of Bombay, they vote for the Parsis, I think they ought to be encouraged to do so. There are several classes to select from and yet why do they prefer the Parsis? It is because of their services to the Corporation. That is why they want to return them in large numbers. What does this proposal mean? It means restricting the right of vote given to the people. By this reservation we will be creating water-tight compartments. It means that the Marathas must, whether they are willing or not, vote for a Maratha, whether they consider him fit or not.

An honourable MEMBER: That is not the case.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: You will be creating 18 separate constituencies, and the votes for those constituencies will have to go to the Marathas.

Now, Sir, I should like to deal with another complaint. They say that even if the franchise is reduced, they cannot organise themselves because there are jealousies between them. They say that generally more than one candidate stands. I would say that the same is the case with the other communities too. There are castes and sub-castes among Mahomedans also. It is the duty of the backward communities to organise themselves, and have only one candidate to stand. If the people are really anxious to be represented by their own people, I am sure they will vote only for their own people. Well, it is for the leaders of those communities to educate them, and tell them the value of the vote. Perhaps up to now, it seems that people have been preferring members of their own community. They think they are better representatives. Besides, in the corporation there are so many leaders of the people, and I am sure they can very well educate their constituents.

Lastly, about the redistribution of the wards. My honourable friend complains that Government have not come to any conclusion as yet on this matter. That means it is a very difficult task, and he wants the House to decide it within two hours.

Mr. S. K. BOLE: No, no.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Redistribution of wards is also very difficult. Again, my honourable friend wants redistribution only on the basis of population. I do not think it is fair to proceed merely on the basis of population. We must

[Khan Bahadur Shaikh Ghulam Hussain]

take into consideration the revenue derived, the literacy, the education and such other factors of importance. Besides, Government have always this question in mind, and, whenever the corporation wants redistribution, Government will consider the matter. In these wards I think that we should not introduce a spirit of communalism in Bombay. If reservation is allowed to one community, there will be other communities wanting to ask for it. He admits that 46 Hindus are already elected. He asks for 18 more by reservation. That means 64. If they combine, they will take away also the remaining seats by co-optation because there cannot be a greater party than that of 64. That means there will be no chance for the various other communities, the Indian Christians, Mahomedans, Parsis and others. Then, the result will be, Sir, there will be a demand from all the minorities, and we will not be able to resist their demand for representation. The minorities will turn round and say: Here is a majority consisting of 6 lakhs of people and you have reserved seats for a section of them which forms part and parcel of the Hindu community and which has already been returned as a part of a community that possesses as many as 46 seats and it is now proposed to add 18 more seats to these. That means the whole corporation is being made over to one community by legislation, and it would be impossible then to resist the demands of the other communities. I think it is a very vicious principle to introduce in the city of Bombay, where things have gone on very well. As the history of the Corporation shows, you have all communities fully represented, Parsis, Europeans and other Indians, and the honourable House will be surprised to know that the Corporation have elected as the chairman of their standing committee a Government servant in the person of the Executive Engineer. That means they are working more or less on national lines in the city of Bombay rather than from any communal spirit. (An Honourable Member: And the president is a Maratha Kunbi). The very president of the corporation is a Maratha Kunbi, Sir. With these remarks, I oppose the bill moved by the honourable member, Mr. Bole.

Question put. House divided. Ayes, 13: Noes, 26. Motion lost.

Division No. 15.

Ayes.

ANGADI, MR. S. N.
BEDREKAR, Khan Bahadur I. M.
BOLE, Mr. S. K.
KALSHOR, Mr. G. M.
KAMBLI, Mr. S. T.
NAVLE, Mr. N. E.
NEKALJAY, Mr. R. S.

OWEN, Mr. A. C.
PAINTER, Mr. H. L.
PATIL, Mr. D. R.
SARDESAI, Mr. S. A.
SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
SURVE, Mr. A. N.

Tellers for the Ayes: MR. S. K. BOLE and MR. D. R. PATIL.

Noes.

BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DEHLAVI, the Honourable Mr. A. M. K.
FERNANDES, Dr. COSMAS
FRANZI, Mr. K. S.

GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan
Bahadur SHAIKH
HARRISON, Mr. R. T.
HATCHE, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE

Noes—*contd.*

JEHANGIR, the Honourable Mr. COWASJI
 KAZI ISAITULLAKHAN
 LAWRENCE, the Honourable Mr. H. S.
 MANSUR, Khan Saheb A. M.
 MEHTA, the Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.

NOOR MAHOMED, Mr.
 PATEL, Mr. A. E.
 PRADHAN, Mr. R. G.
 RAHIMTOOLA, Mr. HOOSSEINALLY M.
 THOMAS, Mr. G. A.
 WILES, Mr. G.
 WOODS, Mr. E. E.

Tellers for the Noes : SIR VASANTRAO A. DABHOLKAR and DR. COSMAS FERNANDES.

(*After recess.*)

**BILL No. XXIII OF 1925 (A BILL TO CONSOLIDATE AND AMEND
 THE LAW RELATING TO THE COURTS IN SIND).**

The Honourable Sir MAURICE HAYWARD : Mr President, I rise
 to move the first reading of Bill* No. XXIII of
 1925 (A bill to consolidate and amend the law
 relating to the Courts in Sind).

The main object of this bill is the constitution of a Chief Court for the province of Sind and the supplementary object is to take this opportunity of consolidating the law relating to the district and subordinate civil courts in Sind. The bill, as now placed before the honourable members, contains one or two modifications which have been decided upon in the course of correspondence in order to bring the bill up to the latest Chief Court Act, namely, the Chief Court for Oudh Act of 1925, and also to include certain recommendations of the Civil Justice Committee as regards the formation of Benches in the Chief Court. The main object as I said is the constitution of a Chief Court for the province of Sind. The Statement of Objects and Reasons gives the past history and shows how from the old Sadar Court arose in 1906 the Court of the Judicial Commissioner with two Assistant Judicial Commissioners at the time when the commerce of Karachi had risen to what was then considered a very large amount, viz., 15 crores of rupees, and the city of Karachi considered itself to have grown into a big city with a population of one lakh and twenty-five thousand. At that time there were 300 suits in a year in the District Court of Karachi. The Court of the Judicial Commissioner was then formed. It was an anomalous court. It constituted an appeal court with powers of appeal in civil and criminal cases throughout the province of Sind. It included another side which was an ordinary District and Sessions Court for the original work of the City and District of Karachi. It was anomalous because a court of Judicial Commissioner ordinarily is purely an appellate court and it was a compromise between the old system and a regular chief court in order to provide better arrangements for the trial of original suits in the commercial city of Karachi. It worked well enough for a time but commerce grew and trade grew and population increased and in 1920 the number of original suits had risen from 300 to some 1,100. It was found

* Appendix S.

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necessary to appoint permanently a third Additional Judicial Commissioner. It was found that even so the court was unable to cope with the work which continually increased until in 1923 the institution of suits had risen to so high a figure as 1,600 and it was found necessary to engage a Fourth Additional Judicial Commissioner, making in all five judges in the court. It was then obvious that the work had entirely outgrown the capacity of this old anomalous court and the local authorities, the Bar and the merchants of Karachi made urgent representations that they should be given a proper court with a regular appellate side like the appellate side of a High Court and a regular original side like the original side of the High Court. They pointed out that litigation had enormously increased, that suits averaged about 1,600 and over a year, that the population had doubled from $1\frac{1}{2}$ lakhs to $2\frac{1}{2}$ lakhs, and that the commerce, as measured by the exports and imports, had increased from the sum of 15 crores of rupees to the immense sum of 80 crores of rupees. It was obvious that something has to be done, and that as urgently as possible, to relieve the state of affairs then existing in Karachi. The Civil Justice Committee also held enquiries in Karachi and they very strongly recommended that steps should be taken to remedy the existing state of affairs. The Sind Courts Bill, as now placed before the House, is the result of our investigations as to the best means of meeting the situation. I took the opportunity of discussing this measure during my tour last cold weather with the local authorities and also with the members of the Bench and the Bar and I think this bill will meet the situation in Sind.

This bill provides for a court of a Chief Judge and three judges with power to appoint additional judges as may be required. We have limited it at present to a Chief Judge and three judges because the Civil Justice Committee has recommended an increase in the powers of the Small Causes Court, which may perhaps have some effect in reducing the litigation and because we also hope that the new arrangements, which will give us more senior and experienced judges and a very much better establishment and an improved procedure, may also result in rather quicker litigation. But I am personally not very sanguine that we shall be able to do without a fifth judge, but it is only reasonable that we should wait and see the result of the constitution of an efficient Chief Court before we take any step towards making permanent the fifth judge. If, during the next two years it should appear that it is absolutely necessary, it will be a very simple matter to introduce necessary legislation to provide that the Chief Court, instead of consisting of a Chief Judge and three judges, should consist of a Chief Judge and four judges. I do not propose to go in detail into the proposal of jurisdiction of the Court. The provisions have been based upon similar provisions in the Chief Courts in the Punjab and Rangoon and upon the latest Chief Court Act, that of 1925 for Oudh.

The supplementary object of this Act which I referred to is the consolidation of the law relating to the District Courts and the subordinate civil courts in Sind. They are worked at present under some sections

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of the present Sind Courts Act together with a number of other sections of the Bombay Civil Courts Act which have been extended by notification to the province of Sind. Honourable members will readily see that this is a very inconvenient way of legislating for subordinate civil courts. It was thought, therefore, that this was a good opportunity of bringing all these various enactments into one bill so that we should have a complete Act both for the Chief Court and the District and Subordinate Civil Courts in Sind. With these remarks, I recommend the first reading of this bill to this honourable House.

Question proposed.

Mr. NOOR MAHOMED (Hyderabad District): I beg to support the first reading of this bill. This matter has been on the anvil for a long time and I am very glad that the Honourable the Home Member is going to give us this measure towards the eve of his retirement. I only hope that the bill will be passed before he actually lays down the reins of office. This bill is important from another point of view, namely that Sind and Karachi are having an importance which they never had before. Karachi is rapidly expanding and growing into an importance never thought of before. It is rapidly having an international importance. I think a time will soon come, when Sind will become a unit of administration on the lines of Orissa with a Deputy Governor. That is the direction in which the people of that province are desiring a change and I think that it is a change that will be welcomed both by the people of this Presidency and the people of Sind. It is mostly from that point of view that I welcome this bill.

Mr. D. R. PATIL (East Khandesh District): Sir, I rise to support the first reading of the bill. It is indeed a very good bill, as it has satisfied my honourable friend Mr. Noor Mahomed. If Sind really gets a separate Legislative Council, we will be very glad to accept that idea. It will satisfy my honourable friend Mr. Noor Mahomed, so that he can place all the grievances of Sind very properly and very satisfactorily before such Legislative Council.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the first reading of the bill. The present constitution of the courts in Sind, as has been pointed out, does not meet modern conditions in Sind, because litigation has increased and commerce has increased. That has been pointed out so ably by the Honourable the Home Member, and the Civil Justice Committee has also recommended changes to be made in the constitution of the courts in Sind. The bill is modelled upon the law relating to the constitution of the Chief Courts in the Punjab and in Burma, and I do not think there is any objection to the constitution as outlined in the bill. But what I want to know is what will be the additional cost of this new measure to the Presidency. That is a thing which was not made known to this House. Sir, there are many good things which are necessary, but the question is what will be the cost of these new arrangements which are so welcomed by this House. I hope the Honourable the Home Member will throw some light on this point of the additional expenditure that will have to be borne by the

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provincial exchequer on account of this measure. With these words, I support the first reading of the bill.

Mr. A. N. SURVE (Bombay City, North): Sir, the Honourable the Leader of the House has, in the statement of objects and reasons, given a *resume* of the facts which have led to the introduction of this bill. Sir, the facts stated here are sufficient to warrant a revision of the law, but there are even more cogent reasons why we should undertake to revise the law relating to courts in Sind. I do not know if it is known to a very large number of members in this House that the administration of justice in Sind is in a very deplorable condition. The Civil Justice Committee has stated in its report that it takes an inordinately long time for the disposal of suits, and the explanation that was given for this delay to that committee by the judiciary is rather not quite convincing. At least the committee itself thought that the proper explanation had not been given. The explanation given by the judiciary was to this effect. The Committee's report states on page 578 :

"It was explained to us that, apart from delays in the service of process and execution of commissions outside the province, a good portion of duration of the uncontested suits represented the time spent in efforts made by the courts in bringing about compromises between the parties."

I really do not know whether it is the duty of a court of law to administer justice or to bring about compromises between the parties. If that was the function of the court, I really do not see why people should go there. They could bring about compromises without the intervention of the court. But the bad effect of this attempt on the part of the court to bring about a settlement between the parties is very glaringly illustrated when other witnesses placed their views before the Civil Justice Committee. They brought it to the notice of that committee that uncontested suits took a longer duration not because the court wanted the parties to come to a compromise, but the court purposely gave very long adjournments, and often adjourned the proceedings in order to drive the litigants to come to a compromise. Sir, I am perfectly sure that it is true, because it is stated in the Civil Justice Committee's Report as follows :

"Some witnesses have stated that in the more complicated classes of suits instituted in districts and the Judicial Commissioner's court the parties were so exasperated by the numerous adjournments that they were virtually driven into a compromise."

If this statement is correct, and I have no doubt that it is correct, then it practically means a negation of justice, and nothing short of it. Simply to drive a litigant to accept a compromise, the hearings were adjourned from day to day. That practically means a negation of justice, and nothing else. Now, I am very glad that the Honourable the Leader of the House has brought something forward, but the question is whether the measure that is before us is a sufficient one. To me at least it appears like that very prudent father who orders a coat for his son to-day, on yesterday's measurement, and for tomorrow's use. Mind, the coat is ordered to-day, on yesterday's measurements, and it is to be used to-morrow. That will give a correct idea of the provisions in this bill.

[Mr. A. N. Surve]

We are told that at present there are actually five judges, and even with five judges the work is in heavy arrears. Still, what do we find in the bill? The bill does not make any further provision; it keeps the figure 5 where it is. I should have expected that the number should have been raised to 7 or any other higher figure. We are told that Sind is expanding. There is now the Sukkur Barrage and with the increase of railway extension and expansion of land under cultivation the number of litigation is bound to increase. Therefore if the number of judges as fixed in the bill is retained, there will be great difficulty even in the immediate future; let alone the distant future. In a year or two the land commanded by the Sukkur Barrage will come in the market. There will be increase in litigation and this will go on increasing for at least 15 to 20 years. This bill as it stands makes no advance over things as they are to-day. Therefore, I humbly submit that the number of High Court Judges should be properly considered in the select committee. It is not a very easy matter. To-day people are not obtaining justice and if the litigation is increased and the number of judges as fixed in the bill is retained there will be absolutely no justice whatsoever.

Another point I wish to refer to is this. When complicated cases come, the judiciary finds it difficult to dispose of them. There is also mention in the statement of objects and reasons that the judiciary is not quite competent. But the reason assigned there is something else. It is financial. These people are not sufficiently paid and therefore they seek to get themselves transferred to more lucrative jobs. If that is the case, the remedy suggested by Government is to make the services for Sind alone, that is, some higher salary should be given. These gentlemen will be made to sit where they are. As regards the provision of the appointment of the chief judge, he is to be appointed with the sanction of the Governor General in Council. That means there is no guarantee that the second judge, the second judicial commissioner, can ever have the certainty of being promoted as Chief Judicial Commissioner. An outsider may be imported and naturally those who are in the service and whose rights and interests are over-ruled would not take any interest. For that reason if you want that there should be a judicial service for Sind I think it is the duty of the Home Department to make adequate provision as regards the pay of others so that nobody would like to take service elsewhere but remain permanently there.

The third point is with regard to the dual system. In order to help the judiciary a novel system has been introduced, that is, the attorneys, the barristers and advocates are to be allowed to practice only in a few courts, just as we have in Bombay. In Bombay on the original side of the High Court practice is confined to advocates and barristers with the assistance of solicitors. Ordinary pleaders have no hearing on the original side of the High Court in Bombay. The same system is sought to be introduced in Sind. If you consult the Bombay public they will tell something different. Whether the introduction of this system will curtail the duration of litigation is a matter on which I do not desire to express an opinion at this stage. But in the interest of

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the public I can say that the cost of litigation will be enormously increased and there will be no corresponding advantage as to the shortening of duration of litigation. Again it is the trend of public opinion to-day, at any rate in the profession, to do away with the difference between advocates, pleaders and barristers. The majority opinion in the profession is that there should be no monopoly in favour of certain class of the profession, and that all should be treated alike. Even a piece of legislation has been passed whereby this distinction is to be wiped off.

The next point is about the appeal to be made by the subordinate officers of the judiciary. I think that thing would require serious consideration of the select committee. When I read the section I find that officers below Rs. 30 can be dismissed by the sanction of the Judicial Commissioner. These will have no right of appeal in the case of dismissal. In clause 40 there must at least be some misprint or the sense of that clause is not well brought out. It refers to certain items of work. These items are not mentioned there; but they are mentioned in clause 39. I think clause 40 must be clause 39. In the select committee this thing can be considered. As this is a bill in the direction of giving some relief, I think it will be our duty and pleasure to support the first reading of this bill.

Mr. A. MONTGOMERIE: Sir, I would like to clear one or two points that have been raised. One of the honourable members said that the Honourable the Home Member in introducing the bill had made no reference to the cost. Well, like all good things even chief courts must be paid for and it will be necessary to fall in with the suggestion which has been made by the honourable member for Bombay, North (Mr. A. N. Surve) to improve the pay of the judges of the court—to give the judges of the chief court the same pay as is given to the chief judges and judges of other chief courts in India. It is also necessary to improve the establishment. There is no doubt whatever that the establishment of the chief court has been very badly organised. The honourable member for Bombay City, North (Mr. A. N. Surve) has a way of shooting at us with arrows which he borrows from our quivers. I ought to have known that there was something behind it when he asked me the other day for a copy of the Civil Justice Committee's report. I must admit that he has extracted some arrows pointed and barbed from that quiver.

With regard to the administration of justice in Sind I admit that that report makes sad reading, both as regards the subordinate judiciary and the Judicial Commissioner's court. In the Judicial Commissioner's court a great deal of trouble is due to the inadequacy of the staff and to the fact that the staff is organised on the lines of an ordinary district court instead of on the lines of a High Court. We propose to improve the staff. We should have an official receiver and official commissioner and other staff which are necessary for carrying on the important work in connection with the important commercial litigation which goes on in Sind. That also will cost money. The Judicial Commissioner in Sind suggested improvement in the staff and in the pay of the establishment,

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which taken together with the improvement of the salaries of the judges of the court, would amount to about Rs. 86,000 per year. I do not think that that in itself will be any excessive charge for getting rid of what is at present a very great scandal on our administration. We have been trying to do justice on the cheap in Sind and we have failed, with the result that a very large number of people in Karachi among the commercial firms, who would otherwise use the courts, find that justice is in fact denied to them by the delays which take place. No man is going to bring a suit in a court for Rs. 300 or Rs. 400, of which some debtor has defrauded him, if it is going to take him three or four years to recover that sum. He will have to meet his lawyers' expenses, and the longer the suit lasts the less chance there is of his recovering the sum. In the long run it may be that this additional expenditure will be recovered by more expeditious settlement of suits and the resulting greater litigation that will be brought in the court. Although the Judicial Commissioner has suggested this sum of Rs. 86,000, I think it will be possible with the help of the Finance Department to make him see that he should not open his mouth too wide, and I promise, in the course of the next month or two to reduce his demand by Rs. 10,000 or Rs. 20,000.

One effect of improving the pay of the judges will be to meet the objection raised by the honourable member for Bombay City (North). There is no doubt that one of the difficulties about the administration of justice in Sind has been that the judges in the Judicial Commissioner's Court, both Civil Service judges and barrister judges, have sat with one eye on the litigation in Sind and the other eye slightly turned towards the bench of the High Court in Bombay. They have regarded the Court of the Judicial Commissioner in Sind as merely a step towards higher promotion. If we improve their pay to the rate of pay obtaining in other chief courts in India it will be possible to get men of the standing of high court judges who will be willing to stay in Karachi, because although the pay is not the pay of a high court judge in Bombay, the cost of living in Karachi is a good deal less than that of Bombay. We are likely therefore to get what the honourable member desires—a permanent service in the bench of the chief court. The honourable member complained that our proposals were not expensive enough. He said we were only providing for five judges and he wants more. As a matter of fact we only provide for four, and I must take the credit for having suggested that economy. I do not see the point in constituting a court permanently at the outset in such a way as to make it obligatory to employ more judges than are necessary. If it is possible to get on with four or five judges, why frame the Act in such a form that the court will not be properly constituted unless there are more judges? The honourable member's analogy fails. We are not preparing a suit to measure; we are preparing an elastic suit which can be extended. One of the clauses in the bill enables us to put in additional judges, and if we find that the additional judges are necessary and that they should be made permanent, they can be made permanent. But I think there is no reason why we should start with more than we actually need. I suggested the figure 4, because it is possible that the

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enormous wave of litigation which has taken place in Karachi may not be permanent. In Bombay it is the same. There has been an enormous wave of litigation, possibly as a result of the war, which made it necessary in Bombay for us to have two additional high court judges. I think the Council would rightly object if we make them permanent judges until we see that the post war conditions, as they settle down, are not likely to bring about a return to the normal in the bulk of litigation which takes place.

One point raised by the honourable member was promotion to chief judgeship: He rather suggested that we should have a service of judges of the chief court, which should be rather on the lines of the subordinate services, in which one rises by seniority slightly tempered by merit. That has never been the way in the High Court in Bombay, for instance. From time to time distinguished judges from outside have been imported into the High Court and they have added lustre to that bench. And I suggest that that is the principle that we should follow in this new legislation.

There is only one other point I wish to refer to, and that is the honourable member's fears that the Act as framed entails the introduction of the dual system of advocates and attorneys in Sind. It does not entail any such thing. It merely gives the court power, if it finds necessary and proper, to introduce rules for the guidance of legal practitioners in Sind, and the introduction of this system is merely suggested in the statement of objects and reasons as one possible example of what might be done by the court. It would be inconceivable that the court should introduce such a system if it were entirely against the will of the public or against the will of the local Bar.

I think I have dealt with practically every point of any importance in principle that has been raised to-day on the bill.

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President, in rising to support the first reading of this bill, I do not desire to weary the honourable member further with obvious comments and inevitable inferences. My object, Sir, is to point out that while legislating for the improvement of the Judicial Commissioner's Court in Sind, Government should not forget the administrative defects of Mahomedan law in Sind. Sind is the oldest Mahomedan province in India but there has been no improvement in the judicial machinery through which that law is administered. The Kazi's courts have been abolished, and with them the practical side of Mahomedan Law that existed in the days of the Amirs. There have been cases of failure of justice caused by the ignorance of that law in the lower courts. Care must be taken to see that judicial officers in the subordinate courts are really conversant with Mahomedan Law. For the administration of this difficult branch of Law, I hope Government will in future see that in this Chief Court there will be competent persons to elucidate and explain the Mahomedan Law. I also hope that, as far as this matter is concerned, no watertight compartment of provinces theory would come in their way but persons

[Moulvi Rafiuddin Ahmad]

competent to deal with Mahomedan Law satisfactorily to the people of Sind will be appointed even from other provinces, should need arise as was so wisely suggested by the honourable the Home Secretary. The Punjab Government had appointed a very distinguished Mahomedan Barrister from Allahabad to the Lahore High Court for his proficiency in Mahomedan Law.

Mr. R. D. PATIL : I rise to a point of order, Sir. While discussing the first reading of this bill would it be relevant to discuss the question of the appointment of Mahomedans on the benches of the High Court ?

The Honourable the PRESIDENT : The legislature is asked to make efficient provision in the court for administering Mahomedan Law. I have not understood that the honourable member is making any claim for any communal representation on the bench. All he said was that in a Mahomedan province care should be taken to put in judges fully competent to administer Mahomedan Law. That is perfectly relevant.

MOULVI RAFIUDDIN AHMAD : I do not see, Sir, why the honourable member should imagine that I am bringing in the question of communal representation before allowing me to finish my sentence. I have nothing more to add, Sir. I was just finishing my remarks when this point of order was raised.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I rise to support the first reading of this bill. All the Sindhis, irrespective of caste or creed, Hindus, Mahomedans and Europeans, and in fact all the associations have asked for a Chief Court. Justice has greatly suffered in Sind because of the limited number of judges in the Judicial Commissioner's Court. No doubt, by converting it into a Chief Court, there will be additional cost, but I am sure the additional cost will be recovered by the judicial revenue that will accrue to Government by the institution of a large number of suits that are at present not being filled owing to the long time that litigation takes. Besides, Sir, it will remove the complaint of the Sindhis that the appointments in the Judicial Commissioner's Court are made a stepping stone to the High Court. Every officer appointed to the Judicial Commissioner's Court now takes advantage of it, hardly remains six months in Sind, and as soon as there is a vacancy, accepts a High Court judgeship. Now, by converting it into a Chief Court, all the judges including the Chief Judge will receive salaries similar to those usual in other Chief Courts, and I am sure the Chief Judge and his colleagues will stick to their appointments, because I find that there is a provision in the bill for increasing the salary of the Judges of the Chief Court to the level of that of the High Court Judges. Therefore, Sind will have the advantage of the experience of judges who will stay for a long time there. With these remarks, I support the first reading.

Mr. S. A. SARDESAI (Bijapur District) : Sir, I support the bill wholeheartedly. Speeches from the Government benches and also from the non-official benches have revealed the necessity of this bill and therefore

[Mr. S. A. Sardesai]

my remarks will be very brief. It has been universally admitted that Sind has been in want of proper administration of justice and therefore the Government are to be congratulated on having brought this bill. As regards my honourable friend Moulvi Rafiuddin that the judges should be conversant with the Mahomedan Law; that is a very important suggestion and is a good suggestion also. Therefore, the judges who are to be appointed there should be fully conversant with the Mahomedan Law, because in Sind 80 per cent. of the population are Mahomedans and for the province of Sind continuity of service is wanted because the judges have to study Mahomedan Law and have to be very conversant with the subject. Therefore, there should be no temptation for these judges to fly away to other High Courts, so that, the judges' pay should be adequate and their position should be as dignified as the High Court judges elsewhere. As for the apprehension of my honourable friend Mr. Surve I am very much surprised because he says the judges that have been provided for are very few. Well, Sir, we should not think of difficulties many years ahead of us because we must accept the Biblical adage that "Enough for the day is the evil thereof". As provided in the bill, there are going to be four judges and if more judges are wanted, Government will take steps to have them and make any alteration possible, and if the alterations are necessary, amendments may be brought in this honourable House and the bill embodying such amendments will also be passed. As for the several questions that may be decided in this court, of course, this cannot be the final court. Even in England which has been the Mother of Parliaments, all the laws that the Houses, of Parliament pass are not final ones, because it is the divine law that changes must take place always and the changes have been rapidly taking place in all directions in the whole world. There are two lines of argument. Some people suppose that civilisation is something like a circle and if one starting from any point as he goes on progressing in the long run he is bound to return to the point from which he started. But I take civilisation as something like a ladder reaching the horizon. Nobody can tell the distance of horizon. As we are going further and further, we find the horizon far away from us, because just as it is impossible for a ladder to reach the horizon, full civilisation is impossible to attain. In this way it is sufficient if the present bill is introduced and passed and four judges are appointed, and if some alterations are necessary, those alterations will be carried out by Government. With these few remarks, Sir, I support wholeheartedly the bill.

The Honourable the PRESIDENT: Before asking the Honourable Leader of the House to reply, I should like to invite attention to the fact that two honourable members from Sind have given notice of several amendments. I understand that the Honourable the Home Member in asking the House to pass the first reading does so on the clear understanding that on the occasion of the second reading no question of order as regards principle or detail will be raised. That will save the time of the House to-day and honourable members will be entitled to move any amendments at the second reading.

The Honourable Sir MAURICE HAYWARD : I can give that assurance, Sir.

The Honourable the PRESIDENT : That assurance having been given, I call upon the Honourable Leader of the House to reply.

The Honourable Sir MAURICE HAYWARD : I should not like to weary the House, Sir, with any lengthy remarks as I think all the points have been sufficiently made in the discussion on the bill. The Chief Court will consist of judges, under our scheme, who will permanently stay in Sind and will be proof against temptations of such things as the High Court. They will also have an establishment which will be of sufficient standing to enable them to delegate to them a good deal of the routine work which the judges at present have to do themselves but which is not done by judges of a High Court. The result of the improved standard of judges and establishment, together with the improvements in procedure which we hope to introduce, and the possibility of a transfer of certain of the petty suits from small causes courts, will, we hope, result in the reduction of the work of the judges of the new Court. It is on this ground that we have been cautious and have for the present laid down a court consisting of 1 Chief Judge and 3 judges. There are provisions to increase the number of judges, if required. Should experience in the next two years show that it is necessary to make them permanent, it will only be necessary to make a small amendment to this bill which will then be the Act.

I think the cost will not be great for the improvements which are so necessary for our purpose and I think that a large part of the cost will probably be recovered from the increased fees which will be taken by the court. I am aware myself that a number of litigants who would ordinarily come to the court does not do so because of the hopeless delay that occurs at present in the Court. But I think in any case the increased cost is small compared to the necessities of the situation while we hope that that increase will to some extent be made up by the increase in court-fees. With these words I move for the first reading of the bill.

Mr. D. R. PATIL : What will be the cost ?

The Honourable Sir MAURICE HAYWARD : The cost as estimated by the Home Secretary is about Rs. 75,000 while the Judicial Commissioner puts it at Rs. 86,000. In view of the increased income in the shape of court-fees it is difficult to estimate accurately. But it would be well under a lakh of rupees. This is not a very large amount considering the contributions made to our budget by the Province of Sind.

Bill read a first time. Question put and carried.

The Honourable Sir MAURICE HAYWARD : I propose to refer the bill to a select committee consisting of 12 members of whom 6 will form the quorum. The names will be :—

Mr. B. G. Pahalajani.

Mr. Noor Mahomed.

[The Honourable Sir Maurice Hayward]

Khan Bahadur S. N. Bhutto.
 Mr. G. B. Pradhan.
 Mr. S. T. Kambli.
 Mr. A. N. Surve.
 Moulvi Rafiuddin Ahmad.
 Mr. W. B. Hossack.
 Mr. V. A. Grantham.
 Mr. A. Montgomerie.
 The Honourable Khan Bahadur Shaikh Ghulam Hussain.
 The Honourable Sir Maurice Hayward.

I also propose that the committee should meet early in December in Bombay.

Mr. D. R. PATIL : I would like to add the name of Mr. R. G. Pradhan.

The Honourable Sir MAURICE HAYWARD : I would be glad to do it, but I rather deprecate adding new names and increase the select committee to a very large number. I would rather keep it at 12.

Mr. S. A. SARDESAI : I object to this sort of procedure. Some new names should be proposed instead of having the same names again and again.

The Honourable the PRESIDENT : The honourable member is entitled to move an amendment adding a new name or substituting one name for another included in the list.

Mr. S. A. SARDESAI : That will be a reflection. I appeal to the Honourable the Home Member to put in some new names instead of having the same over and over again.

The Honourable Sir MAURICE HAYWARD : I think the committee is fairly representative.

Bill referred to select committee. Question put and carried.

HEREDITARY OFFICES ACT AMENDMENT BILL.

(Further consideration of clause 4 resumed.)

The Honourable Sir CHUNILAL MEHTA : We have considered this matter and we find that the draft as it now stands with the addition proposed by the honourable member for East Khandesh will mean that the appearance of the party or his pleader will be restricted to the investigation where a record in writing is made. This is the only stage where such appearance will be allowed. That seems to meet also with the desires of the honourable members opposite. I have no objection to accepting the amendment of the honourable member Mr. D. R. Patil.

Question put.

"In clause 4, insert the words 'either in person or through 'pleader' between the words 'of being heard' and 'shall be given'."

and carried.

Clause 4, as amended, ordered to stand part of the bill.

Third reading. * Mr. D. R. PATIL : Sir, I move that the bill be read a third time.

Question proposed.

Mr. R. G. PRADHAN (Nasik District) : Sir, I support the third reading of this bill and in doing so I wish to congratulate the honourable member for East Khandesh for the courageous fight that he put up in order that some of the amendments of which he gave notice may be accepted by the House.

Mr. L. S. CHAUDHARI (East Khandesh District) : In view of the statement made by the Honourable the Revenue Member I think it will be better if the wording of the suggestion is given as a note in this clause.

The Honourable the PRESIDENT : The House cannot deal with that aspect of the question. The proceedings of the House will be published. As regards subsequent publication the House has nothing to do with it.

Mr. S. T. KAMBLI (Dharwar District) : I rise to support the third reading of this bill and also to congratulate the Honourable the Revenue Member for having yielded to the wishes of non-official members especially with regard to the honourable member Mr. Patil's last amendment the object of which was to give an opportunity to a watandar to appear himself or through a pleader to explain and to defend himself when he is charged for misconduct, etc., in the discharge of his duty. The Honourable the Revenue Member has graciously yielded to the request of a non-official member in this matter and I therefore heartily congratulate him and support the third reading of the bill.

Mr. S. A. SARDESAI (Bijapur District) : Sir, I rise to congratulate the honourable mover of this bill and also the Honourable the Revenue Member. As for the provision made in the bill that an opportunity should be given to a watandar in the first instance when evidence is recorded, I differ from this because I think an opportunity should be given to the watandar to produce his pleader before the Commissioner or the Collector. I do not know whether a mamlatdar or a deputy collector will be an investigating officer and therefore I think the pleader may have to appear before the mamlatdar or a deputy Collector also if either of these officers is going to be an investigating officer.....

The Honourable the PRESIDENT : The honourable member's speech will be relevant only if he wishes to oppose the third reading on the ground that the bill does not satisfy him. Otherwise the speech is not relevant.

Mr. S. A. SARDESAI : I accept the bill, Sir.

Mr. D. R. PATIL (East Khandesh District) : Sir, I cannot but say that the praise which has been showered upon me is entirely due to the kindness of the Commissioner, Central Division, Mr. Hatch. Before the bill was referred to the select committee, I had occasion to see him and he was kind enough to give the advantages which I got under the bill in the select committee. Of course my hearty thanks are due to

[Mr. D. R. Patil]

the Honourable the Revenue Member also for having granted my request so far as clause 4 is concerned. I now move that the bill be read for the third time.

Bill read a third time. Question put and carried.

The Honourable the PRESIDENT: The bill is now read a third time and passed.

BILL NO. XX OF 1925 (A BILL FURTHER TO AMEND THE BOMBAY LOCAL BOARDS ACT, 1923).

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to move that Bill* No. XX of 1925 (A Bill further to amend the Bombay Local Boards Act, 1923) be read for the first time. You are well aware, Sir, that municipalities have hitherto been registering births and deaths, but marriages which really give rise to births and deaths were not registered and it was during the present session of the Council that the necessary addition was made. Hitherto no record had been kept of marriages in any of the local bodies and this led to a great deal of mischief and great was the wrong that was being done to married people in law courts. We have seen, Sir, that in civil suits, when there is a question of inheritance and the opposite party happens to be a *pardhanashin* lady or small children, the dominating party always tries to raise the plea of illegitimacy of the children. That plea is facilitated by the fact that no authoratative record is kept of the marriages. In criminal cases we have seen that when, under section 498, Indian Penal Code, cases are brought in criminal courts and when other offences relating to marriage form the subject-matter of cases in criminal courts, the parties are easily able to get out of the clutches of law on account of there being no authentic record available of marriages. In a case where a marriage has taken place ten or fifteen years ago, the priest who performed the marriage ceremony, the witnesses and agents do not remember all the details of the ceremony; and when they come before the court and are cross-examined by pleaders, those witnesses are not able to stand the cross-examination. In 498 Indian Penal Code cases, marriage has strictly to be proved and that is the main issue in also all those cases that fall under section 494, *viz.*, bigamy. When marriage has so strictly to be proved, the aggrieved party naturally manufactures such of the witnesses as are dead; and the result is that those witnesses who are false witnesses and have been brought in simply to give evidence according to the requirements of the Indian Evidence Act, they are not able to stand the cross-examination of the pleader and the case generally fails. In this way no redress is given to the aggrieved party. Sometimes disappointed suitors who have got really no matrimonial rights on the other party go to court and lodge false complaints and that is also facilitated by the fact that no record is kept of marriages. We have seen that offences relating to marriages are increasing in the Bombay Presidency. In Bengal,

* Vide Appendix T.

[Mr. Noor Mahomed]

in the Punjab and also I believe in Madras record is kept of marriages ; and therefore when any case whether in a civil court or in a criminal court is brought, record is easily available and is made use of. I have got some figures regarding marriage offences that are committed in the Bombay Presidency and the convictions obtained in such cases. In 1920 in the Presidency proper 1,319 offences were reported and the number of persons who were reported or were under trial was 1,977 ; the number of persons acquitted or discharged was 1,665 while the number of persons actually convicted was 131. It will be seen, therefore, that out of 1,977 persons reported or sent up for trial only 131 were convicted. In 1921, 1,134 cases were reported to the courts and out of 1,740 persons under trial only 130 were convicted. In 1922, 990 cases were reported to courts and out of 1,849 persons under trial only 118 were actually convicted. In 1923, 1,193 cases were reported, 2,360 persons were tried and 240 were convicted. In Sind the situation is still worse. In 868 offences reported, out of 3,253 persons under trial in 1919, only 48 were convicted. The figures for 1920 and 1921 are not available. In 1922, 865 offences were reported and out of 3409, only 126 were convicted. In 1923, 963 offences were reported and out of 3,320 persons reported or who were under trial, only 53 were convicted. In 1924, out of 3,163 persons under trial only 62 were convicted and the number of offences reported was 759. In the absence of any authentic record there is no means of definitely saying whether the cases reported are genuine or false. The fact however remains that absence of any record of marriage has increased matrimonial offences. I, therefore, request this honourable House to authorise local boards to register marriages as is done in Punjab and to impose penalty on those persons who do not report the fact of the solemnization of marriages to a duly constituted recorder or to a person who may be authorized by a district local board to record marriages. Further, Sir, I make a provision in my bill that if any community does not want registration, they have simply to send an application to the district local board, and the district local board will exempt that particular community from the operation of the bill. So that, Sir, this bill will be less inconvenient than even the bill which was passed a few days ago, I mean the Major Municipalities Bill, where no such power for exempting any community is given to the municipalities. I trust, Sir, that considering all the circumstances, considering the fact that in civil courts and in criminal courts the work in connection with matrimonial suits and cases is increasing substantially, considering the fact that in absence of documentary evidence that so many witnesses have to be examined, and considering also the fact that if a record of marriages were kept, false cases will decrease, as false cases have decreased in the Punjab, the House will pass the first reading of the bill. We have got the example of the Punjab where all communities are taking advantage of the legislation for the registration of marriages, and where the number of false cases in civil and criminal courts has decreased. In the Bombay Presidency, offences regarding marriages are on the increase, I therefore hope that the House will be justified in

[Mr. Noor Mahomed]

giving this power to the local boards. With these words, I move the first reading of the bill.

Question proposed.

Mr. L. S. CHAUDHARI (East Khandesh District): Sir, I rise to oppose the first reading of the bill. The honourable member, while commending this bill for the acceptance of the House, has not made it clear from what particular community the cases which he has reported come. He did not mention the class of the people from which these cases have cropped up. Besides, looking to the small number of convictions, it is quite clear that such a kind of measure is not necessary at this stage. Sir, we think that these ideas of registering marriages are quite new at least to the Bombay Presidency. It might be very desirable in Sind, but as this bill is going to be applied to the whole of the presidency, I think it is not desirable to impose this legislation on the whole of the Bombay Presidency. Sir, if I am not mistaken, the Hindu Sabha of Sind has expressed its apprehension against such kind of legislation. Though the honourable member who has moved the first reading of this bill has stated that these offences have taken place in connection with matrimonial matters, he has not stated whether these offences were of the nature that two persons claimed to be married to the same woman or whether it was in connection with any other aspects of matrimonial relations. As these points have not been made clear, I oppose the first reading of the bill.

Mr. N. E. NAVLE (Ahmednagar District): Sir, I rise to oppose the first reading of the bill moved by my honourable friend Mr. Noor Mahomed, and while opposing the bill I am offering a few remarks on it.

Sir, as far as the presidency proper is concerned, the backward classes and their condition ought to be taken into consideration. This bill is going to make the registration of marriages compulsory, and looking to the backward state and the ignorance and the illiteracy of the masses, this bill is going to create great difficulty in their way as far as the Deccan proper is concerned. Sir, we fear that this bill will also put a premium on the conversion of the Hindus to Islam. I will explain myself in detail without offending the feelings of my Mahomedan friends.

Sir, at present we, the representatives of the Deccan, hear the cry from the Hindus of Sind that the condition of the Sind Hindus is becoming day by day more and more precarious in Sind. We are hearing every day the representations they are making to us that the Hindus in Sind are in a dangerous position. Many young Hindu girls are taken away forcibly and converted forcibly to Islam, and if we are going to make by this bill such offences legal by registration then there would be an end to justice. Sir, practically, it means that an offence under section 498 of the Indian Penal Code would be legalised by this bill. If this bill becomes law, then registration would be presumptive evidence, and whatever illegality might have occurred in the case of a Hindu girl whether she is enticed away from her lawful guardian or whether she is

[Mr. N. E. Navle]

forcibly converted to Islam would be covered by forcible marriage and registration. As soon as the marriage is registered, that would be a presumptive proof that the marriage has taken place in a legal way. Sir, if this bill becomes law, it would be very difficult to prove facts which are totally illegal, namely, the enticing away of Hindu girls and their forcible conversion to Islam. All these things it would be difficult to prove, once the marriage is registered by the registering body. I do not understand exactly why my honourable friend wants this bill. Looking to the condition of the ignorant and poor masses, we at least think that this bill, instead of doing any good to them, will rather have great miseries for them. A heavy fine is provided in the bill for non-registration of marriages, and though, when the bill goes to the select committee, it may be reduced, still it creates a great hardship in the way of the poor people. So, instead of doing any good, this bill is going to do a great mischief, and therefore, I oppose its first reading.

Sir VASANTRAO A. DABHOLKAR: Sir, I rise to support the first reading of the bill. The honourable member who preceded me opposed it in such a way that it was difficult for me to understand what he was saying. Another honourable member to my left (Mr. Chaudhari) said that the idea of registering marriages is a new thing. May I know from him whether he was not present in the House at the time when we passed the third reading of the Major Municipalities Bill? The honourable member who preceded me stated that the backward classes would greatly resent the registering of marriages, but the suggestion to introduce registration of marriages in the Major Municipalities Bill came from my honourable friend to my right (Mr. Surve). Further, Sir, has not the honourable mover of the bill stated that he has made provision in this bill for the exemption of any community that does not want any registration of marriages under the bill? If any community does not want registration of marriages, exemption is provided. If it is more or less from the Mahomedan point of view that the honourable mover wants this bill to be passed, I do not think that any non-Mahomedans should object to it. If births and deaths are registered, where is the harm in registering marriages? I think the honourable mover has made all his points quite clear on the subject, and it is but right that the House should pass this bill. As the Honourable Minister has accepted the registration of marriages in the case of the Major Municipalities Bill, I hope he will accept the first reading of the bill.

Mr. S. K. BOLE: Sir, I rise to oppose the first reading of this bill. Sir, I think the principle involved in the bill is very dangerous, and it would embitter the feelings between the two communities in Sind. As it is the feeling is running very high there. (An honourable member: After the Bombay Municipal Bill.) You must say so.

The Honourable the PRESIDENT: The honourable member should address the Chair.

Mr. S. K. BOLE : That will evidently create friction between the two communities. I think it is better that the first reading of this bill should not be accepted by this House.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I rise to support the first reading of this bill. I am sorry to say that a good deal of heat and unnecessary prejudice has been introduced in the discussion of this bill. Even at the present time Mahomedan marriages are always registered by the *Kazis* who perform the marriage, but they are not altogether reliable. The only question is whether there should be a reliable record of marriages in district local board offices. The objection of my honourable friend, Mr. Navle, is based on hearsay. An alarming cry was raised from the Hindu Maha Sabha of Hyderabad, Sind, and it has resounded on the hills of the Deccan. Now, what is the real fact. This principle has been already accepted with regard to the major municipalities. It came, as it was pointed out by the gallant Knight behind me (Sir Vasant Rao), from the leader of the non-Brahmin party, my honourable friend, Mr. A. N. Surve. As far as the Hindus of Sind are concerned they generally live in the cities, where marriages will be registered as has already been agreed to. Moreover if the Hindus of Sind do not like registration to be compulsory in local board areas it is open to them not to take advantage of this bill. The right course, therefore, for the honourable member will be not to oppose this bill but to allow its first reading, and send it to the select committee where all objections will be duly considered and the bill will be amended in such a way as not to be prejudicial to any community. But merely on the strength of rumours that some Hindu girls would be abducted, to deprive the community of a very reasonable piece of legislation, which is already too late in coming, I think is a most unreasonable attitude for the Hindu members to adopt. I do say that there is no desire on the part of any person to encourage any kind of crime. It has been stated by the honourable member that many offences have been committed by the Mahomedans of Sind with regard to Hindu girls but the number of cases which are in the imagination of my honourable friend he has not stated. Because some Hindus cried cock-a-doodle-doo, at Hyderabad, it is foolish that honourable members in this House should also cry cock-a-doodle-doo. Considering that the suggestion for the registration of marriages first came from the leader of the non-Brahmin party (Mr. A. N. Surve), it is but a poor compliment that the members of the non-Brahmin party, are paying to their chief.

Mr. N. E. NAVLE : That is in cities.

MOULVI RAFIUDDIN AHMAD : The honourable member has also stated that the Hindus of Sind are miserably treated. Take all appointments in Government service and all seats that the Hindus of Sind occupy in city municipalities and compare the same with that of Moslems in the presidency proper, it would be found that they have the lion's share, though the Mahomedans outnumber them by four to one. If any class of people in Sind are badly off in this respect, it is the Mahomedans and not the Hindus. For these reasons I hope my

[Moulvi Rafiuddin Ahmad]

honourable friends will withdraw their objection and pass the first reading of the bill.

Mr. S. T. KAMBLI (Dharwar District): Sir, if we look to section 50 of the District Local Boards Act, we find the obligatory duties and the discretionary duties laid down there. We also find that it has not been imposed, either as a discretionary duty or as an obligatory duty, on the district local boards to register either births or deaths. Under the District Municipal Act, the registration of births and deaths has been imposed as one of the obligatory duties on municipalities, because the area is compact. In the case of district local boards it has not been made so, because the area is vast and it will be difficult to register births and deaths. For that very reason I submit that the registration of marriages should not be made one of the duties of the district local boards, whether obligatory or discretionary. In the case of births and deaths it is quite easy in a compact area. The municipality has engaged certain ward peons to report births and deaths and the owners also are required to report births and deaths to the municipality. There is no fear of any case being omitted, because it is a physical fact.

In the case of marriages if we enforce registration we will be opening a new road for personation and fabrication of evidence. The question of marriage involves judicial determination. There may be a case of marriage between two persons. Who is to testify to the factum of the marriage? In such a case, who is to determine the validity of the marriage? The bill before us provides that the fact of the marriage should be notified to the district local board. This must take place some days after the marriage is over. I am quite sure that either the president or the vice-president will not be the person who will be entrusted with this duty of recording the factum of the marriage. It will be some clerk. What will he do? If anybody comes to him for recording a marriage, he will record it but he will not be in a position to prove the fact of the marriage, where it took place and so on. There may be a girl of 12 or 13 years under the guardianship of some person. A man will silently go with one of his friends and register a marriage with that girl. There will be a record. The law says that the person is bound to give information to the registrar of marriage. The registrar will simply record the marriage and he has no power to ask the party to prove it. How will you invest him with those powers to go into the legal evidence of the marriage? I do admit that the registration of marriages may be desirable but it is not the local boards that will be able to do it. In spite of the registration of marriages among other communities we see so many prosecutions are taking place every day. Before whom are the bride and the bridegroom to appear? If the registrar of marriages in the local board is entrusted with this work of registration, he will simply register the marriages. But it should not be entrusted as a mere ministerial work to the district local boards. If it is, it will give rise to many difficulties. I will give a concrete example. A man goes before the recorder of marriages and tells him that he has married such and such a girl and that the marriage should be registered. Another man comes the same

[Mr. S. T. Kambli]

day before that recorder of marriages and says that he has married the same girl. What will the clerk do? Is he to hold an inquiry and sit as a judiciary? Is he to be entrusted with the powers of a magistrate? Is he to go from village to village and from house to house and make local enquiries and investigations and enter the result of his enquiries and investigations in the book? Such will be the difficulties standing in the way of authorising the local boards to enter marriages in their registers.

Sir, the argument advanced is that the municipalities have been empowered to register marriages. I would like to point out that in the case of the municipalities the area is compact, and the chances of perjury and false personation are small indeed. Any cases of perjury and false personation can be easily detected. There are a number of officers, the chief officer and so many other officers who go round the streets, and the slightest fraud will be disclosed at once. But in the case of the local boards the area is large and it will be not possible to detect false entries. What will be the safeguard against two persons coming on the same day and claiming that they have married the same girl? That will be one of the difficulties, that will beset the clerk of the district local board who will be entrusted with the work of registration. Such cases have not been wanting. I myself have been engaged in a certain case in which two people were claiming to have married the same girl, and the case had to be taken to the district court to get a settlement. If such a case were to be brought before the recorder of marriages, and if false marriages are sought to be set up, what will the clerk do? My only point is that even if registration of marriages be deemed necessary the agency of the district local boards is not the right one to be entrusted with that work. They ought to institute separate tribunals for recording and registering marriages with sufficient powers of taking evidence and deciding cases. The local boards should not be entrusted with such powers.

As I said at the beginning of my speech, it is not an obligatory or discretionary duty of the local boards to record births and deaths. I think the Honourable Minister was wise in not making it their duty in the Act. Now, in the bill the Honourable mover wants to make it compulsory on the boards to record marriages. The bill says that a new section (mm) shall be added after sub-section (m) of section 50. Now, section 50 of the Act begins by saying that "it shall be the duty of the local boards" and enumerates the duties from (a) to (o). The honourable member, therefore, wants to include compulsory registration of marriages as one of the obligatory duties of the district local boards. And then in another clause he says: "The District Local Board shall, within three months from the date of this Act becoming law, take steps to introduce the system of registration of marriages... frame by-laws" etc. Sir, the wording of the bill itself is the very defect of the bill. Taking all these cases into consideration, I beg to submit that the district local boards should not be appointed as an agency for recording marriages. If it is desired necessary or expedient that marriages should be recorded, some other agency must be set up for it.

[Mr. S. T. Kambli]

Again, Sir, there is another view of the question. What will be the cost? Generally, the district is divided into many talukas and the talukas are divided into many villages. If a person from any village wishes to register his marriage, is he to go to the district headquarters or to the taluka headquarters? Even if we set up an agency at the taluka headquarters, some villages are about 20 miles away from the taluka headquarters. In addition to the heavy burden on the district local boards of setting up separate offices in the headquarters of every taluka, it will also create trouble to the people, who will have to travel all the distance from their villages to the district or taluka headquarters. Therefore, taking the question of cost into consideration, and taking into consideration the question of the inadequacy of the means to be adopted, and taking into consideration the fact that so many doors will be opened for perpetrating false personation and fabrication of evidence, I think that this bill should not be allowed to pass the first reading.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise heartily to support the motion before the House. I am surprised to see the attitude of my honourable friends the non-Brahmins who one and all have tried to oppose the bill. I fail to see the reason why they oppose it. If you look to the figures, you will see, Sir, that in the year 1924 there were 724 cases of abduction reported in Sind, while in the presidency proper there were 1,193 cases. So, the argument of my honourable friends that these cases were occurring more in Sind than in the presidency proper is not based on any fact. Again, you will see that out of the 724 cases in Sind 3,163 persons were prosecuted and out of those only 63 persons were convicted and the rest were acquitted. In the presidency proper out of the 1,193 cases, 2,630 persons were prosecuted and out of these only 226 persons were convicted. So, you will see from the figures that the percentage of actually convicted persons is very small. So, it is in the interest of the ryot that these marriages should be registered.

My honourable friend tried to make out a case that it will affect the Hindus in Sind. It is a mistake, because the Hindus in Sind are mostly of the Amil caste. My honourable friend Mr. Noor Mahomed said the other day that they were all imported into Sind to monopolise Government service. So, these people do not mostly live in villages and they are a wealthy class of people. I do remember the honourable member Mr. Pahalajani saying the other day that in the villages their number is small. So, it is mostly the Mahomedans in Sind who will be affected. If it affects any community more than another, it will be the Mahomedans in Sind and not the Hindus. If you look to the presidency proper you will find that most of these cases occur among Dharalas and Wagrís. Many of the murders that occur in our part of the presidency, in Surat, are due to the abduction of women by Dharalas and Wagrís amongst themselves. Not only these murders occur, but there is not safety of women among those poor classes of people. One Dharala abducts the wife of another caste and fighting goes on among them, and the matter is then settled by a payment of Rs. 20 or Rs. 30, according to what they can

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afford. Therefore, if their marriages are registered as proposed by the honourable mover Mr. Noor Mahomed, it will enforce morality, a virtue preached by every member in this House. It is for the safety of our fellow brethren that this bill should have a place in the statute book of this country. Sir, I fail to understand the attitude of my honourable friends. I must assert myself and say that I cannot see the attitude of my fellow brethren, the Marathas, in this House, after the last voting on the matter in regard to the Major Municipalities Bill. So, with these words, I strongly support the bill.

Mr. S. N. ANGADI (Belgaum District): Sir, I rise to oppose the first reading of the bill. I do not pretend to know the conditions of Sind and I very much wish that the honourable the Deputy President Mr. Pahalajani and the honourable member Mr. Adwani had been present here to-day just to give an insight into the conditions prevailing there. But we know that a resolution has been passed in the Hindu Conference that was recently held in Hyderabad (Sind) disapproving of the bill that is proposed by the honourable member Mr. Noor Mahomed. Leaving aside the question whether the bill is going to prove useful to the Hindus, looking at it entirely from the point of view of the Mussalmans I think there is a danger lurking in it. For instance, I may point out that the Mahomedans observe the *purdah* system and therefore I presume that in every marriage it is not the woman that goes to the district local board office. But the man will go to the district local board office and he will say that he has married a certain girl and the marriage should be registered. It is not stated in the bill whether the father and mother of the girl will accompany him to prove by their presence that the girl is so married to this man. Any man may go to that office and say he has married such and such a girl, and it may in reality not be a fact. So, such a bill, it is quite obvious, has many dangers contained in it. As was pointed out by my honourable friend Mr. Kambli, it is quite possible, if A has married B, C might claim the same B as his wife or the same girl may be claimed by D, and so on. And in that way not only one husband but there may be a hundred husbands springing up like mushrooms. Of course, the reason which the honourable member Mr. Noor Mahomed gave as a justification for moving this bill is that there are more acquittals under section 498 than convictions. Well, I do not think it is because of there not being any such registering authority for registering marriages that there are acquittals. That only shows that many false cases are being got up to the chagrin of all concerned. So long as the father and mother of the girl do not come and tell before a court that she is married to such and such a person, the marriage is not proved. In the Karnatik I have found that it is very difficult to escape conviction under section 498, because the mother comes and the father comes before a court and they say the girl is married to a particular man. The enticement is easily proved. So it is extremely difficult to escape conviction under section 498 of the Indian Penal Code. The honourable member Mr. Noor Mahomed says that so far as the province of Sind is concerned there are more acquittals

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than convictions; that merely goes to show that in the province of Sind at least there are many got up cases under section 498. That is a very good reason for rejecting this bill. And even considering this bill from the point of view of the Hindu community, I will put it forward as a matter of argument, that supposing a Mahomedan kidnaps a Hindu girl and he immediately goes to the district local board office and gets the "marriage" registered, are the father and the mother of the girl to go to the wall? I do not see how they can prosecute this man. Of course, the registration will not be any conclusive proof of the "marriage". It may be repudiated by the father and the mother, but all the same, it means so much trouble, bother and expenses to the father and the mother. So, instead of having such a bill, a bill which has in it several dangers, I think we had better reject this bill. I therefore oppose the first reading of this bill.

Mr. A. N. SURVE (Bombay City, North): Sir, when any measure affecting large interests is under consideration, I think it is our duty not as politicians but as statesmen to take a very wide view of the matter. If we have any doubt about the utility of a particular measure, we must give it out boldly and place it before the House. But if we have some secret information that a particular measure may in some particular part have some very undesirable result, then I think that sort of argument should not come in the way of our deciding the desirability or undesirability of a measure. We are here not looking to the interests of any particular religion. As statesmen, religion is not an item which is to be taken into account. Whether we are making a provision for a religion A or for a religion B is not our consideration if it is equally applicable to both. Now, from the bill as it is before us, is there any thing from which we could say that this bill is in the interests of any particular religion or, if it is accepted, that it will advance the interests of any particular religion? So far as I am able to see through this bill, I do not find any lurking danger in it. To begin with, this bill is applicable, I think, both to Sind as well as to the whole of the presidency. So, to search into the motives of the author of this bill will not be quite a good thing to do. If we were to restrict its operation only to Sind and not to the entire presidency, then at least I would have been justified in going very closely into the motives of the author. But so far, when I see that it is applicable from one end of the presidency including Sind to the other, I think that motive should not form a matter of consideration. The only thing that should guide us is whether this bill will in practice prove a good thing or a bad thing. I think the honourable member Mr. Kambli has admitted that to have registration is a good thing from the legal aspect of the question. Well, if it is a good thing, I think it is our duty to accept it. His objection is one of practicability. To look to that point, he admits that births and deaths are to be registered. They are actually registered. No difficulty is found.....

Mr. N. E. NAVLE: Registered not by the local boards.

Mr. A. N. SURVE: In all the local boards there is the agency at present. If a birth can be registered I think marriage can be registered with greater ease. Because birth does not create such a public advertisement as marriage. Marriage is an open thing; birth is not so very public. If in recording births we do not find any difficulty I should think that in registering marriages there should be quite less difficulty.

Then, coming to the provisions of the bill itself, I think if any honourable member reads the provisions as regards making rules he will find that ample precaution has been taken. First of all the rules are to be framed by the local board. Then they are to be published and if anybody objects to those rules, the local body can revise their judgment in the light of those criticisms and when anybody brings it to the notice of Government that the framing of a particular rule is undesirable, I think Government will use their discretion. Therefore as so much provision has already been made I do not see any reason why the bill should not at least be sent to the select committee and all the points that are involved in it should not be thoroughly examined. If we find that if any honourable member can show to the select committee that the thing is really very dangerous I think he can write a minute of dissent even though he is over-ruled by the majority and the House will take that into due account. Therefore I think no harm will be done if this bill is referred to the select committee. Even if it passed into law and later on if it is considered a bad measure we can bring in an amending bill whereby this can be removed from the statute book. As the majority of members in this House are fully convinced that registration of marriages is desirable I think there is good reason to send this bill to the select committee. For these reasons I support the first reading of the bill.

Mr. HOSENALLY M. RAHIMTOOLA (Bombay City): I am astonished, Sir, at the attitude of the members of the non-Brahmin party who are opposing this bill. There was not a word of opposition when in the City Municipalities Bill such a provision was passed. When the amendment was moved by the leader of the non-Brahmin party asking for compulsory registration of marriages in the municipalities not one word was raised in opposition to the amendment....

Mr. N. E. NAVLE: The honourable member Mr. Surve is not the leader of the non-Brahmin party. He never was and he never has been. He has no authority to speak on behalf of the party.

Mr. HOSENALLY M. RAHIMTOOLA: Sir, up to now the honourable member representing Bombay North (Mr. Surve) has been considered and called in this House the leader of the non-Brahmin party. This is the first time we hear that he is not the leader of that party. As I said, Sir, no word was raised when passing the amendment for registration of marriages in the municipalities. Therefore, Sir, the attitude of these honourable members cannot be understood.

Sir, a gloomy picture has been painted of the conditions of the Hindus in Sind. I want to know from these honourable members how they, having such a feeling for the Hindus in Sind, failed to ask for an

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adjournment of the House to consider the question of the Hindus in Sind, if their condition is as described by them, and why they did not table a resolution and ask for a committee of enquiry into their conditions and hardships in Sind? If they believe in the correctness of the story which they have described why have they not done these things? What have they done for them? They have done nothing. They are now smiling and laughing. If they believe in the story it was their duty to table a resolution or call for a statement on the matter, but they have up to now done nothing in the matter. I therefore submit that their opposition is not well founded.

Mr. R. G. PRADHAN (Nasik District): Sir, I confess I find it a somewhat difficult task to come to any definite conclusion as to the merits of the question. Inasmuch as I am not convinced of the necessity of this particular piece of legislation I must think twice before I take up any attitude. On the face of it, I cannot but think it is an innocent measure. I have carefully gone through the provisions. Looking to the provisions themselves—apart from the consequences which the operation of these provisions may have in certain circumstances as they may exist in one province or another—apart from the working of these provisions—I admit that I do not find anything objectionable in the bill itself. But on the other hand I do not understand why this bill should have evoked opposition—and I believe very sincere and genuine opposition—among Hindus from the province of Sind. Some honourable members of this House may have been persuaded to think that this opposition on the part of the Hindu community in Sind is unreasonable. I am not prepared to accept that view. At all events this House must take into consideration the fact that an important community in the province of Sind is opposed to the introduction and the enactment of this legislation. That shows that at all events it is a good case for a more careful and fuller consideration of this bill and I would suggest that it would be desirable that this bill before it is passed by this House, should be widely circulated among all the communities and the opinions of those communities should be elicited on the bill. After having ascertained those opinions and after having carefully considered why this bill is opposed by some communities, then and then alone will the House be in a position to pass its final decision on this important bill.

I have another objection to this bill, viz., that according to my view the bill is *ultra vires*. My honourable friend the leader of the non-Brahmin party, Mr. Kamble, referred to section 50. I invite the attention of this House to that section. It says "it shall be the duty of the local boards"—I invite special attention to the words that follow, viz., "so far as the local fund at their disposal will allow to make adequate provision for the area respectively subject to its authority in regard to, etc." Clause 2 of this bill proposes a sub-section, namely (*mm*) to be added to section 50, namely, "the compulsory registration of marriages". Now, Sir, section 50 with the new sub-clause added would read:

"It shall be the duty of local boards so far as the local fund at their disposal allows to provide for the compulsory registration of marriages".

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In other words it is quite obvious from the wording of this section that the registration of marriages will no longer be a compulsory but an optional duty of the district local board. Suppose that a particular district local board is asked to provide for the compulsory registration of marriages then that local board might say "We have not got funds; our funds are limited; our funds do not permit of our making any provision for the compulsory registration of marriages". The district local board will be perfectly within its rights to take up that stand.

Clause 4 of the bill provides:

"The District Local Board shall, within three months from the date of the Act becoming law, take steps, etc."

It is obvious from this clause that it makes it obligatory upon a district local board to provide for the compulsory registration of marriages, whether the local board is in possession of funds or not. Therefore I say this particular provision is absolutely contrary to the provision of section 50 of the District Local Boards Act. It may be contended that what this would involve is that section 50 might be amended but, Sir, it will not be open to this Legislative Council, in considering this bill, to make any amendment in section 50. I submit that, and therefore taking the District Local Boards Act as it is and the proposed amendment and clause 4 of this bill, I submit that this piece of legislation and particularly clause 4 of this piece of legislation is *ultra vires*. Therefore, suppose we pass the bill, what will be the result? The local boards will find themselves between these two contrary provisions, *viz.*, clause 4 will say that steps must be taken to provide for the registration of marriages while on the other hand section 50 will enable district local boards to say "we cannot do so because we have not got funds". My submission therefore is that the bill as it stands is *ultra vires*.

I now invite the attention of this House to clause 6 which says "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". The singular under the General Clauses Act includes the plural and when this bill authorises a district local board to exclude any community from the operation of this bill, the result would be that the district local board would be perfectly justified in excluding every community from the operation of the bill which will as a consequence be null and inoperative. These are some of the considerations which I submit to this Honourable House. There is still another consideration, *viz.*, the religious consideration. The House is fully aware that in religious matters I am in no way orthodox; but it must be conceded at the same time that Hindus are very sensitive about their marriages being registered. To them marriage is a sacrament and not a contract. We, Hindus, particularly the orthodox section of Hindus, have religious scruples, reasonable from their point of view, honest from their point of view, about the registration of marriages. Therefore I submit that it would not be proper on the part of this House to act in haste without

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ascertaining the opinions of the different communities who are likely to be affected by this legislation. I therefore strongly advise that the House will be ill-advised in going in for the first reading of this bill, without further inquiry and without ascertaining the views of the various communities affected by it.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I should first like to thank the last speaker for pouring oil on the troubled waters and for not searching for flames on which to pour his oil as appeared to be the object apparently of some members who spoke previously. The honourable member pointed out certain objections to this bill and I must admit that I share some of those objections and in particular I have some doubts as to the machinery that can be employed for making such registration effective. It is that fact which differentiates this piece of legislation from legislation regarding the registration of marriages inside municipal areas. How will the district local boards be able to set up effective machinery in areas over 5,000 square miles or 10,000 square miles. I think, therefore, that there is much reason and wisdom in the last speaker's suggestion that this piece of legislation should be widely published in order to elicit the opinions of district local boards and communities which may be affected by this bill. I feel sure the honourable mover of this bill would be prepared to accept such a suggestion, for this is a most important point of social legislation, and he knows very well that in matters of social legislation very often the more haste the less speed.

Some honourable members appear to have listened to certain exaggerated fears which have reached this House from Sind. Now, Sir, I had a good deal to do with the hearing of criminal cases in Sind for a great many years, and I think that those fears are very seriously exaggerated. There are occasionally cases of the kidnapping of Hindu girls for the purpose of marriage, but those cases are not an every day occurrence, as some honourable members seem to fear, and within my experience those cases were most common within municipal areas, which would be outside the purview of this particular piece of legislation. It would appear that those fears emanated from the town of Hyderabad, Sind; but that town of Hyderabad (Sind) is one to which this bill would not apply. Those alarmist reports from the town of Hyderabad (Sind) therefore need not seriously perturb the minds of this House. (Mr. Noor Mahomed: Hear, hear). The honourable member who said "Hear hear" knows the atmosphere of Hyderabad (Sind) better than most of us, and he probably knows the reason why those fears from those quarters in Sind have been sent down here.

However, Sir, I submit that if machinery can be set up for the registration of marriages, it will be an advance in social legislation in India. The Punjab has machinery for the registration of marriages, machinery which, I understand, is working there reasonably well, and which has not led to those very serious results which some honourable members fear. Let us find out what is the precise form of that legislation in the

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Punjab, and what have been the advantages or disadvantages which have resulted from that legislation in the Punjab. Let us find out what is the opinion of the different communities in the different districts of this presidency.

Although this bill would make it compulsory on a district local board to take steps in this matter, yet there are safeguards within the bill itself which would prevent a district local board from being compelled to do something which it is not able to do—an absurdity which the honourable member just now pointed out. The bill states that 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. What steps are they to take? They are to consult various persons and public bodies, and then frame by-laws and all those by-laws must be forwarded to Government for sanction. Well, it is fairly obvious that unless Government has become in the next few years less sane than it is at present, they would not sanction by-laws which, when framed by a bankrupt district local board, would be incapable of being brought into force, nor would they sanction by-laws which are inequitable and unjust to any particular community. So that, although this bill makes it compulsory on a district local board to take steps, it is still within the function of Government to see that those steps are not injurious to the community. Therefore, Sir, the sum of my remarks is this, that this bill is not the very dangerous explosive substance that our friends opposite have feared it to be, and I would suggest to the honourable mover that he might take such steps as are open to him to have this bill referred for further consideration, before he proceeds further in the matter.

The Honourable Sir MAURICE HAYWARD: Mr. President, I should myself accept the principle of the bill, that is registration of marriages, without hesitation, because it is obviously a step in advance to have a proper registration of marriages just as you have registration of births and deaths. Registration is not to take the place of any religious ceremony; it merely is a record, which may or may not be of evidentiary value. The religious ceremony of those communities who require a religious ceremony would still be required. Without the religious ceremony, there would be no marriage. The mere fact that some one went and registered it would be nothing. It would not affect the marriage which would otherwise be no marriage without such registration. It would merely be a convenient way of giving publicity to those marriages, those forms of marriage which at present do not require a particular publicity, and of course it affects particularly the Mahomedan form of marriage by *Nikka* which, though it requires two witnesses, yet can be performed without any very great publicity. The necessity of some sort of registration in the case of Mahomedans is a matter which has come to my personal knowledge as one of considerable necessity. I have seen, during my service of 17 years off and on in Sind, a great many cases in which the *factum* of marriage was the substantial point at issues either in a civil suit or a criminal trial, and it has often been exceedingly

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difficult to ascertain whether the marriage did or did not take place. Now, I think that any measure which would go to remedy those difficulties which lead to innumerable cases of litigation, the wasting of a great deal of good money, and the rousing of very great and undesirable ill-feeling among the different parties would be a decided step in advance, if we could take some satisfactory step to provide that all marriages should be compulsorily registered.

Such a step has been required for a long time for many years. It seems to me that is a step which ought to be taken at the earliest possible moment. But it is a question of social legislation and in these matters I myself would prefer always to go slowly. I prefer in any matter of this sort to proceed with the unanimous consent of those concerned. If you do not do so, your legislation is probably going to be a dead-letter. It is no use passing this legislation when the public opinion is against it. Unless you have public opinion behind you, you will find it practically impossible to make them do it. It is all very well to say that the man who does not obey will be punished. But how will you catch him, and how will you collect evidence and prove it? It is not going to be an easy thing, until you get public opinion entirely in your favour. Whenever you get public opinion in your favour, you will find it easily workable and it will be a step in advance in the social legislation you require. I do not myself see how the question of religion comes in at all, if it is properly considered. But that has been raised here and no doubt some honourable members feel that it does affect the religious question. If they were to have a little more time to consider the matter, I think those honourable members will agree to the view that this does not affect the religious question at all. If however there should be any such danger, it would be quite possible and comparatively simple to introduce such safeguards as to make it quite impossible for any local board to frame rules which would in the slightest degree affect the religious question against the wishes of any communities whether Hindus or sects of Mahomedans. Take the case of Christian marriages. We regard marriage as a religious sacrament just as much as any Hindu; but at the same time we always have insisted on registration. We have the religious ceremony, but together with that we insist on registration. The priest who performs the religious ceremony has also by law to register it in a register maintained in the church. A marriage without that ceremony would be no marriage; the mere writing in the book without that ceremony would not be a legal marriage. So far as I can see, there is no objection from the religious point of view to require that a marriage when performed by religious ceremony should at the same time be registered. It may be necessary to provide that it should be registered by the priest who performs the marriage, by the Brahmin or other Hindu priest who performs the marriage ceremony. It does not seem to me that there will be any difficulty in making such a provision as in the existing provisions which relate to Christian marriages. It seems to me that there would be no greater difficulty in so providing by legislation for registration of Hindu marriages. I believe if those

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honourable members here and those gentlemen in Sind who seem to be alarmed by this bill were given time to look round and see what the proposition is, they would probably come round to this view and say : " This is certainly an excellent thing from the Mahomedan point of view ; and we will not stand in their way if they want this piece of legislation. We will simply require that necessary safeguards and protection should be introduced to safeguard our own position as Hindus. "

The Honourable the PRESIDENT : Is the honourable member likely to take more time ?

The Honourable Sir MAURICE HAYWARD : I should like to make a few more observations.

The Honourable the PRESIDENT : The House will now adjourn to 2 o'clock to-morrow, Tuesday, the 3rd November 1925.

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Tuesday, the 3rd November 1925

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Tuesday, the 3rd November 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

AHMAD, MOULVI RAFIUDDIN
ANGADI, Mr. S. N.
BAPTISTA, Mr. J.
BEDREKAR, Khan Bahadur I. M.
BOLE, Mr. S. K.
BUNTER, Mr. J. P.
CHAUDHARI, Mr. L. S.
CLEMENTS, Mr. E.
DABHOLKAR, Sir VASANTRAO A.
DADACHANJI, Dr. K. E.
DEHLAVI, the Honourable Mr. A. M. K.
FERNANDEZ, Dr. COSMAS
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
GUNJAL, Mr. N. R.
HAMID M. ABDUL ALI, Mr.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HOTSON, Mr. J. E. B.
JADHAV, the Honourable Mr. B. V.
JEHANGIR, the Honourable Mr. COWASJI
JOG, Mr. V. N.
KALBHOR, Mr. G. M.
KAMBLI, Mr. S. T.
KAZI INAITULLAKHAN
LAWRENCE, the Honourable Mr. H. S.
MANSURI, Khan Saheb A. M.
MASTER, Mr. A.
MAVALANKAR, Mr. G. K.
MEHTA, the Honourable Sir CHUNILAL
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
MUJUMDAR, Sardar G. N.
MUKADAM, Mr. W. S.
NARIELVALA, Mr. H. H.
NAVLE, Mr. N. E.

NEKALJAY, Mr. R. S.
 NOOR MAHOMED, Mr.
 OWEN, Mr. A. C.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATEL, Mr. D. N.
 PATHAN, Mr. A. F. I. K.
 PATIL, Mr. D. R.
 POWAR, Mr. M. B.
 PRADHAN, Mr. R. G.
 RAHIMTOOLA, Mr. HOOSENALLY M.
 SAHEBA, Mr. H. D.
 SARDESAL, Mr. S. A.
 SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
 SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 WILES, Mr. G.
 WOODS, Mr. E. E.

The Honourable the PRESIDENT : Order, order. Questions.

MISCELLANEOUS INCOME IN INAM VILLAGES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to place on the Council table copies of the Circular orders No. 13-A. M. S. N. dated 7th May 1915, both as originally issued and subsequently modified, issued by the Collector of Nasik in respect of the miscellaneous income (Kirkol Utpanna) in Inam villages ?

The Honourable Sir CHUNILAL MEHTA : Copies of the circulars issued by the Collector of Nasik and referred to by the honourable member are placed on the table. *

Sardar G. N. MUJUMDAR : Are there any Government orders or resolutions under which the Collector of Nasik issued these original and modified circulars ?

The Honourable Sir CHUNILAL MEHTA : Not that I am aware of.

INAM LANDS TAKEN FOR FOREST.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars) : Will Government be pleased to state—

(a) whether it is a fact that some inam lands in the Bijapur District have been taken for forest during the last twelve years ;

(b) if so, whether they are acquired and whether compensation for them has been given in land or cash ;

(c) the names of the villages in which such lands have been taken for the purpose ?

* Vide Appendix No. 55.

Honourable Mr. A. M. K. DEHLAVI : (a) Some inam lands in Badami Taluka only were taken for forest during the last 12 years.

(b) and (c) A statement furnishing the required information is placed on the Council table.*

TRAVELLING ALLOWANCE FOR GOVERNMENT OFFICERS.

Mr. R. G. PRADHAN on behalf of Mr. A. C. OWEN (Presidency) : Will Government be pleased to state—

(a) whether it is a fact that the rate of travelling allowances formerly granted to Government servants of the first class for railway journeys, viz., double first class fare, was reduced when railway fares were increased ;

(b) whether it is a fact that railway fares have now been reduced ;

(c) if the answer to (b) is in the affirmative, whether Government intend to re-examine the question.

The Honourable Mr. H. S. LAWRENCE : (a), (b) and (c) Yes.

[Further consideration of Bill No XX of 1925 (A Bill further to amend the Bombay Local Boards Act, 1923) resumed].

The Honourable Sir MAURICE HAYWARD : Mr. President, I suggested last night that this bill is sound in principle ; that registration of marriages is a sound step forward ; that it is not in any way a religious matter ; that it is not substituting for any previous form of marriage a new form of marriage ; that registration will not effect marriage and it will not affect any religious ceremony which has duly been gone through beforehand, nor will it make valid any religious ceremony which has been gone through beforehand in an improper manner. It is merely a step forward to have some record of a marriage that has taken place just as a record of births and deaths. Registration will not make a marriage any more than registering the birth of an infant will make an infant or the registering the fact that a man is dead will make him dead. Also I pointed out that it is a matter which was peculiarly required, within my personal knowledge, by Mahomedans in Sind, and I appealed to the Hindu members not to put any unnecessary difficulties in the way of at all events the requirements of the Mahomedans of Sind.

Reference was made yesterday to certain alarmist reports which have been received from time to time about kidnapping in Sind. Well, Sir, members of this Legislative Council brought these reports to my notice at the last session, and the reports which I received are now under investigation, and everything will be done to ascertain how far those rumours are true or correct, and, if they are true, to see that justice is done in those particular matters. But I would earnestly ask the House not to be led away unnecessarily by alarmist rumours without their being fully proved after careful investigation. Any way, Sir, it is difficult for me to understand how these rumours, even if true, would really affect the bill which is at present before the House. Kindnapping would not, as far as I can see, be promoted in any way by enacting that marriages should be registered. Surely it would rather be discouraged by the

* Vide Appendix No. 56.

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fact that publicity would be necessary or, at all events, it would not be encouraged by the bill which is before the House. It is difficult to understand how the misapprehensions ever arose that any detrimental effect could be caused by this particular bill. It is very difficult for me to understand how this sudden fear should have arisen among certain communities in Sind. It has however been reported that the matter was discussed at a recent meeting of a particular party in Hyderabad (Sind). But I would earnestly request honourable members not to be unnecessarily led away by these fears which so far have not been supported by facts or proof and to remember that we are now simply discussing the question of principle. Is it or is it not a step forward to have marriages registered? Honourable members will remember that the principle has already been accepted by this House in the recent bill which has been passed—the Major Municipalities Bill. So I ask honourable members to consider how they can logically refuse to accept the principle in the case of local boards when they have already accepted it in the case of the Major Municipalities Bill. Even if you do not have registration in the local boards you are going to have it under the Major Municipalities Bill. So far as these fears go it does not matter whether there are local board registry offices or not. It would be open to any one to go to the registry office in the nearest big town such as Hyderabad (Sind). The principle of registration it seems to me is one which we have already accepted and we should be stultifying ourselves if we now say that we would not accept it in the case of the present bill. It is quite true that there may be greater difficulties in forming the necessary machinery under the Local Boards Act than under the Municipalities Act. It is obvious that the difficulties will be greater in view of the greater area to be managed. But these are questions which seem to me to be matters of detail which can very well be considered by a representative select committee and that committee would at the same time be able to receive opinions not only from local officers but also from any communities who like to send representations to them. I would remind honourable members that there is a special provision in the Standing Orders which gives the select committee the power to take opinions and take even evidence and representations of particular persons affected. I refer to standing order 8, rule 6, sub-rule 4 and I would suggest that that would be, in a case like this, the particular duty of a representative select committee appointed for the purpose to enquire into the practicability of these proposals. I suggest therefore that our most straightforward course in the present case would be not to go back on the opinion which we have already recorded in favour of the registration of marriages in the Major Municipalities Bill, but to reaffirm that position, that registration of marriages is a desirable thing if it can be effectively arranged with due regard to the religious and other requirements of every community in the Presidency proper and in Sind. I would suggest that this can effectively be enquired into by the select committee if the honourable mover were to propose that instead of two months for the report of the select committee, they should be asked to report, say, within six months. This would give everybody ample

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opportunity to make an enquiry and it would give also an opportunity to obtain opinions of local officers as to how far these proposals should be practically given effect to both in the presidency proper and in Sind. This would also give an opportunity to all classes and communities to represent any of the difficulties, of the dangers and of the fears that they feel in respect of this particular legislation and it is for them to propose before the select committee any further safeguards that they think necessary in the present bill. I would suggest therefore that our best procedure would be at once to pass the first reading of the bill and then to appoint a really representative committee. In a case of this sort I shall not, for one, object to the appointment of a large committee, not restricting it to just a dozen, but a really representative committee which shall enquire thoroughly into the matter, giving them instructions that they should take opinions of officials and others and any representations which are made to them and submit their report after full consideration, say within 6 months, to this honourable House.

The Honourabl Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, at the outset, I must make my position very clear. I am not a partisan of any side in this question. I have carefully read this bill, and not only read it, but studied it, and I cannot find any cause for alarm. I must assure the House also that my relations with Hindus are of the best. I do not find anything in this measure to legalise marriages with kidnapped Hindu women by means of registration. I assure the House that had there been anything to that effect, I would have been the last to be a party to this bill, and I assure the House also that the Mahomedan members of this House too would not have been a party to the bill. (Hear, hear). The bogey that has been trotted out is that by this bill we are going to legalise marriage with kidnapped Hindu women or any women. Sir, those who know the Mahomedan law are aware that marriage is a free contract. Registration which is proposed by this bill is not of the essence of the marriage. It is merely proposed in the bill that, when all the ceremonies and formalities of marriage are completed the marriage should be registered. Therefore, whether the marriage is registered or not, either party has to prove the factum of marriage, that is, whether such a marriage has taken place according to the ceremonies under the Mahomedan law ; whether there was a vakil ; whether there were witnesses ; and whether there was an officiating priest. I do not want to take this House through the various details of the Mahomedan marriage. As I have put it, it is a free contract, where there is a proposal and acceptance, and if either party is not willing, it is not a legal marriage under the law. Sir, having established the point that registration is not of the essence of Mahomedan law, I come to the question whether by registration we will be able to legalise any forced marriage. To my mind, Sir, registration is in the interests of such coerced parties. Now what will happen ? Under the Mahomedan law, if there is a proposal and acceptance, if there are vakils and witnesses, these persons bear testimony to the marriage. Now it may be said

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that these persons may be in collusion with the man who has kidnapped the girl. But whether she has accepted him as her husband or not has to be proved before a third party, and if she is unwilling to do so, she can repudiate such a marriage. I must now give an idea of the form, as far as I am aware, of marriages in other Mahomedan countries. The register is a detailed form. It gives the names of the parties, their parentage, names of the wakil and the witnesses and the officiating priest. If the woman is kidnapped, she can therefore easily repudiate the marriage. Sir, it appears to have been taken for granted that this bill will help to create false evidence of marriage. But suppose this bill is thrown out, and a man kidnaps a girl from a local board area and performs the marriage in a municipal area and gets his marriage registered there, can he not do so? Very easily. Therefore, I say, by throwing out the bill the object of preventing bogus marriages is not served at all. On the contrary, registration is in the interests of an unwilling girl. If a girl is willing, nobody can help it. But if she is unwilling, registration will help her out of the difficulty. If a man wants to create false evidence, he can do it under the municipal law—the Major Municipalities Act—he can get the girl into a municipal area and perform and register the marriage there. But, as I told you, mere registration by itself is not sufficient evidence of marriage. The fact that the marriage has been performed, that all the ceremonies have been completed, is absolutely necessary to prove the marriage. Every party has in the first instance to prove the factum of marriage.

Now, I am sorry and this House will pardon me for saying so—that the level of the debate in this case has been lowered to sectarian issues. I must assure the House that it is far from the intentions of any Mahomedan members of this House to trespass on the religious rights of other communities. Sir, if we go on distrusting each other, the Mahomedans distrusting the Hindus, and the Hindus distrusting the Mahomedans, and both spiting each other, I do not think we will ever be able to make any headway. It is clearly in the interests of both of us to live peacefully, and I would assure this honourable House that we have not the least intention to encroach on the religious rights of any other communities.

Now, Sir, I will deal with the question of agency. No doubt, the local boards are not a compact area. But, as far as I know, this work is carried out by local boards in other parts where the conditions are the same. Further, Sir, what does the bill seek to do? It seeks to empower the local boards to make by-laws for the registration of marriages. Our duty ends as soon as we accept the principle of the bill and confer this power on the local boards. It is for the local boards to consider the question of agency. On the local boards, we have the representatives of the people. They will be the best judges of the agency to be employed for the purpose. Besides we can see how this work is being carried on in other parts and we can copy their example. (Moulvi Rafiuddin Ahmad: Have you got a blank form of marriage?) So, Sir, the question

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of agency is for the local boards to consider. Besides, it is not a question of principle; it is a matter of detail.

Then, my honourable friend objects that the mover of the bill wants to make provision for an obligatory duty under the discretionary powers of the local boards. I agree with him. It was not he alone who made that discovery. I have already brought it to the notice of the mover of the bill. It is a matter of detail, however. The principle is whether the local boards should be allowed to carry on the work of registration of marriages or not. These are details, and could be gone into in the select committee.

Then, another honourable gentleman who had absolutely no idea of the Mahomedan form of registration attacked the bill on the ground that it would keep the door open for false evidence even in the case of the Mahomedans or other communities. I am not very familiar with the form of Hindu marriage. But, as far as I know the Mahomedan form of registration, it is a complete form. Unless the girl and the man are both agreeable, no one can force them to record their thumb impressions if they are illiterate or their signatures if they are literate. First, the parties themselves have to sign, then the priest has to sign, then the witnesses have to sign, then the vakil has to sign. I do not think this can lead to false evidence, but, on the contrary, registration is a great safeguard against false evidence.

Then, another gentleman opposed the bill on a very flimsy ground. He says a large number of figures have been trotted out by the mover. Which offences did they relate to? I may inform the honourable members of this House they related to matrimonial offences under sections 498, 497, 495 and so on. Registration, however, leaves no loop-hole for false evidence.

Then, Sir, one or two points are worthy of notice. As far as my information goes, even at present, marriages amongst my Hindu friends are registered. I understand the Prarthana Samaj, which was introduced by our late President, Sir Narayan Chandavarkar, and the late Sir Ramkrishna Bhandarkar, registers marriages. The husband and wife sign their names in the register and, if they are illiterate, they put their thumb impressions.....

Mr. R. G. PRADHAN: It is not in all cases that they register the marriages. They do in some..

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Now, under the Social Reform Association which undertakes widow marriages, the same system of registration is followed. Now this bill is intended for the purpose of social reform. The object is very laudable. I think the honourable member should have no objection to referring the bill to a select committee. I am sure, Sir, the honourable mover, to remove all suspicion from the minds of any one in this House, will make it a very representative committee, and he will allow it, as suggested by the Honourable Leader of the House, a very long time, with

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instructions to the select committee to obtain evidence and further opinions. With these words, I trust this bill will be referred to a select committee.

Mr. J. P. BUNTER : Sir, I should like to say a few words on this bill. Christian marriages are registered under the Christian Marriages Act and a copy of the Register is sent to the Registrar in due course. It will certainly be superfluous, therefore, to have such marriages re-registered in the local board office. Secondly, I would point out that no safeguards have been provided in this bill to protect the interests of minor girls. Suitable provision should, therefore, be made in the bill or in the rules to be made under the Act, should this bill pass into law, to safeguard the interests of minor girls. The minor should be accompanied by her father or mother and if the parents are dead, then her guardians should accompany her and their signatures and thumb impressions should be shown in this register, so that there will be absolutely no opportunity for perpetrating fraud on any party or on any religion. With these remarks I think that the bill ought to go to a select committee and I support the first reading of the bill.

Mr. R. S. NEKALJAY : Sir, a legislation of this nature will be very helpful to both the Mahomedan and Hindu communities and more especially, I may say, to Romeos and Juliets. These Romeos and Juliets cannot get their marriages performed in the regular way by their respective communities and great difficulties are thrown in their way. In case A is an engaged person, he finds vast difficulties in registering his wealth or other property he may wish to have in the name of the issues which he gets from B. Therefore I support this bill as it will be of considerable help to this kind of people.

The Honourable Mr. A. M. K. DEHLAVI : Sir, it is a matter of no small surprise to me that a measure of this kind has received the opposition that it has received in this honourable House. I expected that it would be hailed in these days of reform because the subject matter is such that it should appeal to every one who wants to purge our society of all its defects and to bring it into line with what is called the civilized society. The condition of affairs in the matter of marriages and want of registration of marriages is so appalling that it is a menace to civilized society and particularly Mahomedan society in Sind, and any attempt to remove that ought to be helped and assisted by this honourable House which is composed of men of enlightenment. The grievance in Sind is very strong in this respect and the attempt made by my honourable friend, the mover of this bill, is specially praiseworthy and is intended to protect particularly the interests of Mahomedans. In Sind it has been an old grievance and a measure of this kind was considered as far back as 1904 when I happened to be in Sind. The dear old leaders of Sind, some of whom were members of this honourable House, and are now no more—I refer to Mir Allabux Khan and Khan Bahadur Sayed Allahando Shah and several others. They gathered together and considered what measures should be taken to secure the proof of marriage,

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and to save the Mahomedan community from disrepute as it appeared in various cases before courts. Several measures were thought of, and I congratulate the honourable mover that he has after all given it some shape and brought it into the form of a bill in this House. The old Kazi system in the olden days was so well organized that Mahomedan marriages were registered regularly in big cities, and also in smaller places where the Kazis had their naibs, assistants. The Kazis are no more organized, and therefore the difficulty of registering the Mahomedan marriages is the greater. For this reason the step proposed is a step in the right direction. As pointed out by various honourable members, I think that all suggestions should be accepted to remove any suspicion of the measure being a kind of a weapon in the hands of people to bring about conversions and forced marriages, and to establish things which otherwise would not be established. I, therefore, entirely agree that we should accept the principle and send the bill to a select committee to give the bill all the possible consideration that it deserves and to deprive it of any possible defects. If it can do nothing for the other communities, it should certainly be allowed to help at least the Mahomedan community—specially that of Sind, in this respect.

Mr. D. R. PATIL (East Khandesh District): Sir, there is a saying "Don't put off till to-morrow what you can do to-day." The speech of the Honourable Leader of the House appears to have come to the rescue of the honourable mover of this bill, and his putting off the debate "till to-morrow", that is to-day, has been very helpful to him. We can see the change. We know the fate of the bill.

Mr. NOOR MAHOMED (Hyderabad District): Sir, when the heart is full, the words are few. I was surprised at the sudden and unexpected opposition which has been directed against this bill. Once, Sir, a small child accompanied her mother to a cemetery. Beautiful epitaphs were inscribed on the tomb-stones, "To the memory of so and so. He was so angelic, so innocent, so dear, etc." On all the tomb-stones nothing but good was said of the dead. Being of an enquiring turn of mind, the little child asked her mother "Mamma, mamma, all the good people seem to come here. Where do the bad people go?" I now hear in this debate that Sind is the place where the bad people go and that discovery has been made by my honourable friend, Mr. Navle. He has solved the mystery for the confounded mother—all bad people go to Sind! The non-Brahmin opposition has been a surprise to me particularly because, before I brought this bill, I had consulted members of the non-Brahmin party and got their consent and approval. They told me that this bill was as necessary for them as for Mahomedans, especially was it necessary for the protection of the marital rights of the poor people. Therefore, the arguments I heard yesterday from them caused me great pain.

Mr. N. E. NAVLE: No assurance was given to the honourable member on behalf of the non-Brahmin party.

Mr. NOOR MAHOMED : Unfortunately for me the honourable member, Mr. Shinde, is not here to-day.

Mr. N. E. NAVLE : Mr. Shinde might have given his opinion in his individual capacity.

Mr. NOOR MAHOMED : Oh ! That is it. It is a pity they are only individuals when it suits them and also a party when it suits them. But it was not Mr. Shinde alone whom I consulted. I consulted most of them.

Sir, this measure did not originate with me. The late Mr. Sedgwick was struck by the conditions which were prevailing in Sind and he thought that there should be some Act whereby protection could be given to married people. So he prepared a draft and sent it to the Commissioner in Sind. The Commissioner in Sind however thought that the people being conservative, a social legislation of that kind should be introduced by some non-official member, particularly when there were so many elected members in this House. I assure you, Sir, I did not bring this Bill light-heartedly. I did everything in my power to ascertain the views of those sections of the House who were to be affected by it, before even asking leave of the House to introduce it. Even the Honourable Mr. Jadhav, the Education Member, encouraged me and promised to extend to me his support. Therefore, Sir, when I heard some of the non-Brahmins attributing motives to me, it did cause me a shock. Sir, this Council has been free from the communal spirit, and for the first time we find that we are drifting, on account of the instability of parties, into communal lines. I wish only to say that we also know what is happening behind the scene. I wish to assure this honourable House that there is no intention whatsoever of interfering with religious ceremonies or the sanctity of marriage. Priests will perform the marriage ceremonies as heretofore but we must make them responsible men. They must keep a record of the marriages they celebrate. I never thought, Sir, I never dreamt, that this bill would convey the idea that marriages in future would be performed by registrars, or that couples would be wedded by registrars appointed by the local boards. That is not my idea ; and there is nothing in the bill that can give that impression. All that the bill seeks to do is to make the priests responsible, and to make them keep a record of the marriages which they perform. We want to do exactly what the late Sir Narayan Chandavarkar and Sir Ramakrishna Bhandarkar were doing in keeping a record of the marriages celebrated. The honourable member Mr. Navle, who knows little about Sind, said that the Hindu Sabha of Sind has protested against the bill, but the Hindu Sabha of Sind never advanced the arguments which the honourable member Mr. Navle did. The resolution which that Sabha passed is as follows :

“ This Conference protests against the proposed introduction of the bill for the compulsory registration of marriages, in the province of Sind. This Conference is of opinion that the introduction of such a bill is extremely inopportune and ill-advised and may likewise cause an interference with the notions of the Hindu community as regards the nature and sanctity of the marital rights and obligations.”

The Hindu Sabha, labouring under a misunderstanding, said the same thing that was said yesterday by the honourable member

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Mr. R. G. Pradhan, *viz.*, that marriage among the Hindus is a sacrament and not a contract and therefore this bill will violate that sanctity. It seems to me that some gentlemen have deliberately created that impression in the Hindu Sabha. My intentions have been distorted; and it has been made to appear that this bill does away with the sanctity of marriage which among the Hindus is a sacrament. But, Sir, this bill does not interfere with the religious rites and ceremonies performed by priests. All that it seeks to do is that a record of the marriages should be kept. Sir, from the year 1880 the local boards in the Punjab have been empowered to do the work of the registration of marriages and that work has been performed by the local boards there. Not only Mussalman marriages are registered, but even Anand marriages have come to be registered there. The power of registering marriages was given to the local boards in 1880 in the Punjab, but we in the Bombay presidency cannot entrust that work to the local boards even in 1925, though we claim that we are the most advanced presidency, and though we know that offences relating to marriages are increasing! The figures that I gave yesterday regarding marriage offences were all under Chapter XX of the Indian Penal Code. Those offences are: Co-habitation caused by a man inducing a belief of lawful marriage; marrying again during life time of husband or wife; same offence with concealment of former marriage from person with whom subsequent marriage is contracted; marriage ceremony fraudulently gone through without lawful marriage; adultery: and enticing or taking away or detaining with criminal intent a married woman. Now, Sir, so far as the resolution of the Hindu Sabha of Sind is concerned, the Hindu Sabha has accused me of trying to do away with the sanctity of marriage, and the same argument has been repeated here; and an attempt has been made in this House to divide the House on communal lines. It is regrettable that an honourable member of this House, who is a chosen leader of the non-official side, should have gone so far as to state in the "Indian Daily Mail" that the Honourable Minister for Local Self-government accepted forthwith many an amendment proposed by a Sind Mahomedan member. The insinuation is that the Honourable Minister for Local Self-government accepts amendments that are brought forward by members from Sind, because he happens to come from Sind. You are well aware, Sir, that it was by accident that I happened to have a prior right to move some amendments on the Major Municipalities Bill; it was another accident that some of the honourable members of the Swaraj party and the non-Brahmin party had given notice of the same amendments that I had given of. It was yet another accident that the Swaraj party did not participate and I got a chance to move some amendments. But only those amendments of mine were accepted which were supported by all sections of the House and it was therefore unfair for the Deputy President to insinuate in the manner he has thought fit to do. Therefore, my request to the House is that we should try to subordinate our communal feelings and in the present case should consider the bill on its merits. That is the way in which the Legislative Council of this presidency can boast of

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being above petty communalism. I hope, therefore, that this bill will be carefully considered by this House on its merits, and not in the light of any insinuations that may have been made. Sir, "stories" of the enticing away of girls have also been advanced as an argument against this bill. It has been stated that this bill will legalize kidnapping and the offence of enticing away married women. But may I point out that the registration of marriages is done now in all civilised countries? Sir, if registration of marriages were legalising kidnapping of girls and enticing away of married women, could Europeans have adopted the system of registration of marriages and stuck to it? They are civilised people and they would not tolerate registration, if it were to facilitate the commission of offences relating to marriages. But, Sir, some argument was to be advanced in opposition, and I am very sorry that an argument of this nature that cannot weigh with any sensible man was brought forward.

Sir, the Mussalmans of Sind have been accused of enticing away girls. My submission is that that sensation has been created by the Hindu Sabha, to keep that body going; because they know that no movement can start without food for excitement and sensation. These stories are put forth simply for creating mutual distrust and hatred. Even Mahatma Gandhi.....

Mr. N. E. NAVLE: I do not know how that is relevant, Sir.

The Honourable the PRESIDENT: The honourable member is himself responsible for the reply. He referred to the Hindu Sabha and their general meeting held in Sind recently, and the passing of a resolution by them was adduced by the honourable member as an argument against the bill. The honourable member Mr. Noor Mahomed is replying to that argument. If there is any particular part of the speech to which the honourable member Mr. Navle takes exception, I am quite prepared to consider it.

Mr. N. E. NAVLE: I do not understand why Mahatma Gandhi should be brought into this question.

The Honourable the PRESIDENT: He only mentioned the name, and I am waiting to see how that argument is brought forth before I can rule one way or the other. The mere mention of the name of Mahatma Gandhi cannot be out of order.

Mr. NOOR MAHOMED: Mahatma Gandhi has recently said in "Young India" that the stories of kidnapping, etc., are very often exaggerated, and people should not believe them, without carefully examining them. He says that exaggerated stories of the kidnapping of girls are served out by "dirty sheets", both of Hindus and of Mussalmans. That statement has been made by Mahatma Gandhi, who, as we all know, has no axe to grind. Now, I think I may be considered more relevant than the honourable member thought me to be. As regards the abduction of women, Mussalmans have just as much grievance against the Hindus as Hindus can have against Mussalmans; but

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Mussalmans who have got a glorious history behind them feel a sense of shame when such things occur ; and do not advertise such occurrences. There are bad and good people among all communities. If some dregs of society commit an offence, is the whole community to be blamed on that account ? I hope and trust that the honourable members of this House who are chosen representatives of the people will weigh things with care and not come to any sudden and hasty conclusion.

Another honourable member stated that there will be frauds if this piece of legislation is passed. Perhaps that may happen in some cases. I want to ask the honourable member whether there exists any legislation which is perfect ? There are legislative measures regarding land, local self-government and so on. Are they all perfect ? Mere lurking suspicion of some fraud should not be an obstacle in the way of this piece of legislation being passed. If there are any clear defects we shall rectify them in the select committee.

Another honourable member advanced the argument that if the district local boards are empowered to do this registration work, they will appoint some clerks to do this work. We can trust to the discretion of the local boards to appoint some competent and responsible men who will do the work, as will be done by the major municipalities.

The question of cost was mentioned as an obstacle in the way of this bill. But in the Punjab the contracting parties contribute some fee for registration and if such a system is introduced here, I do not think the question of cost will stand in the way.

As regards the argument of the honourable member Mr. Pradhan, for whose legal knowledge, I have great respect, though I regret to say he does not know how to bring a vote of censure on the Honourable Minister.

Mr. R. G. PRADHAN : Is it in order, Sir ?

The Honourable the PRESIDENT : No. The honourable member Mr. Noor Mahomed's appreciation of the honourable member's legal knowledge is in order ; but the latter part of it is not.

Mr. NOOR MAHOMED : The honourable member Mr. Pradhan says that because the words " compulsory registration " are not put in the proper place, that because they are inserted three lines below instead of being three lines above, the bill is *ultra vires*. This is a slight defect which can be rectified in the select committee. The Honourable Minister pointed this out to me at a very early stage and I see my mistake, but that does not make it *ultra vires*.

The honourable member Mr. Bunter has very rightly pointed out certain directions in which the select committee should go in the consideration of this bill. They are valuable suggestions which will be taken into consideration by the select committee, along with the valuable suggestions made by other honourable members.

Considering all things, the *bona fide* of this bill, and the increasing number of matrimonial offences, I trust the House will pass the first reading of this bill. I place myself entirely in the hands of the Honourable

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Leader of the House and the Honourable Minister for Local Self-government, and I accept their advice.

Question put. House divided. 33 for the Ayes; 11 for the Noes. Motion carried.

Division No. 16.

Ayes.

AHMAD, MOULVI RAFIUDDIN	JEHANGIR, the Honourable Mr. COWASJI
BAPTISTA, Mr. J.	KAZI INAITULLA KHAN
BEDDEKAR, Khan Bahadur I. M.	LAWRENCE, the Honourable Mr. H. S.
BUNTER, Mr. J. P.	MANSURI, Khan Saheb A. M.
CLEMENTS, Mr. E.	MASTER, Mr. A.
DABHOLKAR, Sir VASANTRAO A.	MEHTA, the Honourable Sir CHUNILAL
DADACHANJI, Dr. K. E.	MONTGOMERIE, Mr. A.
DEHLAVI, the Honourable Mr. A. M. K.	MOUNTFORD, Mr. L. J.
FERNANDEZ, Dr. COSMAS	NOOR MAHOMED, Mr.
FRAMJI, Mr. K. S.	PAINTER, Mr. H. L.
GHOSAL, Mr. J.	PATEL, Mr. A. E.
GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH	PATHAN, Mr. A. F. I. K.
HARRISON, Mr. R. T.	RAHMTOOLA, Mr. HOOSENALLY M.
HATCH, Mr. G. W.	SURVE, Mr. A. N.
HAYWARD, the Honourable Sir MAURICE	THOMAS, Mr. G. A.
JADHAV, the Honourable Mr. B. V.	WILES, Mr. G.
	WOODS, Mr. E. E.

Tellers for the Ayes: Mr. NOOR MAHOMED and KHAN SAHEB A. M. MANSURI.

Noes.

ANGADI, Mr. S. N.	NAVLE, Mr. N. E.
BOLE, Mr. S. K.	PATEL, Mr. D. R.
CHAUDHARI, Mr. L. S.	PRADHAN, Mr. R. G.
KALBHOR, Mr. G. M.	SARDESAL, Mr. S. A.
KAMBLI, Mr. S. T.	SHANKARRAO JAYARAMRAO ZUNZARRAO, Mr.
MUJUMDAR, SARDAR G. N.	

Tellers for the Noes: Mr. N. E. NAVLE and Mr. L. S. CHAUDHARI.

Mr. NOOR MAHOMED (Hyderabad District): Sir, I beg to move that Bill No. XX of 1925 be referred to a select committee, consisting of

The Honourable Minister for Local Self-Government,
 Mr. A. Montgomerie,
 Mr. A. Master,
 The Remembrancer of Legal Affairs,
 Mr. K. F. Nariman,
 Mr. A. N. Surve,
 Khan Bahadur S. N. Bhutto,
 Mr. M. S. Khuhro,
 Mr. L. S. Chaudhari,
 Mukhi Jethanand Pritamdas,
 Mr. R. G. Pradhan,
 Sir Vasant Rao A. Dabholkar,
 Moulvi Rafiuddin Ahmad,
 Khan Saheb A. M. Mansuri,
 Dr. K. E. Dadachanji,
 Mr. J. Baptista,
 Mr. H. B. Shivdasani,

[Mr. Noor Mahomed]

Mr. J. P. Bunter,
Mr. D. R. Patil,
Mr. S. T. Kambli,
Mr. G. B. Pradhan,
Mr. B. G. Pahalajani, and
the mover of the bill,

to report within six months and eight to form a quorum.

Mr. R. S. NEKALJAY : Sir, I would suggest the addition of the Honourable Minister for Education.

Mr. NOOR MAHOMED : I agree.

The Honourable the PRESIDENT : Question proposed that the bill be referred to a select committee consisting of

The Honourable Minister for Local Self Government,
Mr. A. Montgomerie,
Mr. A. Master,
The Remembrancer of Legal Affairs,
Mr. K. F. Nariman,
Mr. A. N. Surve,
Khan Bahadur S. N. Bhutto,
Mr. M. S. Khuhro,
Mr. L. S. Chaudhari,
Mukhi Jethanand Pritamdas,
Mr. R. G. Pradhan,
Sir Vasantao A. Dabholkar,
Moulvi Rafiuddin Ahmad,
Khan Saheb A. M. Mansuri,
Dr. K. E. Dadachanji,
Mr. J. Baptista,
Mr. H. B. Shivdasani,
Mr. J. P. Bunter,
Mr. D. R. Patil,
Mr. S. T. Kambli,
Mr. G. B. Pradhan,
Mr. B. G. Pahalajani,
The Honourable Minister for Education, and
the mover of the bill,

to report within six months and eight to form a quorum.

Mr. NOOR MAHOMED : It might be added "with instructions to take evidence".

The Honourable the PRESIDENT : It is unnecessary. As the Honourable Leader of the House pointed out, under the Standing Orders the select committee is itself authorised to consult experts and to take evidence if necessary.

Mr. D. R. PATIL : Mr. President, I beg to make a motion by way of amendment to the bill.....

The Honourable the PRESIDENT: If the honourable member is going to move an amendment regarding publication, I may inform him that I have received notice of an amendment on the same subject from the honourable member Mr. Surve. If the honourable member (Mr. Patil) has no objection, I should like to call upon Mr. Surve to move it.

Mr. D. R. PATIL: I have no objection, Sir.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move, under Standing Order for the VIII, 5 (1) (c),

That Bill No. XX of 1925 (A Bill further to amend the Bombay Local Boards Act, 1923) be published for the purpose of eliciting opinion thereon, for a period of three months.

Sir, my object is not to create any difficulty. But it will be conceded that the local boards are the chief parties who are concerned, and they must be given an opportunity of stating their case—whether they will be able to carry this burden and whether they have any difficulty. I think, if my amendment is accepted, practically no difficulty will be created, because the period of publication is only three months. Within that time all the local boards will express their opinion and their opinion will be before the select committee within the period of three months. This period of three months will be over in January. Therefore the select committee can meet in February before the budget sessions and submit its report and the bill can come for the second reading in this House. Whether this amendment is carried or not, if it is taken into account that the select committee will not be called till the beginning of February, I think I shall not press my amendment. My point is that the local boards should have an opportunity of expressing their views. With this explanation I place my amendment before the House.

Question proposed.

Mr. S. N. ANGADI (Belgaum District): I rise to support the amendment moved by my honourable friend Mr. Surve. I had thought from the speech of the honourable member Mr. Lawrence who said that he was himself of the opinion that this bill was a delicate matter and should be circulated for further consideration that Government would refrain from voting on such a bill. But to-day when we find that the Government have voted we are on the horns of a dilemma. The amendment brought forward by the honourable member Mr. Surve is an excellent one and I do not know what was responsible for the change of attitude on the part of Government.

The Honourable Sir MAURICE HAYWARD: I may say that there was no change of attitude at all.

Mr. S. N. ANGADI: I therefore very strongly support the amendment moved by my honourable friend Mr. Surve.

Mr. R. G. PRADHAN (Nasik District): Sir, I rise to support the amendment put forward by my honourable friend Mr. Surve. The Honourable the Finance Member who spoke yesterday may not have given a definite assurance but there can be no doubt whatever that he gave the distinct impression that the proper course to follow would be to follow the course suggested by the honourable member Mr. Surve in his

[Mr. R. G. Pradhan]

amendment. That is shared not only by myself but also by many honourable members on this side. It seems to me extremely surprising that an attempt should now be made to go back on the position taken up yesterday. No doubt, the first reading of the bill has been passed owing to the aid of the Government official benches. On a social legislation like this which is a matter of extreme importance and which is likely to give rise to a good deal of misunderstanding and pain among the entire Hindu community in this Presidency it is a matter of surprise that Government should have thrown the weight of their influence and the weight of their voting in its favour. They ought to have refrained at least from voting and allowed the non-official members to register their votes just as they pleased. That has not been done. The result is that it has given a shock to the feelings of a considerable section on this side of the House. Sir, the principle of the bill may be right or may not be right. From what I have heard in this House from Mahomedan members and from Christian members it may be that the registration of marriages, so far as the Mahomedan community is concerned and the Christian community is concerned and perhaps other non-Hindu communities are concerned, may be acceptable to those communities. To us.....

The Honourable the PRESIDENT: I do not like to interrupt the honourable member, but I cannot help pointing out to him that as the House has decided to read the bill a first time, the honourable member is not entitled to criticise the decision of the House. The only issue before the House is that this bill instead of being sent to a select committee should be circulated for eliciting opinion and the honourable member will be perfectly entitled to all observations he may wish to make within that issue. I am sure the honourable member will himself appreciate that it is hardly fair to be allowed to criticise the decision of the House once it has been reached.

Mr. R. G. PRADHAN: Sir, the motion that has been proposed by my honourable friend Mr. Noor Mahomed includes the names of some of those who have opposed the first reading. The motion is that some of us who opposed the first reading should be on the select committee. The attitude of some of us whose names have been included in the select committee with regard to the principle of the bill is just at present one of non-committal; because as I have already pointed out in my speech yesterday we have not before us the views of one important community affected by this bill. I had hoped, Sir, that just as the Mahomedan Ministers in this House tried their best to put the Mahomedan point of view before this House the Hindu members of the Government would have tried their best to press the Hindu point of view before the House (Hear, hear). But, Sir, it pains me to see that that has not been done. However, so far as we are concerned, we whose names have been included in this bill, our attitude with regard to the principle of the bill is that of non-committal and we feel that if this amendment that has been proposed by my honourable friend Mr. Surve is not accepted it would not be

[Mr. R. G. Pradhan]

proper for us to take our seats on the select committee and to serve thereon. Some of us do not accept the principle of the bill. Some of us have strongly opposed it, but so far as I am concerned my attitude is one of non-committal. We want to hear all sides and if we are convinced that there is necessity for this bill we shall accept the principle, but at the present time our attitude is one of non-committal. It may be that a good case has been made out for the registration of marriages so far as Mahomedans are concerned, but no case has been made out for the registration of Hindu marriages and the question is, if the Hindus do not want this measure, why should this Council force it upon the Hindu community? That seems to me a consideration which the House has lost sight of. Sir, what does this amendment propose? It proposes that the bill should be circulated to the local boards. Let it be circulated; let it be referred to the Hindu community and let their views be obtained and their objections be taken into consideration.

The Honourable Sir MAURICE HAYWARD: May I rise to a point of order? I should like to know what the motion is. I have been in some doubt. The honourable member suggested that the bill should be circulated for three months and then the select committee should sit. I understood him to say that he wanted the bill to be circulated for three months, to which there would be no possible objection, and that he did not want the select committee to sit before January or February next.

The Honourable the PRESIDENT: The Honourable Leader of the House is well aware that the motion is under Standing Order VIII, 5. Under that Standing Order, the honourable member in charge may make one of the following motions:

The first motion which he can make is that the bill be read a second time at once; the second motion is that the bill be referred to a select committee, which the mover has availed himself of; and the third alternative, which is open to any other member to move in the form of an amendment, is that the bill be published for the purpose of eliciting opinion thereon, for a period to be specified in the motion. The honourable member Mr. Surve has moved his amendment under clause (c) of sub-section (1) of section 5 of Chapter VIII. The effect of this Standing Order is that if the honourable member Mr. Surve's amendment is carried, the motion for referring the bill to a select committee will be defeated, and after circulation is completed, the bill will come back again before the Council, and then a motion for the second reading or that the bill be referred to a select committee will have to be made. (Mr. J. Baptista shook his head). There is no doubt about it. The honourable member Mr. Baptista shakes his head. To provide for publication while the select committee is sitting, there is a Standing Order, Standing Order 6 of Chapter VIII, clause (4) of which says:

"A select committee may hear expert evidence and representatives of special interests affected by the measure before them."

[The President]

Therefore, the procedure to be followed is either under Standing Order 5 or Standing Order 6 of Chapter VIII. In the case of Standing Order 5, the proposed amendment, if carried, will defeat the motion for reference to the select committee, and after circulation the bill will come back again either for the second reading or for a motion for reference to the select committee. If the intention is that the select committee should elicit expert opinion and should give a hearing to all special interests affected by the measure, then the procedure would be the acceptance of the original motion, the reference to the select committee, with directions either specifically provided in the motion or an understanding given to the House that the select committee shall not proceed with the consideration of the bill for a certain length of time, and that in the mean time the procedure laid down by sub-clause (4) of clause 6 of the Standing Orders, namely that expert evidence and representatives of special interests affected by the measure shall be heard, will be followed. These are the two alternatives before the House and they may decide as they like. That is my answer to the point of order raised by the Honourable Leader of the House.

The Honourable Sir MAURICE HAYWARD: Thank you, Sir. I thought it better that the House should have a clear idea of the motion before it.

Mr. R. G. PRADHAN: I maintain the course proposed by the amendment is a better one, is a more reasonable one, and ought to be the more acceptable one to the House. That course does not preclude at a later stage a reference of the bill to the select committee, and if this particular course is adopted, it will then be more convenient to us and better for us, to decide after considering all opinions, whether the principle of the bill is a sound one, to decide whether we should accept that principle. It is a reasonable compromise and I do want to say emphatically that even if a moderate and reasonable proposal of this kind is not accepted by the Government benches or other benches we shall have nothing to do with the bill.

Mr. J. BAPTISTA (Bombay City, North): I am sorry, Sir, that the last speaker should have given expression to such a view and asked why the Christians should force this measure on the House. Sir, we are here to give expression of opinion on the merits of the case and if upon examining the case they decide to vote for it, I do not think it is justifiable on the part of anyone else to complain that the Christians are forcing it upon the other honourable members. Otherwise, it would be impossible to work or to get on with the work of the Council. If any Hindu objects to consider a measure because it comes from the Mahomedans, or if the Mahomedans object to a measure because it is proposed by the Hindus, that would be reducing this House to a farcical position. So far as this motion is concerned, I should like to point out that the provision for circulation of the bill for obtaining opinions can be well carried out by referring this matter to the select committee. There is a provision to delay the consideration by six months. The whole object is to

[Mr. J. Baptista]

elicit opinions as far as possible and I am sure that the Minister who is concerned with this bill will do well to publish the bill not only in the Government Gazette, but in all other newspapers which are necessary for the purpose of eliciting opinions. Then these opinions will be considered in the select committee. But if the proposal made by the honourable member Mr. Surve is carried out, what will happen is this, and I want to call your attention to the provision that

Where a motion that a bill be published for the purpose of eliciting opinion is carried and the bill is published in accordance with that direction and opinions have been received thereon within the period specified, the member in charge, if he wishes to proceed with the bill thereafter, shall move that the bill be referred to a select committee unless the President, in the exercise of his power to suspend this provision, allows a motion to be made that the Bill be read a second time.

The Honourable the PRESIDENT: Does it not come to the same thing that I explained to the House?

Mr. J. BAPTISTA: Sir, it is compulsory for him to move that the bill be referred to a select committee....

The Honourable the PRESIDENT: Or proceed with the second reading?

Mr. J. BAPTISTA: If in the exercise of your power to suspend this provision you allow it. But, Sir, you did not read that out in full.

The Honourable the PRESIDENT: I thought the Standing Orders were known to all honourable members.

Mr. J. BAPTISTA: But you did not know why I was shaking my head (Laughter). If it is compulsorily referred to a select committee, the result would be that this bill would be delayed inordinately. What would happen here is this: Supposing opinions come here—and they are not the opinion of the select committee—opinions come to this House and somebody moves with your permission that the bill be read a second time, the very advantage to be secured by referring the matter to the select committee and the delay for eliciting opinion would be frustrated. The object would be better carried out, if any honourable member is anxious that opinion should be elicited, by referring the bill to the select committee at once and delaying it for six months. Then the bill will come before the House with all the opinions elicited, with all the merits duly considered by the select committee. Therefore, I suggest that the procedure proposed by the mover is the better procedure; otherwise it would frustrate the very object of the Hindu members. I do not think it is possible for us to include that in the bill, but if it is at all possible we should get the opinions of all the local boards on that point.

The Honourable the PRESIDENT: I should like to point out in answer to the question raised that the power of deciding whether the select committee shall hear expert evidence and the representatives of special interests affected by the measure before them, is vested in the select committee by the Standing Order. The form in which amendments to bills can be moved is specifically laid down. Therefore it appears to me that a better procedure would be that both the honourable

[The President]

member in charge and the Honourable Minister in charge of the department concerned should both give an assurance to this House that the select committee shall not proceed with the consideration of the measure without complying with this clause, namely that they shall hear expert evidence and the representatives of special interests and carry on all consultation that is required before they will meet to consider the bill. Instead of an amendment that would in my opinion be a better procedure by which the wishes of those honourable members who desire publication would be satisfied without raising any question of order.

Mr. J. BAPTISTA : I certainly think that the procedure suggested by you, Sir, will be a better procedure than an amendment and I hope that the assurance will be forthcoming.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I give an assurance on behalf of Government and as chairman of the select committee, and I hope the honourable mover of the bill will also agree with me, that before this bill is considered by the select committee, that body will elicit the opinions of all the boards by publishing this bill and inviting their opinions and will hear expert evidence and the representatives of the special interests. That should satisfy the honourable mover of this amendment. His object is that the select committee should have the opinions of all the boards and other interests, and I assure this House that we will not go on with the work of the select committee unless we are in possession of those opinions. Then the select committee will consider those various opinions, after which the report of the select committee will be placed before the House.

The Honourable the PRESIDENT : I take it that the honourable mover of the bill joins the Honourable Minister in the assurance given.

Mr. NOOR MAHOMED : Yes, Sir, I join the Honourable Minister in that assurance.

Dr. COSMAS FERNANDEZ : Sir, yesterday when this matter was being discussed I was very much struck by what the honourable mover had to say and also by the arguments advanced in opposition to the bill. I wanted very much then to make the suggestion that before registering the marriage the parties contracting the marriage must go through the usual religious ceremonial. That would overcome all opposition. Fortunately the Honourable Leader of the House explained that point and made it very clear. I was perfectly satisfied and convinced then that the measure would be a very good one if that clause were to be put in. If the bill is circulated as it is, I am sure that the opinions of the people who are concerned with this matter will be unfavourable as the people would be unaware of the actual methods of contracting the marriage and getting it registered. Unless this point is made very clear and definite, they will not be convinced of the soundness of this legislation. Similarly, unless this point is made very clear to the local boards, I am inclined to believe that most of them will vote against the measure. Therefore

[Dr. Cosmas Fernandez]

I think the committee ought to meet before circulating this bill and make this point very clear, namely that no registration will take place unless the usual religious ceremony is gone through. That would remove all fears and make the passage of the bill very much easier.

Mr. S. T. KAMBLI (Dharwar District): Sir, as the Honourable Minister has given the assurance that the bill will be circulated for the purpose of eliciting opinions of the district local boards, I hope he will go a step further and have the bill translated in all the vernaculars of the presidency so that the people or masses will know what the bill is intended to do.

Mr. S. N. ANGADI (Belgaum District): Sir, I think this should be advertised in some of the popular vernacular papers so that the masses will come to know the object and implications of this bill.

The Honourable Mr. H. S. LAWRENCE: Mr. President, a question has been put to me whether it would be within the functions of the select committee to recommend that any particular community or communities should be excluded from the purview of this legislation. I take it that an amendment to that effect could be produced in the select committee and could be considered by this House so that if any section of the Hindu community or any section of the Christian community could be excluded, that provision might perhaps allay anxieties and fears.

The honourable member Mr. Pradhan seemed to think that there was some variance between the position taken up by myself yesterday evening and that taken up by the Honourable Leader of the House this morning, but I should like to assure this House that I am unable to see that distinction myself, for there is complete accord between our views that this matter requires further consideration. In fact, I suggested last night that it should be referred for the opinion of the district local boards and that suggestion is supported by the Honourable Leader of the House and it would be carried out by the procedure now proposed to be adopted.

The Honourable the PRESIDENT: With reference to the point of order raised, I should like to invite the honourable member's attention to the fact that the bill itself makes provision to the following effect:—

“Notwithstanding anything contained in this Act, it shall be lawful for a district local board to exempt from the operation of this compulsory registration of marriages any particular community living within its limits.”

The honourable member will observe that a definite provision has already been made in the bill. Apart, however, from that aspect of the question, I hold that the select committee is entitled to restrict the principle in making their recommendations. The question as to whether they can expand the principle is not free from doubt but my present view is that they cannot expand the principle but they can restrict it. Apart from that, it has been the recognized view that the recommendations of a select committee are merely proposals for the consideration of this honourable House and that assuming that the select committee makes any recommendations, it will not debar this honourable House from

[The President]

going against those recommendations up to the extent of the principle embodied in the bill and accepted by the House. I think I have made the position quite clear.

The Honourable Mr. A. M. K. DEHLAVI : Then, I understand that it would be within the power of the select committee to limit the application of this bill to the Mussalman community only.

The Honourable the PRESIDENT : I do not know why the Honourable Minister wants me to tell him what the select committee can and cannot do. The Honourable Minister knows that the power of giving exemption to one small section of a big community is given to the district local board and not to this Council. Let there be no misunderstanding. The power given by this bill is to the district local board to exempt any community living within its jurisdiction, from the operation of this bill. I have gone further in explaining the point of order raised by the Honourable the Finance Member, namely that it is open to the select committee to make a recommendation restricting the principle of the bill, but the House is free either to accept those proposals or to reject them.

The Honourable Sir CHUNILAL MEHTA : Sir, I should like to have one or two points made clear in this connection, and I would desire to be pardoned by you, if you think that points of meticulous detail are being raised at this stage. I should like to know whether, as is usual, amendments of principle can be allowed in select committee and later. I understand that one of the principles of the bill is that it will allow any community to be excluded.

The Honourable the PRESIDENT : By the district local boards.

The Honourable Sir CHUNILAL MEHTA : That is the point I am coming to. The bill provides that the district local board shall have the power to either exempt or not exempt a community. Would it be in order for the Council, after the bill comes back from the select committee, to take away this power from the district local board ? That is one point that I would like to be made clear. Another point that struck me in the discussion that took place on the bill yesterday was, whether it would be permissible, under the acceptance of the principle of the bill by the passing of the first reading, to exempt individuals ? I am now dealing with individuals. Would it be in the power of either the district local board, or of the select committee, or of the Council, when the bill comes back again from the select committee, to make any provision by which an individual or individuals who might have changed his or their religion can be exempted for a limited period of time. These, Sir, seem to me to exercise the minds of my honourable friends opposite, this latter point particularly, and I wish it to be made clear whether it will be within the power of the select committee or of the Council to raise this question as a question of principle or whether by the passing of the first reading that principle would be debarred from consideration either by the select committee or by the Council.

The Honourable the PRESIDENT: It is not my business to sit in judgment as to what the select committee shall do or shall not do. I can only say that it is open to the select committee to make recommendations to restrict the principle embodied in the bill, and not to expand it, or in other words, to go beyond it. The principle of the bill, as the Honourable Leader of the House has clearly pointed out, is that marriages shall be compulsorily registered. That principle cannot be departed from, unless the motion for the second reading, which will be placed before the House, is rejected by the House. I think it does not require any statement from me to say that in all matters affecting legislation the powers of this legislature are supreme. If it was not for the Standing Order in the form in which it stands, all amendments of principle would be in order at the second reading. We have tried to get over that difficulty by obtaining an assurance from the mover of the bill, that no questions of order will be raised at the second reading as regards amendments of principle of the bill. In this case, if the Honourable the Revenue Member so desires, he can ask for an assurance that at the second reading no question of order will be raised as regards amendments of principle. If that assurance is given, there will be no difficulty. I hold that the principle of the bill is compulsory registration of marriages. The question whether it should be done by the district local board or by some other authority is certainly open to the select committee to consider as it is open to this House; and as regards the exclusion of individuals, I am not quite clear about that issue. But if the House so desires, and an assurance is given by the Honourable Minister on behalf of Government and by the honourable mover, an amendment to that effect can be considered by this House. Whether it can be considered by the select committee or not is the privilege of the chairman of the select committee to decide, and I am sure the honourable member will recognise that it is not fair that I should interfere in his discretion and indicate to him what his duties are in regard to that matter.

MOULVI RAFIUDDIN AHMAD: I have one more question to ask on a point of order, with regard to the obligatory principle which we have now passed. Would it be possible for the select committee to go behind it and make it optional?

The Honourable the PRESIDENT: As I said, the principle that has been accepted on the first reading is compulsory registration of marriages, and I do not think you can go back on it. But honourable members do not seem to realise the far-reaching powers that are vested in the House. Supposing the select committee does something which is not acceptable to the majority, they have the power of rejecting the bill *in toto* at the time of the second reading, and also when the third reading is proposed. Those powers are vested in the House, and the House, can do what it likes before the bill can become an Act.

The Honourable Sir CHUNILAL MEHTA: I should like to know whether, in view of the explanation that you have given, Sir, the honourable mover of this bill is prepared to give the assurance.....

The Honourable the PRESIDENT: The chairman of the select committee also.

The Honourable Sir CHUNILAL MEHTA: I should like to know whether the honourable mover of the bill and as suggested by you the chairman of the select committee are prepared to give the assurance that a point of order will not be raised later on if these questions are brought up in the select committee or by any member of the Council at the time of the second reading.

MOULVI RAFIUDDIN AHMAD: I have just asked your ruling and I desire to make it clear, Sir. I asked whether it was open to the select committee to turn the obligatory nature of the bill into an optional one.

The Honourable the PRESIDENT: The assurance that has been asked for and given in the past is to the effect that no question of order will be raised in regard to amendments of principle or of detail. As regards amendments of details, there can be no question. The question is whether amendments of principle can be allowed at the time of the second reading. Our Standing Orders debar it, but assurances have been given constantly in regard to that matter by the members in charge, and in the case of a private bill both by the Member in charge and the Member of Government in charge of the department. Whether they will do so or not in the present case is their option. The principle of the bill has been accepted, and the first reading is carried. I have allowed so much discussion on this subject—which I am not sure whether I am justified in doing—expressly to meet the wishes of the House, in view of the fact that there is considerable amount of feeling in the matter amongst honourable members. I have tried to give so much latitude, because better understanding may be produced among all sections of the House.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I assure the honourable House that I have no interest either way in the bill. I will welcome any suggestion in the select committee. I am simply surprised at the attitude of my honourable friend (Sir Chunilal Mehta) who thinks that I will not allow any amendment. I assure him that I will allow any amendment that may be moved.

The Honourable Sir CHUNILAL MEHTA: It was not from the Honourable Minister that I asked for any assurance. It was your suggestion, Sir. I only asked for your ruling.

The Honourable the PRESIDENT: It was my suggestion in view of the honourable member Sir Chunilal's enquiry.

The Honourable Sir CHUNILAL MEHTA: Yes, Sir.

The Honourable the PRESIDENT: I do not think we need pursue this matter any further. Does the honourable mover of the bill join the Honourable Minister in his assurance?

Mr. NOOR MAHOMED: Yes, Sir.

The Honourable the PRESIDENT: Let us now proceed with the motion for referring the bill to the select committee.

[The President]

As regards the amendment moved, I should like to inform honourable members with regard to the point made by the honourable member Mr. Kambli that the power of deciding in which of the vernaculars a bill should be translated and published vests under the Standing Orders in the President. With regard to this particular bill I have given instructions that it should be published in almost all the vernaculars. The heading of the bill is "to be translated into Marathi, Gujarathi, Kanarese and Urdu and the translation should be published in the *Bombay Government Gazette*; and also to be translated into Sindhi and the translation to be published in the *Sind Official Gazette*". It is further added that the date of all publications should be reported. I hope that will satisfy the honourable member Mr. Kambli.

Mr. R. G. PRADHAN : I wish to move a slight amendment. The Honourable Sir Chunilal Mehta should be added on to this committee.

The Honourable Sir CHUNILAL MEHTA : I am sorry I cannot serve on the committee.

The Honourable the PRESIDENT : I take it, that after all, these misunderstandings have now been removed. I should like to ask the honourable member Mr. Surve whether he will withdraw his amendment in view of the developments which have taken place.

Mr. A. N. SURVE : I beg leave of the House to withdraw my amendment.

Question put and leave granted.

The Honourable the PRESIDENT : The question is that the bill be referred to a select committee consisting of the following members to report within six months and eight to form the quorum :

The Honourable Khan Bahadur Shaikh Ghulam Hussain,

Mr. A. Montgomerie,

Mr. A. Master,

The Remembrancer of Legal Affairs,

Mr. K. F. Nariman,

Mr. A. N. Surve,

Khan Bahadur S. N. Bhutto,

Mr. M. S. Khuhro,

Mr. L. S. Chaudhari,

Mukhi Jethanand Pritamdas,

Mr. R. G. Pradhan,

Sir Vasantao A. Dabholkar,

Moulvi Rafiuddin Ahmad,

Khan Saheb A. M. Mansuri,

Dr. K. E. Dadachanji,

Mr. J. Baptista,

Mr. H. B. Shivdasani,

Mr. J. P. Bunter,

Mr. D. R. Patil,

Mr. S. T. Kambli,

[The President]

Mr. G. B. Pradhan,
Mr. B. G. Pahalajani,
The Honourable Mr. B. V. Jadhav, and
Mr. Noor Mahomed.

Bill referred to select committee. Question put and carried.

After recess.

The Honourable the PRESIDENT: Bill No. XXI of 1925 (A Bill further to amend the Bombay Land Revenue Code, 1879)—first reading—the honourable member Mr. Bhopatkar. (Mr. L. B. Bhopatkar was absent).

BILL NO. XXI OF 1925 (A BILL FURTHER TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888).

The Honourable the PRESIDENT: With regard to this bill further to amend the City of Bombay Municipal Act, 1888, I should like to invite the attention of the honourable member Mr. Surve to Standing Order 3 of Chapter V, which reads as follows:

"A motion shall not be moved which is inconsistent with any decision at which the Council has arrived at the same stage of the business, or in the same session unless such decision has been arrived at at a different stage."

Honourable members are aware that this honourable House has only recently discussed and decided a bill further to amend the City of Bombay Municipal Act, 1888 from the honourable member Mr. Bole, which amongst other things also provided for the reservation of seats for backward communities. The House having taken that decision, another motion for reservation of seats for the backward communities cannot be moved under this Standing Order. In my opinion, the bill appears to be out of order. But if the honourable member wishes to say anything, I am quite prepared to give him an opportunity of doing so.

Mr. A. N. SURVE (Bombay City, North): Sir, the only statement I would like to make is that my bill is not identically the same as Mr. Bole's. There is a great difference. Mr. Bole wanted to do away partly with co-optation and nomination, and he wanted re-allocation of seats, and he wanted also to lower the franchise. Again he wanted reservation of seats. He wanted a number of reserved seats by diminishing the number of the present nominated and co-opted members. Therefore the House might have taken the view that Mr. Bole wanted reservation in favour of a particular community with all these changes. But my bill is quite a simple thing. I accept everything that is in the present Act. Mr. Bole asked 18 seats to be reserved. I ask only 15 seats, 10 for the backward and 5 for the depressed classes. In all other respects the Act will remain just as it is. Therefore I think my bill is not quite on all fours with the honourable member Mr. Bole's bill. But if the House thinks that it is on all fours with that bill, I shall have nothing to

[Mr. A. N. Surve]

say. But if the House is of opinion that in some essential matters it differs, then I may be permitted to move this bill formally. Whatever I have to say I have already said. The decision of the House may be taken on that matter.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, one of the principles underlying Mr. Bole's bill was the principle of reservation of seats for a particular community or communities. Mr. Bole wanted to have by reservation 18 seats. The same principle is repeated in the honourable member Mr. Surve's bill, because he also wants reservation of seats for the backward and depressed classes. The honourable member Mr. Surve disagrees with Mr. Bole only in regard to the number, but the principle is the same. This honourable House has set its face against that principle when the bill of Mr. Bole was discussed. Hence, as the principle underlying both the bills is the same, and as the House has already decided on that question, I think the present bill is out of order.

The Honourable the PRESIDENT : I should like once again to draw the attention of the honourable member specifically to the wording of the Standing Order which I read out. It says :

No motion shall be moved which is inconsistent with any decision at which the Council has arrived....."

The Council has arrived at the decision on Mr. Bole's bill that they do not approve of reservation of seats for the backward communities. The present bill embodies the same principle that was contained in Mr. Bole's bill. Mr. Bole's bill amongst other things also provided for reservation of seats for the backward communities, and the House in dealing with that issue has decided not to have it. Therefore, his motion appears clearly to be inconsistent with the decision which the House has arrived at only a couple of days ago. The honourable member (Mr. Surve) has pointed out that Mr. Bole's bill contained in addition to the provision for reservation of seats other matters. That is perfectly true. But, then, according to the procedure of this House, the honourable member (Mr. Surve), if he had disagreed with the other provisions of Mr. Bole's bill and wanted merely to confine the bill to the question of reservation of seats, could have got up and moved an amendment to that effect, saying that he did not agree with the rest of the bill; even if he agreed with the bill, he could have moved an amendment in order to give the House an opportunity of deciding between the two issues, namely, whether they wanted reservation of seats by itself or whether they wanted reservation of seats plus the other points embodied in the bill. If the honourable member had done so, the House would have been in possession of Mr. Bole's bill with the honourable member Mr. Surve's amendment restricting the scope of the bill to the principle which is embodied in his bill. But he did not do so. As far as I remember, he wholeheartedly supported Mr. Bole's bill. That being so, the House decided on that bill that they were not in favour of any reservation of seats for the backward communities. That decision having been arrived at

[The President]

at this session, I cannot allow the moving of the present bill and must rule it out of order.

A BILL FURTHER TO AMEND THE BOMBAY PREVENTION OF GAMBLING ACT, 1887.

(Motion for leave to introduce the bill.)

Mr. J. BAPTISTA (Bombay City, North): Sir, I beg to move for leave to introduce the Bill further to amend the Bombay Prevention of Gambling Act, 1887.

Sir, the object of this bill is to make certain verbal alterations in the Prevention of Gambling Act. These verbal alterations are designed to carry out the original intention of the Act itself, by removing the ambiguity that exists at present in the definition of the word "gaming". The definition of the word "gaming" at present prevents wagering or betting of all description except upon a horse race under certain conditions. There are three conditions laid down in the exemption. The third condition is :

"Wagering or betting upon a horse race when such wagering or betting takes place between any individual in person on the one hand and such licensee on the other hand, in such manner and by such contrivance as may be permitted by such license."

Under this definition, Sir, the Government in its executive authority, under the Licensing Act has permitted the betting by the method known as the totalisator. Now, Sir, you will observe that under this definition any one person can bet with the licensee himself, but with no one else. But my submission is that under the totalisator system people at large do not actually bet with the licensee himself. As a matter of fact the licensee therefore is merely the stage holder. Punters really bet with one another and not with the licensee. If that is correct, then the punters are not really exempted, because they do not really bet with the licensee, and not being exempted they are liable to prosecution, although the license given to the Turf Club intends that they should not be prosecuted but that they should be protected from the prosecution. Indeed that the punters really bet with one another by this method of the totalizator has really been conceded in the definition of "totalizator" in Bill No. XIII of 1925 which we passed the other day for imposing a tax on the totalizator. It is said there that "totalizator" means a totalizator 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 of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles. That is betting with one another on the principle of the totalizator. If you want to remove the ambiguity which at present exists, some additional explanation such as the words I have proposed becomes absolutely necessary. The additional words which I propose would be :

"(c) between any individual in person, being present in the enclosure, on the one hand, and such licensee or other person licensed by such licensees in terms of the aforesaid

[Mr. J. Baptista]

license on the other hand, in such manner, or, by such contrivance as may be permitted by such license."

The additional words are "such licensee or other person licensed by such license in terms of the aforesaid license on the other hand". It is doubtful that under the totalisator system there is any betting between the licensee and other persons. There is not the slightest doubt that those people ought to be protected. As a matter of fact they are not protected so far as I can read the intention itself. This is the object of my present bill. I have no desire if they would be protected even without the insertion of these words, to press my bill. That can only be done by a test case in the Police Court and prosecuting the Turf Club. That is not a procedure, Sir, which commends itself to me. I have therefore thought it desirable to introduce my present bill so as to ascertain the views of Government on the matter and to make the necessary alterations if Government agree with me. That is the whole object. Sir, it is not intended to enlarge the difficulty that already exists. On the other hand, if my proposal is accepted, it will make the meaning clear and definite.

Question proposed.

The Honourable Sir MAURICE HAYWARD: I am not going to object to the granting of leave to introduce the bill. I understand that the object is merely to make verbal amendments. If that is so, there would be no objection. But it will require careful consideration in the select committee.

Question put and leave granted.

The Honourable the PRESIDENT: Leave to introduce the bill is granted.

Mr. J. BAPTISTA: Sir, I beg to introduce the bill.

The Honourable the PRESIDENT: The bill is introduced.

INVALIDATION OF HINDU CEREMONIAL EMOLUMENTS BILL.

(Motion for leave to introduce the bill.)

Mr. S. K. BOLE: Sir, I beg leave to introduce a bill to amend the law relating to the emoluments claimable by watandar Hindu priests. The principle laid down in this bill has long been the established law in all parts of British India except the Bombay Presidency, where it has been held that a watandar priest can get his customary emoluments, though as a matter of fact his services for performing the ceremony may not be given. This state of affairs has caused a great deal of annoyance to the non-Brahmins. Even though they do not requisition the services of a Brahmin they are made to pay the emoluments of the Brahmin priests, by the law courts in the Bombay Presidency, but this practice does not obtain in the other parts of British India and to do away with this anomaly and injustice I beg the leave of this House to introduce this

[Mr. S. K. Bole]

bill. Sir, a similar bill of this kind was introduced in the Legislative Assembly in the year 1922 by Rao Bahadur A. B. Latthe and there the bill was passed, but when it was sent to the Council of State it was thrown out mainly on the ground that it was a provincial matter and that this sort of bill should be sent for consideration to the Provincial Government and therefore I beg the leave of this House for introducing the Bill.

Question proposed.

The Honourable the PRESIDENT: If no honourable member objects, I declare that leave to introduce the bill is granted.

Mr. S. K. BOLE: I beg to introduce the bill.

The Honourable the PRESIDENT: The bill is introduced.

MAMLATDARS' COURTS ACT AMENDMENT BILL.

(Motion for leave to introduce the bill.)

Mr. D. R. PATIL (East Khandesh District): Mr. President, I beg leave to introduce a bill further to amend the Bombay Mamlatdars' Courts Act 2 of 1906. Under the present law the mamlatdar is the final judge of facts. Whatever he decides in a case, his position can be questioned either in the Collector's court or in the High Court only on a point of law. Many hardships have been experienced by the litigants and their contention is that the Collector should be invested with power of appeal against the decision of a mamlatdar not only in point of law, but also in point of facts. This bill is intended to confer this power of appeal on the Collector. To ensure the proper appreciation of evidence in the matter of decisions of facts on the part of the mamlatdar with more care and responsibility, I want that the power of appeal should be vested in the Collector.

Question proposed.

The Honourable the PRESIDENT: Does any honourable member wish to object? As no honourable member wishes to object, leave is granted.

Mr. D. R. PATIL: Sir, I now beg to introduce the bill.

The Honourable the PRESIDENT: The bill is introduced.

MOTIONS TO AMEND STANDING ORDERS.

(Motion No. II of 1925.)

The Honourable Sir MAURICE HAYWARD: I move the following motion, Sir:

For Standing Order III the following shall be substituted, namely:—

" III.—Council officials.

" 1. (1) After the members have been sworn in at the beginning of a new Council Election of Deputy and after the election of the President the Council shall elect one of its members to be Deputy President.

[Sir Maurice Hayward]

"(2) Every member who wishes to propose a member for election as Deputy President must—

(a) ascertain previously that the member he wishes to propose is willing to serve if elected, and

(b) hand to the Secretary a notice containing the name of the member he desires to propose signed by himself and some other member as seconder.

"(3) The President shall read out to the Council the names of the candidates together with those of their proposers and seconds and if only one person has been proposed for election shall declare that person duly elected. If more than one person has been proposed the members other than the President shall then proceed to vote on the question by a ballot and the President shall declare the person who receives the majority of votes to be duly elected.

The ballot shall be held in the following manner :—

(a) Every member shall be entitled to vote for one person only at each ballot.

(b) If there are only two candidates only one ballot shall be held. If there are more than two candidates the name of the candidate who obtains the fewest number of votes at the first ballot shall be omitted from the list of candidates. The remaining candidates shall then be balloted for, and the name of the candidate obtaining the fewest number of votes at the second ballot shall similarly be omitted from the list of candidates.

This process shall be continued at the third and all succeeding ballots until only two candidates' names remain on the list, when a final ballot shall be held. In the event of an equality of votes the President shall have a casting vote.

"(4) If a vacancy in the office of Deputy President occurs in the life of a Council, or if the Governor withholds his approval to any election, a fresh election shall be held in accordance with the procedure hereinbefore laid down; Provided that a member whose election has not been approved by the Governor shall not be proposed as a candidate during the continuance of that Council."

I move this amendment to bring our standing orders into conformity with the rule recently made by the Government of India with regard to the election of the President.

Question put and carried.

The Honourable Sir MAURICE HAYWARD: I move, Sir, that the motion be referred to a select committee.

The Honourable the PRESIDENT: The Standing Orders provide that the select committee should consist, in addition to the President and the Deputy President, one Chairman to be appointed by the President. I appoint the honourable member Mr. Kambli as a member of this select committee. Then, there are seven members to be elected by the House. I should like to know what the wishes of the House are. Ordinarily, we proceed to election as provided in the Standing Orders. But on some occasions, by general consent of the House, we have appointed them by the unanimous voice of the House. I do not know what procedure is proposed at present. Unless there is any consensus of opinion in the House as regards which seven members should be elected to this select committee, we will proceed with the election.

The Honourable Sir MAURICE HAYWARD: I should say we can come to some arrangement and save time.

The Honourable the PRESIDENT: Certainly, I can give time for the purpose.

The Honourable Sir MAURICE HAYWARD: (After consultation with other Members): I suggest, Sir, the following names for the select committee :—

Mr. N. E. Navle,

[Sir Maurice Hayward]

Mr. W. S. Mukadam,
Moulvi Rafuddin Ahmad,
Mr. R. G. Pradhan,
Mr. J. Baptista,
Sir Chunilal Mehta, and
myself.

Question proposed.

The Honourable the PRESIDENT: I take it that it is the unanimous wish of the House that these seven members (besides the President, the Deputy President and Mr. Kambli) should be elected to this select committee. Does any one object? (After a pause). As no one objects, I declare that these seven members have been duly elected as members of the select committee.

Motion No. III of 1925.

The Honourable Sir MAURICE HAYWARD: I now move, Sir, Motion No. III of 1925, which is as follows:

Amendment of Standing Order II 3 (2) —

Add the words " or of a statutory motion."

Amendment of Standing Order IV, 1 (1):—

Add the words " Government business shall be deemed to include statutory motions."

Insertion of a new Standing Order VIII A:—

After Standing Order VIII insert the following:—

VIII-A Statutory Motions.

A member who wishes to move a resolution which he is entitled to move in pursuance of any statute or legislative enactment for the time being in force shall give 10 clear days notice unless it is otherwise expressly provided by such a statute or legislative enactment or unless the President with the consent of the Member in charge of the Department concerned otherwise directs and shall together with notice submit a copy of the proposed resolution."

I move this motion to amend the Standing Orders in accordance with the promise given that provision should be made in the Standing Orders for the moving of resolutions which any member has the right to move under any statute, such as the recent enactments that we passed, for giving members the opportunity of taking objection to rules made under certain Acts.

Question proposed.

The Honourable the PRESIDENT: If no honourable member wishes to object, I will put it to the vote.

Question put and carried.

The Honourable the PRESIDENT: I take it that this motion to amend Standing Orders is also referred to the same select committee. Does any one object? I take it no one objects. That is agreed to.

Motion No. IV of 1925.

In Chapter IX, Standing Order 3, after the word 'President', where it occurs for the second time, insert the words:

" and the Leader of the House, or other Member of Government, and, in the case of an amendment proposed by a member other than a member of Government, the member in charge ", and substitute the word " six " for the word " seven ".

The Honourable Sir MAURICE HAYWARD : I move motion No. IV for the amendment of Standing Orders. This motion has reference to motion No. I of the honourable member Mr. Joshi, which has dropped since he was not here to move it. But it includes his proposal and a further proposal that a Member of the Government should be an ex-officio member of the committee to amend Standing Orders.

Question put and carried.

The Honourable the PRESIDENT : I take it that all honourable members are agreeable to refer this also to the same select committee. I take it no one objects. This motion to amend Standing Order is also referred to the same select committee.

Motion No. V of 1925.

In Standing Order IV—

(1) for paragraph 1 (1) substitute the following :—

" (1) The Government may arrange Government business in such order as it deems fit " ;

(2) In paragraph 1 (2) insert the following as the beginning :—

" Subject to the provisions of Rule 6 ".

The Honourable Sir MAURICE HAYWARD : I move Motion No. V to amend the Standing Orders. It is purely a formal matter to bring the Standing Orders in accord with the new rule which has been passed by the Government of India.

Question put and carried.

The Honourable the PRESIDENT : I take it that this Standing Order also is to be referred to the same select committee. Does any one object ? No one objects : so it is agreed to. I take it that the House wishes to refer this also to the same select committee.

Question put and carried.

DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities) : Sir, the resolution which I have the honour to move reads as follows :—

" This Council places on record its high appreciation of the services rendered by the Honourable Sir Maurice Hayward, K.C.S.I., during the time he held office as Leader of the House. "

Sir, I do not think this resolution requires many words or a lengthy speech on my part to commend itself to this honourable House, because we are all aware of the excellence of work that has been done by the Honourable Sir Maurice Hayward as the Leader of the House. He has already had a distinguished career. He has been far-seeing, weighty in Council and persuasive in his eloquence. His conspicuous power of debate, clearness of expression and charming powers of persuasion

[Khan Saheb A. M. Mansuri]

during the course of debates will remain fresh in the memories of honourable members of this House for a long time to come. As a Member of Government and as the Leader of the House, he has shown exceptional powers of debate, tact and ability in dealing with questions arising from time to time. He has yielded to non-official view whenever necessary and has yielded with good grace. In sub-committees I have seen him give in whenever he found that the minority had a good case. He has been a Leader of unusual ability. The assistance and encouragement which he has given to us has been very valuable. We all know that after retirement Sir Maurice Hayward is not going to rest in idleness but that he is going to do some more important public work, owing to the mature experience and insight that he has obtained of the inner working of Government during his career as a Member of the Executive Council and as the Vice-President of that Council during the last few years. During the time he has been the Leader of the House, he was instrumental in appointing Indians to hold very responsible posts in the Government of Bombay, and as the Member in charge of the Home Department he appointed Indians to the higher posts in the departments of Justice and Police.

His triumph has been due to his freedom of thought and action which is the birth-right of every Englishman. He has shown us that it is possible to be a faithful servant of the Crown and at the same time to serve the best interests of this country. He has shown that there can be no antagonism between the rulers and the ruled because their interests are identical. He has impressed upon us the value and the necessity of unity and co-operation without which India can never expect to prosper. He has watched the interests of the country as a watch-dog, but at the same time he has enhanced the prestige of Government. While he has been responsive to the public opinion of this country he has never betrayed any weakness on his part that would compromise the prestige of Government. He has treated members of all shades of opinion and parties with the greatest courtesy. His retirement will be a great loss which will be regretted by us all.

Sir, his success has been due to the fact that he has not been a sentimentalist but an eminently practical man full of commonsense and tact, with clearness of intellect. His remarkable application to the study of public questions coupled with unbounded zeal and enthusiasm to promote the best interests of his country, with sobriety of judgment, and his charming personality have been the chief cause of his success. We all wish him a very prosperous life after his retirement and we all pray to Almighty God to grant him long life and health to enjoy his well-earned rest. From the way he has proved his usefulness in the past, I am sure he will continue to be useful in the future, and I fully believe that the day will not be far off when after his retirement he will be called upon to take still higher responsibilities and when it will give us an opportunity to offer him our sincerest congratulations on his appointment to preside over the destinies of one of the provinces of India.

[Khan Saheb A. M. Mansuri]

With these few words I wish the Honourable Sir Maurice Hayward a long life, plenty of health and brilliant success in whatever walk of life he may choose to occupy himself after retirement from the onerous duties of a Member of the Executive Council of the Governor of Bombay. Question proposed.

Mr. S. A. SARDESAI (Bijapur District): Sir, I rise to support the resolution moved by my honourable friend Khan Saheb A. M. Mansuri. It is rightly said that the Indian Civil Service is the pride of the British Administration, and I have no hesitation in saying that the Honourable Sir Maurice Hayward is one of the most distinguished members of that service. He was born on the 2nd of June 1868 and in the year 1888 he began his official career as Assistant Collector and now he has been raised to the dignity of the Vice-President of the Executive Council of the Governor of Bombay and also of the position of the Leader of the House. Whether as Assistant Collector, a Judge of the High Court or as the Leader of this House, he has done great justice to all matters that came before him. And in all these capacities he has discharged his duties with credit to himself and to the Indian Civil Service to which he has the honour to belong. I think he is now in his 57th year and I hope that when he retires from the Indian Civil Service he will go home and enjoy his well-earned rest and pension which he so richly deserves.

In conclusion, I wish Sir Maurice Hayward a long life, prosperity, Godspeed and a happy journey. With these remarks I beg to support the resolution before the House.

Mr. R. G. PRADHAN (Nasik District): Sir, I wish to associate myself heartily with the terms of this resolution and the sentiments that have been expressed by the honourable mover. Some of us have had the privilege of coming in more or less close contact with the Honourable Sir Maurice Hayward only for the last two years, but we all feel that Sir Maurice has won the regard and esteem of every one of us; all parties feel the profoundest respect and esteem for him. One thing that has impressed me as I have tried to watch his work in this Council is what I may describe as his good parliamentary spirit. He is, I should think, a very-good parliamentarian. It is not an easy thing for officials accustomed to the unquestioned obedience of their orders to cultivate the parliamentary spirit, which requires patience, infinite tact, and a desire to see various questions from every point of view, and to conciliate and reconcile conflicting opinions; but I may say without the least exaggeration that Sir Maurice as a parliamentarian would do credit to any representative assembly in the world (Honourable Members: Hear, hear). All the qualities which a good parliamentarian possesses he has displayed in no small degree in the deliberations of this Council, and it is sad to think that we shall soon miss him, and that he will not be here to guide the future deliberations of this Legislative Council. I beg his permission to express our sincerest hope that a long life will be given him, and that he will be enjoying every felicity which mortal man can have in this imperfect world. I have not the least doubt that after his

[Mr. R. G. Pradhan]

retirement, wherever he may be, he will do his best to promote the interests of this country. If I may venture to make a suggestion, and if that suggestion will not be regarded as impertinent, I would say that he might well emulate the example of some of the brightest ornaments of the Indian Civil Service, ornaments like Sir William Wedderburn, and perhaps seek entrance into the House of Commons, and both on the floor of that House and outside do his best to promote the interests of this country in the transitional stage through which she is passing, and by sympathising with the aspirations of the Indian people and doing all that he can to promote those aspirations, to cement the union between England and India. With these words, I heartily support this resolution.

Dr. K. E. DADACHANJI (Bombay City, South): Sir, I have great pleasure in supporting the resolution. The Honourable Sir Maurice Hayward will be sitting for the last time in this Council before his retirement. It is but meet and proper that we should appreciate his various services. His varied work and wide experience has enabled him to be a very good Leader of the House. What we appreciate most in him is his sympathetic mood, his good qualities of head and heart and his high character. One thing we notice in him is that he is outspoken, frank and fearless. He treated us all equally. He was fair to his critics and to those who held views adverse and opposite to those of his own. He was very sympathetic to the people, and at this juncture of our political life we require such high officers to assist us and to point out our shortcomings and our mistakes. We wish him many, many happy days in his well-earned rest. With these few words, I beg to heartily support the resolution.

Mr. D. R. PATIL (East Khandesh District): Mr. President, I entirely associate myself with the views expressed by my honourable friend Mr. R. G. Pradhan about our Leader of the House. Now, Sir, this is a resolution on which I have every hope and I am quite sure there will be unanimous opinion. Sir, we know the Honourable Sir Maurice Hayward as the Leader of this House. What do we find in him? We have found in him so many good qualities which will go a long way towards the promotion of the interests of Indians. Now, Sir, whenever any question of public importance was discussed here on the floor of this House, he was very impartial. He looked at questions from every point of view, and he gave his decisions according to the dictates of his own conscience, which is really a rare quality in an officer. Of course I cannot help but repeat that that is a rare quality found in an officer, and I am very glad to say that he possessed that quality very prominently. Sir, we have heard his speeches, we know his power of eloquence, we know his courtesy, we know his dispassionate discussion, and we know that he always carefully analyses and critically examines all the *pros* and *cons* of any subject with which he deals. Sir, he is really an ornament of this House. Of course, I can say this much that we have been very greatly pleased with the duties he has done in this House. I am sure,

[Mr. D. R. Fatil]

Sir, had the members of the Swaraj party been here, and had they not sealed their mouths, they would also have joined us in applauding our noble-minded Leader of this House.

Now, Sir, I do not want to take much of the time of the House, because I am sure that members may be eager to shower their praises upon this most respected and worthy Leader of the House.

Mr. N. E. NAVLE (Ahmednagar District) : Sir, I rise to fully associate myself with the sentiments expressed in the resolution that is before the House. The Honourable Sir Maurice Hayward has been always a great friend of the poor and the backward classes. He is gifted with rare qualities of head and heart. His judgment has always been balanced and his arguments have ever been quite logical. Sir, we are greatly indebted to Sir Maurice for the services he has rendered to us in general and to the poor backward classes in particular. This House remembers well the resolution that stood in my name some one year and a half ago during the Poona session. It was about the release of the Akola convicts. The Honourable Sir Maurice was kind enough to accept that resolution and not only did he accept it but he also advised His Excellency to release these poor convicts, who were rotting in the Andamans. Now, these poor convicts are free and have come home. Really he has by this measure put the whole of Ahmednagar under his obligation and I am personally indebted to him for that act and to the Government as a whole. I heartily support the resolution.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I rise to associate myself with the sentiments expressed by previous speakers with regard to this resolution. The resolution is confined to the duties of Sir Maurice as Leader of the House. Therefore, I will confine myself to that part only. Sir Maurice has as Leader of the House added weight as he added a dignity to the deliberations of this House which it would be almost impossible adequately to replace. He brought to our debates a judicious mind and he raised in public estimation the whole level of our proceedings and thus rendered valuable service in maintaining the worth of public life. There were reasons to fear at one time that the steel frame, would refuse to co-operate to make the Reforms a success or might not possess flexibility of adaptation to the new system. When you were the Leader of the House, Sir, you were to a certain extent brought up and trained to be a leader of deliberative assemblies. Different is the case of civil servants ; they were not meant for deliberative bodies ; they are used to dictate, not to discuss ; to command and not to obey. The whole of the service was therefore in a way on trial when Sir Maurice was leading the House. He stood his trial well and came out successful. We hope that in successive years his example will be followed by the younger members of that service.

Prayer has been made and wish has been expressed that Sir Maurice may join the House of Commons. I, Sir, if I may be permitted to offer an opinion, would like him to make this a model House. I would say that he has shown us how to be the Leader of the House : I would like

[Moulvi Rafuiddin Ahmad]

him to show us how to be the leader of the opposition. If he were to remain here and offer himself for election and come over to these benches we will be very happy indeed to elect him as the leader of the opposition. I would like him to be then made Prime Minister and break a lance with the Leader of the House the Honourable the Finance Member. We talk of drain of wealth from India to England, but the drain of intellect and the drain of experience which annually occurs when the Indian Civil Servants retire and settle in England is more regrettable than the drain of wealth. I am convinced that if the members of the Indian Civil Service after retirement would reside in this country and adopt it as their own, then, Sir, many of the difficulties in the way of Swaraj will automatically disappear. Their interests will be our interests and the racial difficulty will disappear. I do not know whether this suggestion would commend itself to Sir Maurice. In any case, I wish him every happiness in his retired life. With these words I heartily support the resolution.

Sir VASANTRAO A. DABHOLKAR: Sir, I rise to support very heartily the resolution so ably moved by my honourable friend Khan Saheb Dr. Mansuri and fully associate myself with the remarks of the honourable mover and the honourable members who have supported him. I should like to add only one word, and that it is the good qualities of head and heart which have made the Honourable Leader of the House so very popular here as well as outside this House. In conclusion, I should like to add that in the Honourable Sir Maurice we have found a free, frank, outspoken friend, a saintly man and honesty personified. With these words, I support the resolution.

Mr. A. N. SURVE (Bombay City, North): Sir, I heartily associate myself with the sentiments expressed and praise showered on the Honourable Leader of this House. We see in him a different man in the select committees and he is not the same man as we see him inside this House. In this House what we see of him is only an outward appearance of the man. But those who have had the privilege of seeing him in the select committees, and in his official capacity in the Secretariat, will have realised that Sir Maurice Hayward, though he has got an exterior appearance of a bureaucrat, is at heart a very kind gentleman, very statesmanlike, very sympathetic and inclined to help us on the road to the attainment of self-government. He is always willing to help us in our progress so far as his official trammels would permit him to do so. If his official position had not tied him down, perhaps he would have helped us more than he has actually done. I again heartily associate myself with the sentiments that have been expressed and wish to state that we part with him with a severe pain. It is a great pity that as he will be retiring to his native country, we cannot have the benefit of his company and advice in this House. In his well-earned rest I wish him long life and health.

Mr. S. T. KAMBLI (Dharwar District): Sir, I wholeheartedly support the resolution so ably moved by my honourable friend Khan

[Mr. S. T. Kambli]

Saheb Mansuri. Sir, Sir Maurice Hayward has served in this presidency for over 35 years. He has served in various capacities and has introduced several measures which have earned him high distinction. He has displayed in every capacity admirable skill, tact and devotion to duty.

As Leader of this House he has proved himself a keen debator and a parliamentarian of a very high order. His speeches on the floor of this House have been always characterised by sobriety and moderation. Every one in this House is impressed by his breadth of vision, clarity of thought and lucidity of expression. He always treated his opponents with unfailing courtesy and due respect. These qualities of his have won for him the high respect and esteem of all the non-official members of this House. This House will long miss his persuasive eloquence and effective oratory. With these words I support the resolution.

Mr. NOOR MAHOMED (Hyderabad District): Sir, it is always sad to part with friends, but that sadness is somewhat counterbalanced by the prophesy of Khan Saheb Mansuri. I consider Khan Saheb Mansuri somewhat of a prophet in these matters, and therefore I do hope that there is something better for Sir Maurice Hayward in the future than the Leadership of this House. Sir, it is a curious thing, but all the same it is a fact, that Sind has supplied brains to the Bombay Government. I do not know how that happens, but it always happens. In the social life of Sind, Sir Maurice and Lady Hayward have done much, and they have done a good deal for the poor people. As a Judicial Commissioner of Sind he did excellent service by improving the judicial administration of the province of Sind and by arranging for quick disposal of judicial work. He was chairman of the Rasai Committee, and he did really excellent work in that capacity. I have no doubt that the Sind Courts Bill will be a standing monument to his work. We wish him all happiness in his future life.

Mr. R. S. NEKALJAY: Sir, I rise to associate myself with the resolution, and I fully join with the previous speakers in what they have said about Sir Maurice Hayward. I may add one point only, and that is that before his appointment to this high office the Press gallery had always spoken very high of him and he has quite come up to the expectation. With these words, I support the resolution.

M. S. K. BOLE: Sir, I heartily associate myself with what has been said by the previous speakers in support of the resolution before the House. Sir, I had to see the Honourable Leader of the House when he was in charge of the portfolio of Labour, in connection with some labour matters. He gave me very patient and calm hearing and he showed a great deal of sympathy towards labour. I wish him health, happiness and long life.

Mr. E. E. WOODS: Sir, I am thankful for the opportunity and privilege of associating myself with the sentiments expressed by several honourable members on this occasion. I too would like to add my

[Mr. E. E. Woods]

appreciation of the many good qualities of head and heart which all of us are bound to admit are possessed in such large measure by Sir Maurice Hayward. We members of Council are singularly fortunate in having as Leader of this House one who, by his ripe experience and training, his quick sympathy and deep interest in the fortunes of this presidency, has done much to increase the esteem in which we hold him. We are particularly pleased that as Leader and a worthy successor in a worthy, though at times a rather thankless office, he has shown by his judgment, skill and tact, a combination of those qualities which allow an official of his position under the Crown to so regulate his conduct and discharge his duties with honesty of purpose, and yet withal a sober dignity and true knightly gentleness of manner. The wish is conveyed in all sincerity that Sir Maurice may have many years of usefulness before him, and in his retirement from the scene of his present labours may he retain as kindly a thought of us as we shall of him. I therefore, Sir, heartily support the resolution before the House.

The Honourable Mr. H. S. LAWRENCE : Mr. President, it is unnecessary for me to say that the sentiments of respect and appreciation which have been so admirably expressed in all quarters of this House are fully echoed by the benches of the members of Government and the officers of Government.

It has long been recognised, Mr. President, that it is a remarkable and pleasant feature of public life in England, and a feature which distinguishes that public life from the conditions in other countries of the world, that whatever differences may exist on questions of public policy, men are not afraid or ashamed to express their private esteem and respect for persons from whom they happen to differ in opinion. And I am gratified to see that this generous attitude is becoming a tradition in India. In this presidency, thanks in particular to the example set in the relations between the many communities represented in the cosmopolitan life of Bombay city, I venture to submit that it is an indisputable fact that we have advanced further in the direction of mutual respect and toleration probably than anywhere else.

Sir, I am not permitted to reveal the secrets of the Council Chamber. But I think we all have sufficient experience of Sir Maurice Hayward in the debates in this House to realise for ourselves that Sir Maurice has always held fast to that path which he saw marked out for him by his conscience; and if he has gained popularity, as is very evident from the tributes just paid from all quarters of the House, that popularity has been gained without the slightest deviation from the course which he has set for himself.

Sir, to an officer trained in the traditions of judicial service, compromise is always a thing repugnant. The man opposite to him in the dock is always either a criminal or a citizen to be set free; and that attitude of mind is a little difficult to reconcile with the veering winds and ever-changing gusts of political life. The presidency owes a greater debt

[Mr H. S. Lawrence]

than it can ever realise—for it will never know—to the steadfast mind of Sir Maurice Hayward.

We have heard Sir Maurice advise us, on the claims of law and order with an insistence which has sometimes somewhat disturbed the equanimity of our unruly members. There are undoubtedly many people who fail to recognise what a vast advance is implicit in the substitution of the reign of law for the law of despotic will. In some parts of India even to-day it is more effective to say to the populace that this is the *hukum* of Government than to say that it is the law. Respect for law is the fundamental condition of civilised progress. And if I select one aspect of the many services which Sir Maurice has rendered to this House and to the country, it is his emphatic doctrine that if a thing is law, and so long as it is law, that must be obeyed.

With these words I associate myself in the expressions of gratitude of this House for the services which Sir Maurice has rendered, and I join in the good wishes for his health, prosperity and long life after retirement.

Question put and carried unanimously.

The Honourable Sir MAURICE HAYWARD: Mr. President and members of the Bombay Legislative Council, I am extremely grateful to you for your good wishes and for the kind manner in which you have received and passed the resolution of my honourable friend the member for the Ahmedabad and Surat Cities. I cannot but admire the enterprise and intrepidity which have contributed so powerfully to the success in life of the honourable mover and which have encouraged him to undertake the difficult task of the defence of the deeds and misdeeds of an officer in the responsible—and sometimes rather thorny—position of Leader of this honourable House. I cannot at the same time but feel, Sir, that his eloquence and that of so many kind members who have spoken after him have far exceeded the strict truth of the record. I can only assure them that if I have in the long service of 35 years contributed at all to the progress and prosperity of this Presidency, I have done no more than what they have a right to expect and would, I believe firmly, receive from any member of the Imperial Services in India.

The honourable mover of this resolution, Sir, represents along with others including the honourable member opposite (Moulvi Rafiuddin Ahmad) the Mahomedans of the Presidency proper and it has always been a pleasure for me to do anything to help them to secure a position worthy of their great historical traditions. (Hear, hear). I think the organizing ability of my honourable friend opposite, Moulvi Rafiuddin Ahmad, will be of great help to them in forming a ministerial party, strong enough successfully to press their requirements before this House through their representative the Mahomedan Minister. I can testify to the persistence with which that Honourable Minister, Mr. Dehlavi, has represented their reasonable requirements before us from time to time, particularly in the matter of education which is at present

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the greatest need of the Mahomedans both of the Presidency proper and of Sind.

The honourable member for Bombay City, Mr. Surve, and the honourable member for Khandesh, Mr. D. R. Patil, and others who have spoken in this matter represent a similar party who are organizing themselves to advance and improve the position of the Mahrattas of the Deccan and the peoples of the Southern Mahratta Country. It has been to me a matter of particular interest to watch the progress of this party as the earliest years of my service were passed in the Deccan, and it has become habitual to me to regard the Deccan as my home. (Hear, hear). There can be no question that they represent their requirements effectively through their Minister the Honourable the Minister for Education.

It is with particular regrets that I part with many personal friends among the honourable members from Sind. I hope the honourable member from Hyderabad, Mr. Noor Mahomed, will convey to them my regrets and particularly my sympathy with them for the reason of their early departure, namely, their anxieties with regard to the partial failure this year of the Indus, the water supplier of the whole of Sind. They too here have their representative who has shown himself so well able to represent them in this Council and outside, the Honourable Minister Khan Bahadur Shaikh Ghulam Hussain Hidayatullah.

There are besides these ministerial parties, those that represent the great city of Bombay. I should like to take this opportunity to acknowledge the courtesy received from them on all occasions from the honourable member the Doctor opposite and my honourable friend Sir Vasant Rao and the many business men whose duties have compelled them to return to Bombay. I should like to acknowledge the great help that they have always been to us and to me as the Leader of the House and to thank them for the time and trouble which they have expended in attending the long sessions of this honourable House both here and in Bombay. I must also mention the pleasure it has been to me to see the present President of the Corporation sitting on these benches following the excellent example set by so many previous Presidents of the Corporation, some of whom are now on my right on the Government benches.

The Swaraj party will take it in good part I hope if I refer also to them, notwithstanding their self-denying ordinance, taken, it seems to me, under some misapprehension (laughter) and which has prevented their presence this afternoon in this honourable House. They joined us with obstruction on their lips but remained to perform in practice much useful work (Hear, hear) as a regular opposition. Stern discipline forbids them to come forward and deny it and their silence must be accepted as proof of my remarks. But I take this opportunity to thank them for the courtesy which I have received from individual members of that party and in particular from their leader, the honourable member for the University, Mr. Jayakar. I look forward to the time when they shall have purged themselves of their self-denying ordinance

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and will take up a practical programme of politics and be prepared to promote it by undertaking the practical responsibility of office.

Mr. President, I should like to turn for a few moments to the official benches. Their position is sometimes not understood, but I think it is now being realised that they are just as much members as anyone else of this honourable House and that they do play a useful part in the promotion of political progress and reform and that their votes are necessary to represent from time to time the true opinions of the local legislatures on important matters before them under the Government of India Act. It is hardly necessary, I think, for me to remove in particular some of the misapprehensions which used to exist upon the question whether it is right for them to use their persuasive eloquence not only on the floor but in the lobbies of this honourable House. I have noticed during the last few days that honourable members from the other side have used their persuasive eloquence both here and in the lobbies to such good effect that important private legislation relating to the Watan Act and the District Police Act has been passed notwithstanding the previous scruples of honourable members on the official benches of this House. I think then that as honourable members from the other side have realised that it is open to them to use their persuasive influence not only here on this floor but outside in the lobbies, they must have readily recognised that it is not unbecoming of members from this side of the House also to seek to use their influence not only on this floor but also in the lobbies as in the House of Commons. It is in fact the duty of the official members to do their best to press forward all measures which they think are for the good of the people of the presidency and in particular to support, wherever it is possible for them, the ministerial programme of the Ministers of the transferred part of the Government.

With regard to the officials behind us, I should like in particular to acknowledge the hard work of these officials, without which it would have been impossible to carry on the work of the front benches. Without the hard work and the unfailing loyalty of the Secretariat, it would have been impossible for us on the front benches to support the strain of the perpetual sessions in this honourable House. I should like to mention also one member of the Secretariat, who is not in the House,—the Director of Information,—but who not infrequently has been assailed with public obloquy which ought really to have been addressed as his own personal property to the Home Member. I should like also to go back further even behind the back benches. I should like to refer to the district officers who stand steadfastly behind the Secretariat. I am sure that honourable members will readily join with me in acknowledging the loyal services of the district officers, without whose aid it would be impossible for the necessary information to be provided by the Secretariat and to be furnished by the front benches for the use of the honourable members of this House. I am sure that if honourable members will only consider how much extra work is thrown on the district officers by the present system, they will do their best to restrict it to a minimum by a careful consideration of

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their proposed questions and resolutions and to save, wherever they possibly can, not only the time and trouble of the district officers and of the Secretariat but also the extra expense to the State.

It is hardly necessary for me to refer to my honourable colleagues. I think they know perfectly well how grateful I am to them for all their courtesy and the help they have given to me in the very many difficult matters which have come before us as a Government.

I have reserved for the last perhaps, Sir, the most important person in this honourable House. I refer, Sir, to you who, for some years, were the Leader in my place of this honourable House and are now the Honourable President. I should like to acknowledge gratefully my indebtedness to you, Sir, both for your experience of men and practical politics and the example set me when you were Leader and for your unflinching patience and courtesy as President of this honourable House.

Mr. President and members of the Bombay Legislative Council, I have been glad of this opportunity of speaking for myself, thus personally to you all; shedding as it were for the moment my official robe and speaking to you as a fellow member of this honourable House; of this opportunity of thanking you for the unremitting indulgence that you have always shown towards me in all situations and for your kind references to me and mine in this my last session of the Bombay Legislative Council. We have fought many battles together. Sometimes one side has won; sometimes the other. But we have always learnt, and if in the course of the battle hard words have been spoken on either side, I trust they will be forgotten by every honourable member of this House as they have assuredly been forgotten by me. We have learnt, Sir, that however political opinions may differ, they will not prevent the parting hand-shake of friends. We all have the same object in view even if we favour different paths. We all have the same spirit of unselfish labour for the spiritual and material welfare of the people. We have made great progress in my view of the situation in the past five years. But I look forward to even greater progress in the future. I shall watch with keen interest your further steps along the political path of self-government, confidently expecting that they will contribute to the greater happiness, progress and prosperity of all the peoples of this great Presidency (Applause.)

The Honourable the PRESIDENT: I have received a letter from the honourable member Sir Vasant Rao Dabholkar asking for priority for his resolution. He has attached signatures of three honourable members from amongst those whose names have been drawn in the ballot before him. The other honourable members being absent, I grant the priority and call upon the honourable member Sir Vasant Rao to move his resolution.

Sir VASANT RAO A. DABHOLKAR: Sir, before I move my resolution I wish to thank you and the honourable members who have granted me priority to move my resolution. I now beg to move the resolution which reads as follows:

[Sir Vasantao A. Dabholkar]

This Council recommends to the Governor in Council that an extra allowance be paid to the police force in Bombay up to the rank of inspectors for the hard and risky work which they have to do during the present mill-strike in the city and for any other labour strikes in future.

Sir, in support of this proposition I do not think very many words are necessary, because every honourable member in the Council knows what hard and extra work the police of Bombay have to do during the mill-strikes. The fact remains that the Bombay police force is undermanned, and no outsider wishes to join the police service because of the hard and strenuous service that he has to do. In some of these strike cases, whenever the military is to be sent for, though their services are not required still the military gets an allowance and the police, who bear the brunt as soon as a strike breaks out,—in some cases some policemen have even lost their lives,—they do not get any allowance. Sir, this is one of those low-graded services which has stuck so very loyally to this Government and who have never gone on strike but have brought many strikes to an end. I do not think, Sir, that many more words are necessary in support of this proposition and I hope the Council will pass my resolution.

Question proposed.

Mr. A. MONTGOMERIE: Sir, I am afraid that the resolution cannot be accepted exactly in the form that it has been put forward. At the same time, I might assure the honourable member that this question of special remuneration for the police during strikes has already been taken up by Government and is under consideration. It was raised some years ago when definite proposals were made by the Commissioner of Police, Bombay. I rather think that the present Commissioner of Police was then acting Commissioner of Police when those proposals were submitted. For financial reasons they could not be accepted, but when this present strike arose, I got permission to take the matter up again and I have now asked the Commissioner of Police to submit definite proposals with estimates of the cost of giving some extra remuneration to the police when they are caused extra expense and have to work extra hours owing to strike. I do not know that it is possible to give an idea of the exact form which this strike pay will take, but we are considering a definite proposal which has already been submitted by the Commissioner of Police, which is something in the way of bhatta to the police who are taken out for long hours during strikes. Fortunately this present strike has been a very much easier time for the police than any other strike in the history of Bombay, owing entirely to the orderliness and respect for law which have been shown by strikers and partly also owing to the fact that the police force is better recruited than it was formerly and that by the use of motor lorries.....

Mr. N. E. NAVLE: There is no quorum, Sir.

The Honourable the PRESIDENT: The honourable member can only draw attention to the fact that there is no quorum and I will count the number of members present. (After a count.) The quorum is present and so the honourable member Mr. Montgomerie can proceed.

Mr. A. MONTGOMERIE: I was explaining, Sir, that the police during the present strike have not had such hard times as they have had in the past. At the same time Government are quite willing to take up the question of extra remuneration for extra duties arising out of strikes. I think probably that the honourable member will withdraw his resolution after the explanation I have given.

Mr. J. BAPTISTA (Bombay City, North): Sir, I do not know whether the honourable mover is going to withdraw his resolution but before he does withdraw, I should like to thank Government for the sympathetic consideration which they are giving to this question. There is no doubt that the conduct of the strikers has been exemplary and that the work of the police may have to that extent been reduced, but this is a question of giving special protection to the mills and therefore I think, Sir, the question arises whether the special duty which is imposed upon the police should be not paid for by a special contribution from the mill owners themselves. My suggestion is that it would be quite a legitimate thing for Government to ask millowners to make a special contribution towards payment for the special services rendered by the police, because after all the benefits of these special services go more especially to the millowners than to the public at large. So far as the public at large are concerned they are not in any danger of any head-breaking from the peaceful strikers. The only danger that comes to them is that there may be a menace to public health. I think this House should strongly support Government in their endeavour to obtain a contribution from the millowners to themselves if they decide to move in that direction.

Mr. A. MONTGOMERIE: I can assure the honourable member that the millowners would be only too pleased to make a contribution towards increasing the pay of the police.

MOULVI RAFIUDDIN AHMAD: Before my honourable friend the mover of this resolution withdraws it, I should like to ask the honourable member the Home Secretary whether the amount necessary would be placed before this House and what would be the nature of the amount. We are entirely in the dark about it as we have no precedents in the past to guide us. So the House certainly would like to know the intentions of Government in this respect.

Mr. A. MONTGOMERIE: Estimates of cost have been called for, but I do not think they would ever exceed a few thousands of rupees in the course of a year as we hope there will be fewer and fewer strikes and the cost may be nothing at all in the course of any year should there be no strike at all.

Mr. A. N. SURVE (Bombay City, North): Sir, I rise to support the resolution moved by the honourable member Sir Vasant Rao Dabholkar. To appreciate the real merits of the question I may be permitted to state the nature of the duty that is exacted from the Bombay Police. The ordinary policeman has to work in two shifts. One man works from 8 a.m. to 6 p.m. and for night service two men work from 6 p.m. to 8 a.m. Thus in 24 hours there are three men working. That is in normal times. But if there is any extra work, all the three men have to work

[Mr. A. N. Surve]

throughout 24 hours. For instance during the Moharum holidays and the Divali illuminations the police have to work not according to the number of hours fixed in the rules but as the necessity or the exigency of time requires. The effect of this is that it tells upon their health. To begin with, the police is below the sanctioned strength. Secondly, they are overworked and the result of that is that they often are required to go to hospital. Thus they break their health very early; that is a point which must not be lost sight of. When they are called to work for 24 hours during the day, so far as I am aware they are given practically nothing for refreshment, they have to eat out of their own money and whatever they can get on the streets. Such hard service is expected and exacted from these men and after all what is their pay?

The Honourable the PRESIDENT: The honourable member should always remember what the issue is. The issue is special remuneration for extra work in connection with strikes. The honourable member is going over the whole ground of the hours of work and amount of pay to the police in regard to their normal duties during the year. How is that relevant?

Mr. A. N. SURVE: It is relevant in this way, Sir, if the police have to do this hard service in ordinary time, in strike times their work becomes far more arduous. That is my point. Therefore I suggest that during strike service or whenever they are called upon to do extra work they should be paid extra money for the work that is exacted from them.

Sir VASANTRAO A. DABHOLKAR: Sir, after the very satisfactory explanation given by the honourable member the Home Secretary, I beg to withdraw the resolution as my object is already gained.

Question put and leave granted.

Dr. K. E. DADACHANJI (Bombay City, South): Sir, I beg to move that

"This Council recommends to Government to draw up a comprehensive scheme of sanitation and medical relief both in the municipal and rural areas, and place it before the Council so as to reduce the heavy mortality from plague, cholera, malaria and other epidemics in the presidency."

Sir, from the various annual sanitary reports sent to honourable members, they must have seen what a heavy mortality is caused by the ravages of these epidemics both in the minor municipalities and in the rural areas. I need not take up, at this late hour of the evening, the time of the Council by quoting figures. I have got them for the years 1915 to 1924 for the various districts. I must go direct to the point.

The point is, what is being done in order to prevent this heavy mortality? Is anything being done or not? Sir, the population of the presidency is 1,95,87,383, or nearly 1,96,00,000. For this population there are only 46 dispensaries in the presidency, that is, one dispensary for every 42,000 men. The proper standard of medical relief according to European standards is one dispensary for 5,000 persons. Here there is one dispensary for eight times the number of what is regarded as a proper standard in Europe. Sir, if we go to the rural areas, how many sanitary inspectors are there? In answer to one of my questions the information that I got was that there were about 15 sanitary

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inspectors including vaccinators. Sir, there are over 40,000 villages in the presidency, and for these 40,000 villages we have, even including the vaccinators, only 15 sanitary inspectors—that is one sanitary inspector for every 2,666 villages. The population of the villages is, 1,54,00,000, and for this population this small number of inspectors will not be able to render any medical relief and will not do for the sanitation of the rural areas. Hence from these facts you will see that the measure of medical relief and sanitation in the presidency, especially in the rural areas, is very inadequate and out of all proportion to the population. Sir, life is no longer safe in rural areas on account of the ravages of epidemics. The sturdy peasantry, which was once the recruiting ground of the Indian army, is fast losing its vitality and robustness. One expert says that malaria does not cause so heavy a mortality, but it so undermines the constitution that manhood is losing its glory in the rural areas. This being a question of life and death, we must move a little further. Then, it may be argued that we give two-thirds of the total expenditure incurred for this purpose, but this two-thirds grant has not done much to advance the cause of medical relief in rural areas. My firm belief and conviction is that a special sanitary service organised for this purpose is necessary. Unless that is organised, the question of medical relief and sanitation in rural areas and minor municipalities will never be solved. Some such scheme for the rural areas was advocated by the Indian Medical Congress of Calcutta, and they have grouped the villages according to population and appointed sanitary sub-inspectors, sub-assistant surgeons and officers of those grades. It is a big scheme they have advanced, and if Government refer to the report, they will find it given there. This sort of scheme has been successfully worked in Ajmer and in the United Provinces, but here we remain content with giving a two-thirds grant and rendering what little help we can to the people, of the nature I have described. My anxiety for the rural areas is that it is really the nation that resides in villages and huts. That great statesman, John Bright, used to say that a nation resides in villages and huts. If you want to reconstruct your presidency, you must put the unit of your reconstruction in villages and huts; you begin from there and go up to cities. Fortunately, this subject is a transferred subject, and is under the hand of the Honourable Ministers, who are the elected representatives of the people, and these are the nation-building departments. When I said that a nation resides in villages and huts, I quoted the highest authority on the subject, and I think if the Honourable Minister takes into his hand the work of regenerating these people and preventing the various epidemics prevailing in the rural areas, he will shine himself and will be doing great justice to these people. Another thing is that for the bigger municipalities like Ahmedabad, Surat, Broach, Ahmednagar, Satara, etc., there are no special sanitary institutes with sanitary museums attached, just as we have in Bombay, so that from these sanitary institutes various leaflets in the vernaculars can be sent as propaganda throughout the surrounding villages. There is no such scheme. The bigger municipalities should start with these

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things instead of remaining content with what little they are doing now. Sir, I submit that as we have what is called the famine policy—and the Government has earned the lasting gratitude of the people by this famine policy as it has been able to save millions of lives—as we have an education policy, so also we must have a medical relief and sanitation policy as well. Without the sanitation policy, the education policy will not do much good. My reason is this. The people must first be saved from the ravages of the epidemics before they can be educated. If they fall victims to these epidemics, what is the good of education being extended in rural areas? They must first be saved from these epidemics, and though I am an ardent advocate of education and I appreciate the patriotism of those who espouse the cause of education, I must say that along with education if there is no medical relief, it is of no avail. Therefore, Sir, I ask by my proposition that a well considered scheme should be placed before the Council, so that we can work it from year's end to year's end, until it is completed. With these few remarks, I move my resolution.

Question proposed.

Khan Sahab A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to support the resolution moved by my honourable friend Dr. Dadachanji. The idea underlying his resolution is very important, and I sincerely believe that every member of this House will welcome it. As regards organising sanitary bodies in the various municipal and rural areas, I would like to point out that it is a very healthy suggestion, and it is a suggestion required to build up the constitution of the masses of the rural areas. Sir, we have sanitary associations, which are private bodies organised by some enthusiastic citizens of the city of Ahmedabad. These associations do very important and instructive work. These people select ward after ward and street after street in the performance of their duty in the dirty city of Ahmedabad and lecture to people and give them practical lessons on sanitation and impress on them that they themselves are responsible for the insanitation of the city and that if they only take a little more care they can contribute a good deal to the sanitation of the city. The custom of the people living in towns has been to throw dirt and filth on the streets in front of their neighbouring houses and the neighbours in turn throwing dirt and filth in front of their neighbouring houses. Thus they add to the dirt and filth of the city, instead of helping the municipality in its efforts to maintain the city in good sanitary condition. On account of the important work performed by these sanitary associations people have now begun to realise the importance of keeping their houses in sanitary condition. I believe if only this sort of propaganda work is continued with the same enthusiasm and vehemence with which it started, Ahmedabad will become one of the most sanitary cities in the presidency.

So far as rural areas are concerned, they are completely at the mercy of nobody else but God. It is only heaven that must come to their assistance. Unless Government come to the help of these poor ryots I am sure it will go very bad with them. The little assistance these ryots had in the shape of travelling dispensaries has now become still

[Khan Saheb A. M. Mansuri]

less, because Government have reduced the number of such travelling dispensaries. Who is responsible for this? The Honourable the Finance Member, because he states that he has not sufficient finance. The poor villager has no means of relief of any kind whatever. If we examine the lot of the villager he is taught by these people in the town that he is destined to live a most miserable life and wretched life. Sir, it is the villager who pays money to the treasury of the State and he gets practically no return. What little protection there was by police has been taken away by the Government under the plea of want of money. These people in the rural areas have hardly half a meal in 24 hours. If these poor people carry a little babul wood, the police patels catch hold of these people and exact from them the little money they may possess.

But here medical relief is the main issue of my honourable friend's resolution. These so-called travelling dispensaries visit at their sweet will and pleasure once a week these villages. What do they do? They visit in rounds villages and give some quinine to the police patel and cheer him up, in order to escape any stricture by the civil surgeon. I heartily agree with the resolution of my honourable friend and I hope this House will surely accept it.

Mr. N. E. NAVLE (Ahmednagar District): Sir, I rise to support the resolution moved by my honourable friend Dr. Dadachanji. The resolution requests Government to draw up a comprehensive scheme for the medical aid to be given to municipal areas as well as rural areas. From what little experience we have of rural life, we can say with confidence that people in villages are really at the mercy of God. Whenever a great epidemic like plague or influenza or cholera occurs, the people in the villages are subjected to the ravages of these epidemics. There is absolutely no medical aid to these people. In municipal areas, people get some medical aid through the agency of Government dispensaries. But, what is the case in villages? These people get no sort of medical relief. It is good that the mover of this resolution has provided that even in rural areas some medical relief should be given. I therefore heartily support the resolution.

Mr. L. S. CHAUDHARI (East Khandesh District): Sir, I rise to support the resolution moved by my honourable friend Dr. Dadachanji. It is highly desirable that this resolution should be accepted by Government. If anything by way of help is required for the agriculturists, who form the greatest part of the population, it is this medical help which is suggested in this resolution. Those people who have lived in villages and have an idea as to how people live in the midst of insanitary surroundings, will realise how important this resolution is. An argument may be advanced in reply to this resolution by Government that local bodies are entrusted with this work and it is their duty to extend medical help to the people in their jurisdiction. Looking to the poor financial condition of these local bodies, they are not in a position to carry medical help to each and every village. As a matter of fact, I have some

[Mr. L. S. Chaudhari]

experience of the district local board of East Khandesh, which is supposed to be a rich district. Even the East Khandesh district local board has not been able to provide sufficient medical relief. That district local board only recently opened eleven Ayurvedic dispensaries. Looking to the extent and the large number of population this provision of medical help is not at all sufficient. There are six or seven dispensaries in the whole of the district. The idea of the people regarding sanitation is so crude that they do not feel that they are living in insanitary surroundings. Mothers are ignorant and they do not know to bring up their children in the most healthy manner. No doubt, the Baby Week movement has been started with this philanthropic view of educating the mothers, but that movement is not carried to the nook and corner of every district. That movement is at present confined to big cities. Looking to the importance of the resolution and the present unsatisfactory condition of medical help given in rural areas, it is highly desirable that the resolution moved by the honourable member Dr. Dadachanji should be accepted.

Mr. S. A. SARDESAI (Bijapur District): Sir, I support the resolution moved by my honourable friend Dr. Dadachanji. In doing so I wish to mention that plague, cholera and malaria are the three most dangerous diseases. If I remember aright I think plague visited India as far back as 1896. Even then I do not think that it was a new disease in India, because that very disease had destroyed the whole population of Bijapur in ancient times. Since 1896 science has very much advanced, and in Germany and elsewhere many medicines have been invented for curing plague. Plague inoculation has done a great benefit to the people. In India also our Government have been trying to destroy this disease entirely. Again, cholera is not a new disease to India: it has been lurking in this country for many years. We know also what bad effects have resulted from malaria in this country. All these diseases require careful investigation.

I am sure that His Excellency the present Governor of Bombay has been keen on this point of giving medical relief to the people of this presidency. As soon as he stepped into India, on the very first day, in reply to an address presented to him by the Bombay Corporation he recognised in his speech that the medical aid given at present in the presidency is quite inadequate and that more medical aid should be organised in this presidency. I hope a good deal more will be done towards eradicating these three deadly diseases out of India. Of course, in this resolution only three diseases are mentioned, because they are more dangerous than the rest. I would go a step further and say that Government should do their best to give more medical relief in the case of every disease. It is Government alone who can do something in this respect. With these few remarks I beg to support the resolution moved by my honourable friend Dr. Dadachanji.

MOULVI RAFIUDDIN AHMAD (Central Division): Mr. President, I rise to support this resolution. I do not see any difficulty, Sir, for the

[Moulvi Rafiuddin Ahmad]

Honourable Minister to accept this resolution. It is so delightfully vague. It simply says "This Council recommends to Government to draw up a comprehensive scheme of sanitation and medical relief both in the municipal and rural areas...." No time is mentioned as to when they should draw up the scheme, no amount of money is demanded, and no method is suggested as to how it should be carried out practically. But, Sir, I rise to call his attention to a definite matter. I had tabled a resolution at the last session recommending to Government that they should appoint qualified lady doctors and attach them to selected dispensaries. I remember the Honourable Minister informing the House that a scheme was being considered. I am sure if Government appoints lady doctors in some chosen dispensaries and hospitals who would tour in their respective districts, that in itself will be a very great relief. With regard to rural and municipal areas, I do not know how far Government is responsible to provide medical relief to them. Government, I understand, are giving them a grant for this purpose. The conditions of that grant will have, I think, to be made stricter, but if that were done I suppose more money would be demanded by the local bodies. That money will certainly have to be sanctioned by the House.

I do not know whether the Honourable Minister is going to accept this resolution or not; no indication of his mind is yet given to the House. I wish therefore again to protest against the tactics of the official benches. We have not yet been given the least indication of what the inclination of the Government benches is. The usual practice at any rate is for the Secretary or some officer in charge of the department to speak and let us know the intentions of Government. How can the honourable non-official members offer any useful criticisms without any speech from the Government benches? What will now happen is that the Honourable Minister will make his reply which will be the last word upon the resolution and we shall have no opportunity to criticise his views. If somebody from the Government benches had spoken and gives us an idea of the intention of Government, we should have made better use of our time and offered more useful contribution to the debate.

Mr. A. MASTER: Sir, in response to the moving appeal of the honourable member Moulvi Rafiuddin Ahmad, I rise to say a few words on the subject. In the first place, I am very glad that the subject has been brought before this honourable House. It is a matter about which Government are always deeply concerned, and to the general tenor of the resolution I am perfectly sure Government would consent. The troubles of the village people as regards medical relief are, as honourable members stated, very very great. I have personal experience of it myself. In my tours as a district officer I have often been bombarded with requests by people who came to my camp and occasionally it has been possible to do something from the medicine chest. The difficulty is that in any urgent case there is a long distance to go to the nearest dispensary in order to obtain relief: in minor cases the disease

[Mr. A. Master] simply runs its course. There is, therefore, no doubt that if a comprehensive scheme can be prepared it will be extremely desirable. The people in the villages should be looked after as much as those living in the towns. The mover of this resolution has asked Government to prepare a comprehensive scheme. He has not stated however of what nature he wishes the scheme to be. I wish it had been possible for him to give a rough idea of what he wants. At present we have an organization for dealing with sanitation and medical relief in villages, which is divided between the Surgeon General and the Sanitary Commissioner. It is well known that the Director of Public Health—because the subject of his department has been discussed—looks after vaccination and also to special matters such as advice to municipalities on sanitary subjects. The House will be no doubt be interested to know that in addition to this department there are schemes on foot in the first place in order to provide medical aid in villages. A system is being introduced of giving first aid help in villages. That is to say school masters are paid a small sum for giving first aid help to villagers in certain villages. It is hoped to further expand this system which promises to be very successful. In addition to that a plan is on foot of giving the services of doctors by making them to live in villages. It is recognised that doctors do not like to stay in villages. They go to the large towns to practice and the large towns are over-stocked with doctors. So the villages can have no medical aid. In order to counteract this it has been proposed and the plan will be carried out of paying for a term of 3 years or so a sum to a medical practitioner on the condition that he resides and practises in a particular village. It is hoped that in process of time the villagers themselves will appreciate their services and be prepared to pay for the medical relief. All this of course means money. If Government approve of the scheme which the mover of the resolution has in mind, it will most certainly mean that this Council will have to provide an extra grant. At present the grant for sanitation is very small. We have found in the matter of giving help to dispensaries that although Government promised to grant half the additional recurring expenditure it has not been possible to do so. It has not been possible to give anything like half the amount to a very large number of dispensaries. It is hoped that it will be possible to do so and to give half the amount as promised at some future date. Until Government fulfils its obligations in this way it will be hardly possible for them to embark on any further large scheme of that kind. On the other hand, there is no reason as far as I can see, subject to the remarks of the Honourable Minister to whose portfolio this subject belongs, why a start should not be made in preparing a scheme.

Mr. D. R. PATIL (East Khandesh District): Mr. President, so far as the sentiments in this resolution go I have to admire my honourable friend Dr. Dadachanji. The reason is that by this resolution he has come to the rescue of the illiterate persons who live in the rural area although he was against the honourable member Mr. Bole's bill for reservation of seats. So far as this resolution goes, of course I would be very glad if Government approve of the present scheme for sanitation

[Mr. D. R. Patil]

and medical relief both in the municipal and rural areas, but as some difficulties have been pointed out by the last speaker, I think the question as to whether how far this will be practicable is one for Government to decide, because they are experts in that. My request is that Government should be more liberal in their grants to district local boards for sanitation and medical relief. This is the only solution and therefore I would appeal to Government that they should in future be really very serious in giving liberal grants so that this question may be solved.

Dr. COSMAS FERNANDEZ: Sir, in a matter like this involving questions of medical relief and sanitation, prevention of disease has first to be considered. Most of the speakers before me have laid stress on medical relief. I think in a scheme like this much stress ought to be laid on the prevention rather than curing of disease. Special attention must be paid to prevention, because prevention will mean the eradication of the disease and special provision ought to be made for propaganda because, after all, no scheme of sanitation will be a success without the co-operation of the people and for this co-operation, education, that is propaganda, is essential. So, I would suggest that in any scheme of this sort a large provision should be made for education or propaganda to be carried on in the villages so that the people can be shown how they can co-operate with Government in helping them to prevent disease. As regards the question of medical relief the provision that has been made to give the villages first aid help is sound. If this is carried out thoroughly and extended, it will be quite enough for this part of the scheme. As regards sanitation a larger scheme ought to be made in that connection.

Dr. K. E. DADACHANJI (Bombay City, South): Mr. President, I am very much thankful to those members who have supported my resolution. It is in the interests of rural areas. I do not belong to the rural areas. Still, Sir, during my visits to the rural areas I saw this disastrous state of affairs. That is why I brought this resolution in this Council. As regards what has fallen from the honourable member the General Secretary, that I have not given any figures or even a rough sketch or lines on which the scheme can be run, I indicated, Sir, that it should be on the lines of the Indian Medical Congress of Calcutta. There is a big report. This has been followed I understand by the United Provinces and the Jaipur State, and they have successfully carried it out. For the Bombay Presidency it will be very easy for the Government to carry out such a scheme or, failing that, they could suggest their own scheme. At Jaipur,—a small State—they have kept sub-inspectors, sub-assistant surgeons, trained nurses, and so on, and that scheme has worked very successfully. If the General Secretary likes, I have got a copy of the report in Bombay and I will send it to him if he does not find it with Government.

The Honourable Mr. B. V. JADHAV: What report have you got?
Report of the Jaipur State?

Dr. K. E. DADACHANJI: No; report of the Indian Medical Congress, Calcutta, on the medical relief and the sanitary relief of rural

[Dr. K. E. Dadachanji]

areas. Sir, the General Secretary has admitted that the grant given at present is too small and my honourable friend Mr. Chaudhari has pointed out that in his district, Khandesh, whatever grant is given by Government to the local board—Rs. 2,000 or so—is insufficient for each district. Therefore, Sir, my only object is to ask Government to give us a comprehensive scheme on the lines of the Indian Medical Congress of Calcutta or any other scheme which Government themselves can recommend, so that we can see how to work it. My resolution is placed in the interests of the rural areas to give them medical and sanitary relief as speedily as possible.

The Honourable the PRESIDENT: How long is the Honourable Minister likely to take to reply?

The Honourable Mr. B. V. JADHAV: About 15 minutes, Sir.

The Honourable the PRESIDENT: In that case the House will now adjourn till 2 o'clock to-morrow, Wednesday, the 4th November 1925.

Wednesday, the 4th November 1925.

The Council reassembled at the Council Hall, Poona, at 2 p.m. on Wednesday, the 4th November 1925, the Honourable the President, Sir Ibrahim Rahimtoola, K.C.S.I., C.I.E., presiding.

Present :

AHMAD, MOULVI RAFI UDDIN
 ANGADI, Mr. S. N.
 BEDREKAR, Khan Bahadur I. M.
 BOLE, Mr. S. K.
 BUNTER, Mr. J. P.
 CHAUDHARI, Mr. L. S.
 CLEMENTS, Mr. E.
 DADACHANJI, Dr. K. E.
 DEHLAVI, the Honourable Mr. A. M. K.
 FRAMJI, Mr. K. S.
 GHOSAL, Mr. J.
 GHULAM HUSSAIN, the Honourable Khan Bahadur SHAIKH
 GUNJAL, Mr. N. R.
 HAMID M. ABDUL ALI, Mr.
 HARRISON, Mr. R. T.
 HATCH, Mr. G. W.
 HAYWARD, the Honourable Sir MAURICE
 HOTSON, Mr. J. E. B.
 JADHAV, the Honourable Mr. B. V.
 JEHANGIR, the Honourable Mr. COWASJI
 KAMBLI, Mr. S. T.
 KAZI INAITULLAKHAN
 LAWRENCE, the Honourable Mr. H. S.
 MANSURI, Khan Saheb A. M.
 MASTER, Mr. A.
 MAVALANKAR, Mr. G. K.
 MEHTA, the Honourable Sir CHUNILAL
 MONTGOMERIE, Mr. A.
 MOUNTFORD, Mr. L. J.
 MUJUMDAR, Sardar G. N.
 MUKADAM, Mr. W. S.
 NAVLE, Mr. N. E.
 NEKALJAY, Mr. R. S.
 PAINTER, Mr. H. L.
 PATEL, Mr. A. E.
 PATHAN, Mr. A. F. I. K.
 POWAR, Mr. M. B.
 PRADHAN, Mr. R. G.
 SAHEBA, Mr. H. D.
 SARDESAI, Mr. S. A.

SURVE, Mr. A. N.
 SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 WILES, Mr. G.

The Honourable the PRESIDENT: Order, order. Questions.

PATHAN MONEY-LENDERS.

Mr. S. K. BOLE: Will Government be pleased to state—

(a) whether they are aware of the Pathan money-lenders' activities in the villages of the Ratnagiri district;

(b) if so, whether they propose to take any steps in the matter.

The Honourable Sir MAURICE HAYWARD: (a) and (b) A report which has been submitted by the District Magistrate is laid on the Council table.*

Mr. R. S. NEKALJAY: In order to recover their debts is it a fact that these Pathans drag away young females from the houses of their creditors?

The Honourable Sir MAURICE HAYWARD: I have no information to that effect.

Mr. W. S. MUKADAM: I do not put questions on behalf of Mr. Karki.

CHILHAR IN SARANJAM VILLAGES.

SARDAR G. N. MUJUMDAR (Deccan Sardars and Inamdars): (a) Will Government be pleased to state whether they have passed any orders regarding the Chilhar and Cash Allowances in Saranjam villages?

(b) If so, will they be pleased to place those orders on the Council table?

The Honourable Sir CHUNILAL MEHTA: (a) Yes.

(b) In 1897' Government directed that Kadim cash allowances payable out of inam villages should cease to be paid by the Inamdars directly, but that they should be disbursed from the taluka treasury after being recovered from the Inamdars concerned. These orders were made applicable to all inam villages, including Saranjam villages, and so all kadim cash allowances including Chilhar, were ordered to be brought to the taluka treasury. Subsequently the Inamdar of Sukene and the Saranjamdar of Jalalpur filed suits against Government in respect of their right over the Chilhar. The High Court declared the Inamdar of Sukene to be entitled to administer Chilhar in his village and refused the claim of the Saranjamdar of Jalalpur. As a result of the High Court decisions in these two cases Government directed in 1923 that 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 or the accounts of the village prior to its grant do not 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. Saranjam villages fall under the second category. A copy of the orders passed by Government in 1923 is laid on the table.†

* Vide Appendix No. 32. † Vide Appendix No. 38.

SARDAR G. N. MUJUMDAR: Are Government aware that the decision of the High Court in the case of the Saranjamdar of Jalalpur is based on the statement of the mukhtyar to the effect that the Chilhar was not administered by the Saranjamdar but that it was administered by the village officers or Government ?

The Honourable Sir **CHUNILAL MEHTA:** I cannot reply offhand but if the honourable member will give me notice, I will make enquiry.

Mr. W. S. MUKADAM (Panch Mahals District): I do not put my question.

LOCAL BOARD SCHOOLS IN THE KARNATAK.

MOULVI RAFIUDDIN AHMAD on behalf of Mr. A. F. I. K. PATHAN (Southern Division): Will the Honourable Minister (Education) be pleased to state—

(a) how many buildings were built during the last ten years in each of the four Karnatak districts for local board schools and the total cost incurred on them ;

(b) how many of these buildings were for Urdu schools and how many for non-Urdu schools in each of these four districts ?

The Honourable Mr. B. V. JADHAV: The accompanying statement* gives the information required.

MOULVI RAFIUDDIN AHMAD: With regard to the appendix may I know from the Honourable Minister the reason why in Dharwar the number of buildings for Urdu schools is nil whereas the number of buildings for non-Urdu schools is 15 ?

The Honourable Mr. B. V. JADHAV: If notice is given, I shall make enquiries.

MOULVI RAFIUDDIN AHMAD: I think the Honourable Minister could have easily understood the motive for asking the question and ascertained the reason why sufficient number of buildings for Urdu schools were not created, instead of waiting to be asked a supplementary question on the point.

The Honourable Mr. B. V. JADHAV: A certain question was put ; the information required was asked for and, when received, it was given here.

Question again proposed :

"This Council recommends to Government to draw up a comprehensive scheme of sanitation and medical relief both in the municipal and rural areas, and place it before the Council so as to reduce the heavy mortality from plague, cholera, malaria and other epidemics in the presidency."

The Honourable Mr. B. V. JADHAV: Sir, the honourable member Dr. Dadachanji deserves the thanks of this House for moving this resolution, and I have to congratulate him on his perseverance in trying to move it for more than four years. He first tabled his resolution in the year 1921, but I think he got no opportunity of moving it. His

*File Appendix No 46.

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resolution is a very good one. Health is a paramount necessity, because a healthy mind can only be found in a healthy body, and if the health of the subjects is undermined, I do not think that either the subjects or the Government can prosper under such conditions. Health is an important subject no doubt, and I may assure the honourable mover and the House that Government have ever paid their attention to this question. Government have recognised that it is their duty to improve health and look after sanitation as much as possible, and for that purpose the Department of Public Health has been started with a Director at its head and deputy directors under him, who are administering the health matters of the various Divisions. Government desire to augment this staff, to have more health officers, one for each district as well as health inspectors and so on. But, Sir, financial stringency came in the way and I may at the same time observe that this House did not think it expedient or necessary to provide larger grants for this important subject. The Retrenchment Committee which was appointed by this House has gone into the question and has recommended that the office of the Director of Public Health should be abolished, and that the work should be handed over to the Surgeon General, and the various debates at budget times and on other occasions that have taken place in this House, have raised the question whether it is profitable and necessary to maintain the present very highly paid staff of the Deputy Directors of Public Health. Government have therefore to presume that the House is not in favour of enlarging this important department. If this House will change their attitude and will ask Government to develop the department, Government will only be too glad to accede to the desire of the House. Government desire that each district should have a district health officer, and with that object in view they have been requesting the district local boards to appoint district health officers, and Government are ready and have promised that two-thirds of the pay of these officers will be borne by Government, and the district local boards will have to provide only one-third of the expenditure for the health officer. The presidents of the district local boards were called in conference in July last, and they have generally accepted their duty of engaging health officers, and I think the few who did not fall in line with the others will also see that it is in their own interest that the health department of the local board administration should be developed on better lines.

I may point out, Sir, as the honourable mover has said, that the health conditions in the mofussil are not as they ought to be. Malaria and other epidemics have been making inroads in the village area, and there are now more deaths from these diseases than was ever the case. But I may point out that the health conditions of the city of Bombay are, to a great extent, responsible for the deterioration of the health in the mofussil. The labourer comes down to Bombay in search of bread; he has to live here in unfavourable and unhealthy conditions; he contracts a number of diseases, and when he goes to his native place for a change he carries in his body the seeds of the various diseases and in

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this way epidemics spread from city to the rural areas. It is not my intention to accuse the Bombay municipality of being negligent to this duty. They have been trying their best to improve the conditions, and matters have been steadily improving no doubt; and as the health of Bombay improves, I think there will be a marked change in the improvement of health in the mofussil. Ever since His Excellency the present Governor of Bombay assumed charge of his office, his attention has been drawn to the paucity of hospital accommodation, and His Excellency has been exerting himself to see how the hospital accommodation can be improved. Next month, Sir, His Excellency is going to hold an important meeting in Bombay, and there the hospital campaign will be formally inaugurated. With the improvement of the hospital accommodation in Bombay the labouring classes will get better treatment, and when they return to their native places, it is hoped they will do so fully recovered from their illnesses, and the sources of infection in the mofussil will thereby be diminished.

The honourable mover has supplied certain figures to this House, and by means of these figures he has tried to picture a very lamentable state of affairs. For instance, he has stated that the population is about 1,95,00,000 and there are only 46 dispensaries in the presidency. I am afraid, Sir, that the statement is very far removed from the truth. The number of dispensaries in the presidency is evidently much larger. I think that this misunderstanding occurred because he might have got the information that the number of dispensaries maintained wholly by Government was 46. But there are a large number of dispensaries which are maintained by district local boards and municipalities and which are subsidised by Government, and their number is not included in the number 46 which the honourable mover has given.

Dr. K. E. DADACHANJI: That was the information I got in answer to a question.

The Honourable Mr. B. V. JADHAV: That is the answer I am alluding to. The information given was evidently for dispensaries maintained wholly by Government, and the other dispensaries maintained by district local boards and municipalities and other private individuals, to which Government give subsidies, were not included in the number, viz., 46.

MOULVI RAFIUDDIN AHMAD: Can the Honourable Minister give the total number of dispensaries now?

The Honourable Mr. B. V. JADHAV: I am not in a position to give that information offhand. At the same time, the honourable mover has said that the total number of villages is 40,000 and this enormous number of villages has been looked after by only 15 sanitary inspectors. It is a very horrible state of things no doubt. I do not know whence he got that figure 15.

Dr. K. E. DADACHANJI: That is the answer given to my question by the Honourable Minister's predecessor. The reply was that the total number of vaccinators and sanitary inspectors was 15.

The Honourable Mr. B. V. JADHAV : There is some misunderstanding in the figure supplied to the honourable member. The number of sanitary inspectors is much larger in fact but perhaps they are classed under different designations.

MOULVI RAFIUDDIN AHMAD : What is the number now ?

The Honourable Mr. B. V. JADHAV : That will have to be found out.

It is simply ridiculous to say that 15 people are looking after both sanitation and vaccination at the same time.

As regards the suggestion of starting sanitary associations, I understand that various cities are awakening to the need of such an institution. I am very glad to know from my honourable friend Khan Saheb Mansuri that Ahmedabad has started a very good sanitary association, and I hope the other cities will follow suit.

As for travelling dispensaries advocated by the honourable member Khan Saheb Mansuri, I may say that there are various opinions. Even in his speech he stated that the dispensaries were not of much use. The experience of Government is almost the same ; and these travelling dispensaries are not insisted upon in these days. Government have under consideration a different scheme of establishing qualified medical officers in village centres so that the villages around them should have within easy reach a medical man to consult. The inauguration of that scheme depends upon the sanction which will be asked of this House at the next budget session. As soon as this sanction is given, Government will be in a position to launch that scheme.

The honourable mover recommends the appointment of a committee. Government have no objection to appoint such a committee ; but I may point out that perhaps this House is rather sick of these committees. If a proposal is made for the appointment of a committee, I am afraid this House will turn it down.

Development in health matters should be gradual and natural. Development of health is not like the construction of a building. The health conditions and the conditions of society and the people vary from district to district ; and a scheme which may be suitable for one district may not suit another district. Therefore a cut-and-dried scheme to be formulated for the whole presidency may not be useful. At the same time in these days of democracy, many of these matters which are for the welfare of the people themselves have to be left to the decision of the district local boards formed of the representatives of the people elected by them. Any ready-made scheme prepared for the whole presidency may not meet with the approval of particular district local boards and in that case friction may arise. The Director of Public Health and his deputies are always ready and willing to give advice on these health matters, whenever the district local boards come to ask for it. Until they come forward Government have been taking care of the general health administration of the district and specially devote their attention to the prevention of epidemics at centres of pilgrimage and fairs. It is very widely known that Pandharpur fair was a cholera centre and that cholera spread from Pandharpur to other places almost twice a year. The management of the Health Department has succeeded in checking to a very great extent

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the cholera epidemic at Pandharpur and other places of pilgrimage, and this is one result of the working of the Health Department and the steps Government have been taking to improve sanitation.

Government will be very glad to accept the resolution but, as I have pointed out, the mere appointment of a committee will not be of any use. Paper schemes will not be of much value in checking ravages of diseases or epidemics. It is work and real work that is wanted in these cases. Government will always be very glad to examine the advice of private members. If the honourable mover has any scheme, it will be examined by Government. On behalf of this Council, I tender my hearty thanks to the honourable mover for drawing the attention of Government and of this House to the importance of this question.

Question put and carried.

The Honourable the PRESIDENT: I should like to intimate to the House that the following Act has received the assent of His Excellency the Governor General:

"An Act to make better provision in the City of Bombay and elsewhere in the Bombay Presidency to prevent the adulteration of articles of food and the sale of such adulterated articles."

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, the resolution standing in my name runs as follows:

"This Council recommends to Government that all ancient mosques and mausoleums in the possession of Government in the districts of East and West Khandesh should be restored to the Mahomedan community to be utilised by them for the purposes for which they were originally constructed."

Sir, my honourable friend the Minister of Local Self-Government is not here to-day. He has asked me to postpone the consideration of this resolution. He has assured me that in the meantime Government will make enquiries as to the exact number of such places in Khandesh and that he himself will go to Khandesh for this purpose. Under these circumstances, I beg your permission to postpone the consideration of this resolution to the next session.

The Honourable Sir MAURICE HAYWARD: Sir, I am sorry to say that the Honourable Minister is not sufficiently well to attend the House to-day, and he will be very thankful to the honourable member for postponing his resolution to the next session.

The Honourable the PRESIDENT: If the honourable member wants to postpone it to the next session, a motion will have to be put before the House and the view of the House taken. The other alternative is for the honourable member to withdraw the resolution and give fresh notice for the next session.

The Honourable Sir MAURICE HAYWARD: Or simply not move it.

MOULVI RAFIUDDIN AHMAD: In view of the statement made by the Honourable Leader of the House, I may make a motion.

The Honourable the PRESIDENT: I wanted to point out that it cannot be postponed without a motion.

MOULVI RAFIUDDIN AHMAD: Sir, I beg to move that the consideration of the resolution standing in my name should be postponed to the next session.

Question put and carried.

Resolution postponed to the next session.

Mr. S. N. ANGADI (Belgaum District): Sir, I beg to move the resolution which stands in my name, namely:

"This Council recommends to the Governor in Council that a medical school be immediately established in Belgaum."

Sir, it is with a good amount of diffidence that I rise to move this resolution. Already half the House is empty and our Swarajist friends have observed a vow of silence. So, I am feeling that the atmosphere is very unfavourable for moving my resolution. All the same, as my resolution is one that ought to commend itself to Government at once, I have no hesitation in moving it.

I do not think, Sir, that I need make out a very strong case for moving this resolution. The idea of Government was to start a medical school in Dharwar. That proposal was actually before Government; Government considered it; but Government thought that Belgaum was a better place for starting a medical school. Then the Surgeon General put forward a scheme, at the instance of Government and this question was before Government for a pretty long time. And, I should say, that it would have been almost an accomplished fact but for the uncalled for, if I may not say mischievous, interference of the predecessor of our present Honourable Minister Mr. Jadhav.

MOULVI RAFIUDDIN AHMAD: Will the honourable member make it clear what was the uncalled for interference?

Mr. S. N. ANGADI: I know that it was Dr. Paranjpye who came in the way of the medical school being established at Belgaum. His idea was—imbued as he is with provincialism and with the feeling of everything for Poona—that there should be a medical college in Poona and that there was no necessity of any medical school in Belgaum. His only reason was that it was thought that clinical material was not available in Belgaum and so Belgaum would not be a fit place for a medical school. That was his idea, and that is why he opposed the scheme. If he had not done so, it would have been an accomplished fact, because I know that the Surgeon General was very much in favour of this school, and he was persistently asking Government to have the school at Belgaum. In spite of all this, it was Dr. Paranjpye who came in the way, and but for his interference it would certainly have been an accomplished fact. Karnataka has always been looked upon rather in a step-motherly fashion

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by Government although Karnatak has been paying into the provincial exchequer dearly one-sixth of the total revenues, and although Karnatak has been helping Government in several ways, yet it is rather unfortunate that Karnatak should have been selected for the perpetual callousness and indifference of Government. Up till recently we had not even an arts college. When some of the honourable members of the then Council representing Karnatak said that they wanted an arts college, Government accepted that idea, but they accepted it only on certain conditions. They said that in order to prove their earnestness about having an arts college, the people should collect two lakhs, and that condition had to be fulfilled before the arts college was started. The Lingayats had to collect a lakh and the Brahmins had to collect a lakh. I hope that such a condition will not be imposed in connection with this request of mine. I hope Government will not ask us to collect a certain amount in order to convince Government of the earnestness of the people of Karnatak to have a medical school.

Sir, I do not want to take up much of the time of the House to commend this resolution to their acceptance. I know that Government will probably put forward the plea of financial stringency (An honourable member: Hear, hear), as they have always been doing in the case of every good resolution that is moved before the House. (The Honourable Mr. H. S. Lawrence: Hear, hear.) Sir, when Government had to carry out the recommendations of the Lee Commission, I do not think they found it very difficult to find at once ten lakhs. They found out the money at a moment's notice. (Moulvi Rafiuddin Ahmad: Hear, hear.) What I say is, if Government is really serious about looking to the interests of every district and also of the four important districts of Karnatak, it won't be difficult for Government to find out the means. They know how to find out the money: they are better experts than any non-official member on this side. They will certainly accept it if they have a desire to do so. It is only when they have no desire that they will scratch their brains to find out an excuse. Sir, this is not a new scheme that I am bringing forward before this House. Government themselves had intended to start a medical school in Belgaum, but as I said, but for the unfortunate and uncalled for action of Dr. Paranjpye, it would have been an accomplished fact long ago. I need not dilate upon the necessity of a medical school in Belgaum. All the time students from the Karnatak if they wanted to receive education in all matters, whether it is agricultural education or whether it is medical education or any other damned education, had to come over to Poona or Bombay. You can very well imagine what terrible handicap that meant to the poor students. How can the parents of intelligent poor students afford the expenses of collegiate education especially in these days either at Poona or Bombay? Another reason given by Dr. Paranjpye in shelving this proposal, I understand, Sir, is that clinical material in Belgaum will not be available and that instead of giving an inadequate and ill-equipped medical school it would be better that the students should come over to a place like Poona or Bombay and have their

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education here. Well, all I can say is that if Dr. Paranjpye were to be present here I would tell him "let the Karnatak have a medical school and also have an agricultural college and other colleges and let all the colleges in Poona be abolished and let Dr. Paranjpye's daughter and children and all the students in Poona be compelled to attend the schools and colleges in the Karnatak". Then he would really understand the difficulties properly. There is no other way to make a man of this mentality understand the hardships. Sir, instead of having a medical school in Poona and a Grant Medical College in Bombay it would be much better if students were to go to England to receive their education, where the equipment is still better and clinical material is available quite in abundance. I am rather surprised that he did not put forward an argument like this. A medical school is a very urgent necessity for the Karnatak. In all matters Karnatak has been disregarded and the people neglected in the past notwithstanding their numerical strength, the fact of their paying into the provincial coffers nearly one-sixth of the total revenues. Despite all this they have always been treated in a step-motherly fashion. Sir, another reason why I was diffident to move this resolution is that when I moved my resolution last time for a new vernacular school to be established in Belgaum I received a very half-hearted reply from the Honourable Minister. The present Minister also does not possess a soft heart for the Karnatak. So I appeal to him and implore him that he should find out the money, because if Government have a mind to accept the resolution they can do so and by accepting the resolution they would obtain the gratitude of the Karnatak people. With these words I move my resolution.

Question proposed.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the resolution. The idea of starting a medical school in the Karnatak is one which ought to commend itself to the acceptance of this House. All the other parts of the Presidency, Sind, Northern Division, and Central Division, have been supplied with a medical school. It is only in the Karnatak that this has been left out of consideration. There is a medical school in Hyderabad, Sind, and in Ahmedabad in the Northern Division and there is a medical school at Poona for the Central Division and for reasons best known to the official benches Karnatak is left out of consideration although Karnatak is paying as much revenue as the other parts of the Presidency, at least not less revenue than other parts of the Presidency. Sir, if Karnatak is a member of this Bombay Presidency and is feeding the exchequer of this Presidency, I do not see any reason why its demand in the matter of medical education should not be attended to. Karnatak is not asking for an extravagant thing, it is only asking for the establishment of a medical school for the training of the people in the elementary principles of medicine. Sir, as pointed out only recently there is an arts college in the Karnatak. It was only some years ago that Government thought it fit to establish a college at Dharwar and that too when the people subscribed Rs. 2 lakhs from their own pockets. Sir, I have put before the Honourable Minister the various difficulties of students of the

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Karnatak. They have to come 400 miles, the nearest place being Poona, a place the language of which is foreign, the customs and manners of which are foreign to them. They find themselves in strange environments and the students feel all this a good deal more than they would otherwise do if there was a school in the Karnatak. By the absence of a medical school in the Karnatak the Government have placed the Karnatak under great disadvantages. I put the case on another ground. It is admitted that the rural areas have not been provided with any medical relief; in the villages there is no medical relief at all. If the Government really desire that our villages should have some medical relief, will it not be right that in different parts of the presidency there should be schools intended to train the people of that part in the medical science? If there are no trained men, how can there be medical relief for the villages? If there is a school in the Karnatak, there will be many young men who will come forward to receive their medical training in the school, and many of them will be impelled by philanthropic and purely charitable considerations to go and settle themselves in the villages and thus try to ameliorate the sufferings of humanity. Sir, yesterday there was a resolution moved by the honourable member Dr. Dadachanji, in the discussion of which it was pointed out, and effectively pointed out, that the people in the villages are suffering very horribly on account of want of any medical relief, and it was admitted by the Honourable Minister in the course of his reply that it is so. If it is so, if the condition of the villages is very miserable, will it not be a step in the right direction if a medical school is established in any of the places in the Karnatak for training the youth in the art of medicine? Sir, it may be urged on behalf of Government that there is a great financial stringency and the few lakhs which will be required for the purpose cannot be found. Sir, for such an important subject as this, I do not think any plea of financial stringency would be a good answer. A few lakhs may be taken from the reserve which is in the hands of the Government and may be well invested in this medical school, and this amount, if invested for starting medical school and medical relief, will result in untold blessings to the suffering humanity of the Karnatak. With these words, I support the resolution.

Mr. S. A. SARDESAI (Bijapur District): Sir, I beg to support the resolution put before this House by my honourable friend Mr. Angadi from Belgaum, and in doing so I wish to make a very few remarks because many of the points have been made by both the honourable members from the Karnatak. I think in this matter of giving medical aid to all in this presidency no one is so solicitous as His Excellency the Governor of Bombay, Sir Leslie Wilson, and I think the Honourable Ministers who are concerned with such medical schools and medical relief should take the example of His Excellency. I think the plea of financial stringency should not come in our way of having such a very useful scheme of medical school. Even Government themselves may propose not a medical college like the Grant Medical College of Bombay, but a small college may be opened in Belgaum or somewhere in the

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Karnatak. But a case has not been made out, and at this stage only a medical school is very necessary in the Karnatak. When the school is opened and some progress is made, if a case is made out for a college, then Government may think of opening even a medical college there. If you look at the examples of civilised countries like America and England, it is very desirable that such schools should be established everywhere in the presidency, because by having medical schools only in Bombay, Poona, Ahmedabad and such big places, you will never render them free from congestion. If you take away some schools from big cities, of course, you will make them free from congestion, but this medical aid is a thing which is everywhere wanted. Perhaps an arts college may not be wanted in an area where the people are very backward and there is no demand for higher education, but medical schools are everywhere wanted, and for this reason, this resolution being very important, I hope Government will accept it and open immediately a medical school in Belgaum or even in Dharwar or somewhere in the Karnatak. But that is not the idea of this resolution, so I cannot go beyond it. It may be opened in Belgaum. With these remarks, I support the resolution.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to support the resolution. I think there is a necessity and a case has been tried to be made out, and has been made out, for a medical school in Belgaum. I think the Northern Division and the Central Division have both got one medical school each, and I do not see any reason why Government should grudge a medical school at Belgaum. But, at the same time, when I heard my honourable friend Mr. Sardesai to say that Government can well afford to give up their Arts College at Andheri and utilise the funds of that college for this medical school at Belgaum, I am simply surprised to hear the analogy or logic of my honourable friend. Does he know where the amount of 8 lakhs given for that college comes from? (The Honourable Mr. B. V. Jadhav: He never said anything like that; he never said anything about the Andheri college.)

Mr. S. A. SARDESAI: I never said anything of the kind.

Khan Saheb A. M. MANSURI: I am sorry. Then I have got nothing to say.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, in the first place, I would like to draw your attention to the wording of this resolution. It says: "This Council recommends to the Governor in Council". I want to know whether this is the right form, in matters pertaining to the transferred departments.

The Honourable the PRESIDENT: Strictly speaking, it ought to be addressed either to Government or to His Excellency the Governor acting with the Minister.

MOULVI RAFIUDDIN AHMAD: So, I take it that it is not so much to the members of the reserved department that this resolution refers as to the members of the transferred department, though we know that the former must be consulted. I was not a little surprised to hear

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aspersions made on the action and motives of Dr. Paranjpye as a Minister and I do hope that some of his colleagues who were with him in the last cabinet will throw light upon them. I also hope that the Minister himself will clearly state how far the charges can be substantiated. As far as I know, Government can have no serious objection to the acceptance of this resolution. You will remember, Sir, when the resolution about the Karnatak College was brought before this Council by Rao Bahadur Rodda, I had made a speech strongly supporting the proposal, and I think it right on this occasion also to support this resolution. If Government have no other objection, except that of financial stringency, the best course for them is to accept it and ask this Council to grant money to carry it out. The Council is always ready, as the Honourable Minister knows, to give more money for the nation-building departments and it would not hesitate to sanction more money to the Honourable Minister. I am sorry to say that the honourable mover of the resolution seemed to think that if the Swarajists had been taking part in the proceedings he would have received much support. I assure him that whether the Swarajists are here or not, a measure like this would always receive full support of this Council. The Honourable Minister knows it well that a resolution is only a recommendation which would not bind him to give Belgaum a medical school this year.

The Honourable Mr. B. V. JADHAV : Sir, I am sorry to say that Government are not in a position to accept the resolution in the form in which it has been moved. The resolution makes a demand for a medical school to be opened at Belgaum immediately. I do not think that Government can open a medical school there immediately, and at the same time I have to place certain considerations before this honourable House. I was very sorry to hear the unjustifiable charges made by the honourable mover against my predecessor. I have gone through every paper in the file on this question and I think that had I been in office in 1923 I would have come to the same conclusion. There is a dearth of clinical material in Belgaum and I do not think that Belgaum is a fit place for opening a medical school. An efficient medical school requires a big hospital and unless there is a large number of patients for the proper tuition of medical students, a mere building and lecture halls and laboratories will not turn out efficient medical men. For that purpose Belgaum is not a very good place. It has a small hospital, it has not got a big population and the number of patients there will be limited. Therefore as there will not be sufficient clinical material available at Belgaum Dr. Paranjpye was perfectly justified in saying that Belgaum was not a suitable place.....

Mr. S. T. KAMBLI : Is there no other suitable place in the Karnatak ?

The Honourable Mr. B. V. JADHAV : That is not the question before the House, but I submit Belgaum is not a suitable place. I now wish to say a few words about this regrettable provincial mentality ; every province fighting for itself. If every presidency of this big country of India were to look for itself and every division of each

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province or presidency is to look for itself, where will the nation be, I ask? If each district were to ask for all the facilities, for an arts college, for a medical college, for an agricultural college and so on, where is this to end, may I know? Will it be possible?

Mr. S. T. KAMBLI: There will be a college in every village.

The Honourable Mr. B. V. JADHAV: If that were possible, I should not be glad of it. Government have gone through this question very fully. I think students from the Karnatak do get accommodation in the Poona Medical School. I shall be obliged if the honourable mover will point out whether any students from Belgaum or from the Karnatak have been refused admission into the Poona Medical School. If there is a marked want of accommodation in the existing medical schools, then there will be a very good plea for opening more medical schools....

Mr. S. T. KAMBLI: Does not distance count in the matter?

The Honourable Mr. B. V. JADHAV: I do not think it counts much in these days of railways and telegraphs—distances have been much curtailed by modern improvements in transport. I want to tell this House that I am not averse to the opening of more medical schools or more hospitals. I am always asking for more provision for the nation-building departments, but I for myself do think that the time for a new medical school has not yet arrived. The Poona Medical school can be expanded a little to take all the Karnatak boys that will be offering themselves for admission and till these boys or any other boys are not denied admission to the medical school, I do not think a strong case has been made out for the addition of a medical school. As I have pointed out, the clinical material for a medical school is the first need of the highest importance and a medical school can only be opened at a place where there is a large number of patients available for teaching. Dr. Paranjpye came to the conclusion that Belgaum was a place which did not contain sufficient clinical material and I also think that he was in the right. And for this reason Government regret that they cannot accept the resolution in its present form.

The Honourable Mr. H. S. LAWRENCE: It appears to me that there is a certain amount of misunderstanding in the minds of the gentlemen who are putting forward such proposals with so much fervour. The first point I would ask this House to consider is whether it is more important to have schools in local areas than to have efficient schools for the teaching of medical science. We have recently seen a very great development of interest in medical institutions. The number of lads who are now asking for medical training has increased enormously. The pressure upon the accommodation available in the J. J. Hospital has resulted in Government being required to spend a very considerable sum of money in improving the teaching equipment in the J. J. Hospital, Bombay. The same thing has happened in Ahmedabad; the same thing has happened in Poona, and the same thing is happening in

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Hyderabad, Sind. All these existing medical institutions have demanded very much larger sums than ever before, for better equipment, for better laboratories and for the teaching of more students. Government are doing their best to cope with all these demands that have come upon them within the last few years. When we are asked to open a new school, we have to compare the merits of that demand with the merits of the demand for improving our existing institutions. I submit to this House that it is far better that young men should be trained to a full degree of competency than that men should be trained in local areas. When funds are being distributed by Government, it is always a question of comparing the urgency of one demand with the urgency of another demand and we have to do our best to measure the degree of urgency, and in our estimation it is of greater importance to make the teaching thoroughly efficient in existing institutions than to open new institutions. That is an additional argument to the argument which has very rightly been put forward by the Honourable Minister to say that Belgaum is not a good centre. I would merely reinforce that argument,—because I happen to know Belgaum—by saying that the population of Belgaum is small compared with that of other centres like Poona, Ahmedabad and Bombay, and that the number of patients attending at the hospital has been very small up to the last few years. It is, I know, increasing, because the hospital itself has been very greatly improved at considerable expense within the last three years.

Some honourable members have based their claim on the score of the revenue derived from the Karnatak. That, Sir, is again a claim based on local considerations, which the Honourable Minister very rightly deprecated. I would not merely deprecate it, but I would point out that the claim is incorrect in the application which has been given to it. The revenues of the Southern Division are no doubt similar to the revenues of other Divisions, but the Southern Division is divided into two very clearly defined sections, namely, the districts of Kanara, Ratnagiri and Kolaba, and the three districts of the Karnatak. The districts of Kanara, Ratnagiri and Kolaba are, in respect of their medical teaching for their young men, served by the medical institution in Bombay city. Therefore, the demand which these honourable members put forward is limited to three districts, and the claim must be compared on the basis of the revenues of these three districts, and not the whole of the Division. It is therefore an incorrect claim. Students from the Karnatak have, I understand, been attending the institution here in Poona, and though no doubt, as the honourable member Mr. Kambli pointed out, it is inconvenient for young men to come to a city where a different language is spoken and it does add to their expenses, yet I would suggest that the proper method of meeting that difficulty is not by establishing an institution which cannot be efficient in circumstances which are quite unsuitable, but by providing some system of scholarships to enable the young men from that part of the country to meet the additional expenses. That is the process which has been applied elsewhere, and if that is any alleviation of the difficulties experienced by

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the people of Karnatak, I would suggest that to the honourable members as a reasonable form of relief and assistance to the people whom they specially represent. But I do suggest that the particular motion before this House is one which should not be accepted for the reasons which the Honourable Minister has given and which I have supplemented.

Mr. S. N. ANGADI (Belgaum District): Sir, I want to point out very emphatically that neither Dr. Paranjpye nor the present Honourable Minister is a fit person to judge of the suitability of a place for starting a medical school. When I say that the Surgeon General was persistently putting forward this proposal for a medical school at Belgaum, it must be presumed that he had taken all the considerations put forward not only by the Honourable Minister but also by the Honourable the Finance Member into his consideration. Besides, I would point out that there is also a Vaccine Depôt at Belgaum, and that Belgaum was deliberately preferred to Dharwar. The proposal was at first to start it at Dharwar; then it was thought that Belgaum was a much better place for reasons best known to the Government themselves.

The Honourable Mr. H. S. LAWRENCE: May I ask the honourable member what the Vaccine Depôt has to do with the question?

Mr. S. N. ANGADI: It is said, Sir, that we should care more for efficiency than for the number of schools. So says the Honourable Finance Member. I never said that we did not want efficiency. We do want efficiency, and I was surprised that the medical schools and the Grant Medical College have not been sufficiently efficient and Government have still to make efforts to make them efficient.

When I moved my resolution I anticipated all these objections, and said that if Government did not desire to accept the resolution, they would come out with all sorts of excuses and all sorts of arguments. I however hope that they will once again reconsider the position and accept the resolution.

The Honourable Mr. B. V. JADHAV: Sir, I have nothing to add.

Question put. House divided. Ayes, 11; Noes, 21.

Motion lost.

Division No. 17.

Ayes.

AHMAD, MOGLVI RAVIUDDIN
ANGADI, Mr. S. N.
BEDREKAR, Khan Bahadur I. M.
BOLE, Mr. S. K.
KAMBLL, Mr. S. T.
MANSURI, Khan Sahab A. M.

MUJUMDAR, Sardar G. N.
NAVLE, Mr. N. E.
PATHAN, Mr. A. F. I. K.
SARDESAL, Mr. S. A.
SUBVE, Mr. A. N.

Tellers for the Ayes: Mr. S. N. ANGADI and Mr. S. T. KAMBLL.

Noes.

BUNTER, Mr. J. P.
CLEMMENTS, Mr. E.
DEHLAVI, the Honourable Mr. A. M. K.
FRANZI, Mr. K. S.

GHOSAL, Mr. J.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HATWARD, the Honourable Sir MAURICE

Noes—contd.

HOTSON, Mr. J. E. B.	MONTGOMERIE, Mr. A.
JADHAV, the Honourable Mr. B. V.	MOUNTFORD, Mr. L. J.
JEHANGIR, the Honourable Mr. COWASJI	PAINTER, Mr. H. L.
KAZI INAITULLAKHAN	PATEL, Mr. A. E.
LAWRENCE, the Honourable Mr. H. S.	THOMAS, Mr. G. A.
MASTER Mr. A.	WILES, Mr. G.
MEHTA, the Honourable Sir CHUNILAL	

Tellers for the Noes : Mr. A. MASTER and Mr. E. CLEMENTS.

Mr. R. G. PRADHAN (Nasik District) : Mr. President, the resolution that stands against my name reads thus :

“ This Council recommends to the Governor in Council that in view of the recommendation by the Auxiliary and Territorial Forces Committee, immediate steps be taken to teach elementary military drill, and, in general to impart military education in high schools.”

Honourable members are probably aware that in 1924, in pursuance of a resolution adopted by the Legislative Assembly, the Government of India appointed a committee to inquire into and report on *inter alia* the expansion of the Indian Territorial Force and other cognate questions in connection with the expansion and improvement of the Indian Territorial Force. That committee was presided over by no less a distinguished military officer than Lieutenant-General Sir John Shea, Adjutant-General in India. Among the prominent members of the committee were distinguished men like Sir Sivaswamy Iyer, Dr. Paranjpye, Dr. Hyder, Captain Ajab Khan, Captain Suraj Singh and Lieut.-Col. Gidney. The recommendations they made were unanimous and among those recommendations was one on which my resolution is based and which it seeks to give effect to.

This honourable House will show me some indulgence, if I read the exact terms which they have used in their report. They say :

“ We recognise that in the present time, there may be serious difficulties in the way of establishing cadet corps in all schools in India but a beginning can be made even in schools with the teaching of the elementary principle of civic duty and with physical training and elementary military drill.”

It is this recommendation, Sir, that I am asking this Government to give effect to by my resolution. Sir, when one thinks of this resolution one is bound inevitably to be reminded of the military problem of India in all its aspects and in all its phases. But it will not be proper for me in speaking on this resolution to deal with that problem as a whole : I must confine myself to the particular issue which I have raised in my resolution. There are, however, two fundamental considerations to which reference must be made. The first of those fundamental considerations is, that His Majesty's Government have now declared that India shall be a fully self-governing country, that in the fulness of time India shall have responsible Government such as obtains in the Dominions within the British Empire. That has now been declared and adopted as the deliberate goal of British policy in India. That is then the first consideration which I ask the honourable House to bear in mind in approaching my resolution. The second consideration is this, that it is recognised on all hands, by our English friends as well as by ourselves, that full responsible Government connotes that we must be self-sufficient

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in matters of national self-defence. The ideal, the goal, of self-government necessarily involves that India should be self-sufficient so far as her national defence is concerned, so that she may be able to maintain peace and order within her own borders and also to defend herself when her integrity is threatened with foreign aggression. That is a consideration which has been recognised on all hands. The principle of national self-sufficiency in matters of national defence necessarily means that we must have an Indian navy and an Indian army, consisting almost exclusively, if not quite exclusively, of Indians, officered by Indians and complete in every branch. Now, Sir, these are the fundamental considerations about which there is absolutely no difference of opinion. Now, it follows from this that if these considerations are to materialise into concrete results, if the ideal is to be reached in the fulness of time, if the indianisation of the Army is to take place, we must have the necessary military training, the martial spirit must be evoked and must be diffused amongst all classes and communities in India, and we must have what I might describe as the military atmosphere. This military atmosphere must then be created in our country. And what can be a better means of creating and diffusing that martial spirit and of producing that military atmosphere than to train our young boys in the military art and impress upon their minds from the days when they are receiving their education in schools, that it is their patriotic duty to defend their country whenever any danger might threaten her frontiers? Therefore it is necessary from the time that they begin to take their lessons in high schools that they should imbibe lessons which will make them good citizens and also good soldiers so that if circumstances occurred they might take their legitimate share in the defence of their country. We must, therefore, from the time that our boys receive their education in high schools give them military drill and the elements of military education.

Sir, I do not think that there will be any difference of opinion as regards the propositions that I have advanced, particularly in view of the fact that I have behind me the unanimous support of the committee to which I have made reference at the beginning of my speech. Sir, in almost all civilised countries some such thing is done. Of course in some countries there is compulsory military training, but in all civilised countries such as England, France or Japan care is taken to educate the youth of the country on the lines which I propose. Sir, with your permission I shall just refer to a few sentences from a book, entitled "*Japan of the Japanese*". I am sure they will be found very interesting and inspiring by members of this honourable House. I shall quote a few sentences in which the action which is taken in this direction by the Japanese Government is described.

"We should not conclude" (the author says) "without a word as to the manner in which the military spirit has been fostered in all the elementary and secondary schools of the empire. Military drill is obligatory in every school, and it is not only on the parade or playground that it is carried out. Whole schools perform long marches of several days' duration in the country, each boy carrying his knapsack and other requisites, the elders carbines, and the younger, not strong enough to use a carbine but healthy enough and with sufficient courage and endurance to accomplish a march, carrying

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wooden dummies with which they proudly and jealously go through the rifle drill along with their elders. These boys are already soldiers when the time comes for them to join the ranks not only having mastered all the elements of their drill, but having acquired some knowledge of the principles of campaigning. No one who has ever made a summer trip among the hills adjacent to any large town in Japan can have failed to meet, once at least, an entire school on the march, and whoever has done so, cannot but have been impressed by the bearing of every boy in it, and the pride with which all step out to the music of their trumpets. Conscription and drill from early youth have given Japan an army which makes her impregnable. They have also immensely improved the national physique, and have been prominent factors in changing the crouching, timorous serf of forty years ago into a dauntless soldier and a self-respecting citizen."

What the Japanese Government and the Japanese people have done we want to do in our country. We aspire to bring about that state of things which the Japanese Government and the Japanese people have brought about in their country. Sir, I feel confident that my resolution will be acceptable to the Honourable the Minister for Education. He belongs, Sir, to a community which has martial traditions and which has played a remarkable part in the military history of this country. If he accepts this resolution, he will have the satisfaction of making a contribution, by no means unsubstantial, to the solution of an important and difficult problem. I believe that if he accepts this resolution and if he does his best to give effect to it, his name will remain imperishable in the annals of this Presidency. (Hear, hear.) This single act will immortalize him in the history of the progress which India has been making under the reformed constitution. I sincerely hope that he will accept this resolution and not disappoint me.

Question proposed.

The Honourable Mr. B. V. JADHAV : Sir, I have great pleasure in agreeing with what has fallen from the eloquent lips of my honourable friend from Nasik, not for the bait or the temptation he has held forth before me of making my name imperishable but for the fact that military education is very necessary for the progress of this Presidency. The Territorial Auxiliary Force Committee's report is in the hands of Government and also in the hands of the public and I may assure the honourable member that it has been engaging the serious consideration of this Government as well as the Government of India. This Government is in communication with the Government of India and as the military is a subject mainly in charge of the Central Government, this Government is not in a position to come to any decision until the Government of India gives their decision. I may assure the honourable member that as soon as the decision of the Government of India is known, this Government will do all that lies in their power to see that the interests of Bombay are furthered in this respect as much as possible. With this assurance, I hope that the honourable member will withdraw his resolution.

Mr. R. G. PRADHAN (Nasik District) : Sir, I must express my gratitude for the very sympathetic speech which the Honourable Minister has made. I was confident that he would receive this resolution in a sympathetic spirit and I am glad that my confidence has been justified by what he has said. If he would give me this further assurance that the proceedings of this Council, brief as they are, with regard to this resolution

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will be sent to the Government of India, I am prepared to withdraw my resolution.

The Honourable Mr. B. V. JADHAV : Yes.

Mr. R. G. PRADHAN : I ask for permission to withdraw my resolution.

Question put and leave granted.

Mr. A. N. SURVE (Bombay North) : I beg to move formally my first resolution which stands in my name. It reads as follows :—

“ This Council recommends to Government to abolish the totalisator in the third enclosure at race courses in Bombay and Poona. ”

In view of the statement or rather the assurance given by the Honourable Leader of the House I do not think that it is necessary on my part to make a speech in support of this resolution. I simply place the resolution before the House and I trust the Honourable Leader of the House will accept it.

Question proposed.

Mr. A. MONTGOMERIE : Sir, I have already pointed out to the honourable member that in the first place there is no third enclosure in Poona and there can be no totalisator in it and in the second place that we have approached the Western India Turf Club with a view to the closing of the third enclosure in Bombay at the earliest possible opportunity and in the next license which is issued to the Western India Turf Club there will be provision against the third enclosure in Bombay. I think that meets with the honourable mover's wishes and I think he will withdraw his resolution.

The Honourable Mr. H. S. LAWRENCE : I propose the omission of the words “ and Poona ”.

The Honourable the PRESIDENT : The resolution as amended reads as follows :—

“ This Council recommends to Government to abolish the totalisator in the third enclosure at the race course in Bombay. ”

The Honourable Sir MAURICE HAYWARD : We can accept this, Sir, as we have already accepted to do it from next year.

Question put and carried.

Mr. S. K. BOLE : Sir, the resolution that stands in my name runs thus :

“ This Council recommends to Government to appoint a committee to enquire into the whole question of the management of the Bombay mill industry. ”

Sir, so much has been said on this subject that I need not take up the time of the Council. But at the same time, I shall have to say something. Sir, the House is well aware that during the last session I moved for the adjournment of the House in connection with the mill industry situation, and at that time a recommendation was made to Government for the remission of the excise duty. But I feel very sorry, Sir, that the Government of India whom the Bombay Government approached, did not move

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in the matter. I may say that the Government of India is "fiddling whilst Rome is burning". Sir, the strike situation in Bombay, owing to the 11½ per cent. cut that is effected in the wages of the mill workers, will grow gradually worse, and worse, and therefore, it is very necessary that Government should interfere. It is true that the industry is suffering on account of high freight charges, the exchange policy of Government, enhanced import duty on the machinery, Japanese competition, and so many other things, one of which is excise duty, about which I have said enough. But, Sir, when the Government of India is not moving in the matter, it is the duty of the Bombay Government to come to the rescue of the industry as well as to the rescue of the poor workers. It is now about 7 weeks that the strike is going on and the poor strikers are suffering on account of the loss of employment. The wages that they used to get were not sufficient enough to maintain themselves and it is but natural that they found it advisable and necessary to go on strike on account of the cut of wages as there was the fear that if the wages were once cut, they would never be restored. Sir, the other remedy I submit is to make an enquiry about the industry. The mill-owners themselves should have made a sufficient enquiry in this connection. They should have made a searching enquiry into their own affairs. The only cut, the small cut, which they have made in the wages of the poor workers would not help them very much. Sir, in the boom time had they used their bumper profits in building sufficient reserve fund, then the present position would not have arisen. There must be something rotten in the system of the industry itself. Sir, in the first place, the hereditary agency system is not good. That is at the bottom of all this trouble and it must, I submit, go. Sir, the industry has fallen into incompetent hands on this account. No doubt the originators of the industry might have been efficient persons, but now the present generation into whose hands the industry has fallen, are not looking to the industry as their forefathers did. Then again, there is the system of mutual directorships. Sir, it will be found from the names of the directors of mills that the same men are directors of several other mills. Some are directors of certain mills, and some are directors of other mills. So there is that mutual understanding between the directors of different mills. There is that happy family arrangement. Then again, one of the causes of mismanagement and depression is, I submit, speculation. Sir, these managing agents indulge in speculation, and whenever they make profits by their speculation, they credit the profits to their private account, and when there is any loss, then the same is debited to the mill account. That is the way of keeping accounts and managing these mills. Then there are various other ways by which commissions are pocketed. The mill agents are agents of the mills. They pocket their commission for managing their mills, and have got their own private agencies by which they manage the insurance firms, and they pocket the insurance rebates. That is a vast amount. Then, there is the coal commission. In the purchase of cotton, which amounts to 80 per cent. of the cost of expenditure, there also they pocket vast amounts as commission

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and brokerage. If they had purchased cotton direct without any agency, then the whole of the commission would have been credited to the account of the mills. But that they are not doing. They have got their private commission agencies for that also. Then, there is the machinery agency, mill-supplies agency. Some of the mill agents have got their own relatives from whom they buy their supplies and give them commissions. That is the way of pocketing commissions and brokerage in various ways, and that is the cause of the ruin of this industry.

Then again, the expenditure of the management has increased. They get their own relatives and friends as managers and deputy managers, superintendents and deputy superintendents, and so on, and they have got also other very highly paid men for the management of these mills. Had they impartially made selections of expert men, they would have got among our own Indians and outside their family groups very competent men who could manage the affairs of mills very well and with less cost. Then, a good deal of corruption is also going on. When they employ highly paid men....

MOULVI RAFIUDDIN AHMAD: I rise to a point of order, Sir. There is not one representative of the mill industry present here to-day to answer the aspersions made by the honourable mover on the character of the millowners and mill managers.

The Honourable the PRESIDENT: How is that a point of order?

MOULVI RAFIUDDIN AHMAD: I thought it was.

The Honourable the PRESIDENT: The representatives of those interests who are members of this Council had notice that this resolution was coming on and it was their business to be present. It is not a point of order, and the honourable mover is perfectly entitled to speak on the question of the management of the Bombay Mill Industry.

(After recess.)

Mr. S. K. BOLE: Sir, one honourable member took objection when I made some charges of corruption against some of the mills, but that was not a general charge or a charge made behind the back of the mill representatives but the charge has been publicly made in the press and on the platform. It must be remembered that it is not made against all the mill managers or mill agents. It is a well-known fact that when one has to get employment in a mill, one has to pay some consideration to some responsible officer in that mill and this system of employing men is responsible for inefficient management to some extent.

This time every effort was made on behalf of the mill workers and negotiations were carried on between the millowners and mill-workers. Deputations on behalf of the workers waited on the committee of the Millowners' Association and they placed the grievances of the mill-workers before them. The deputations even waited on His Excellency the Governor, who, I must admit, gave a patient hearing to the deputations

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and who showed sympathy towards labour. But now what is required is practical sympathy. Unless practical sympathy is shown by His Excellency the Governor, I think the situation will grow more serious and go from bad to worse. The mill-workers are by nature docile and quiet and sober but necessity has no law and when they will be out of pocket and get nothing on credit then I am afraid there will be trouble and mischief. If that happens, the responsibility will lie on the mill-owners. It is said that Government have no statutory powers to appoint a committee of enquiry. I submit that if Government have no statutory powers, they must find out some way for settling the dispute. While Government are not coming to the help of the mill-workers they are giving protection to the millowners by protecting their mills and posting police guards at their mills.....

Khan Saheb A. M. MANSURI : Without them we won't exist.

Mr. S. K. BOLE : Then Government should at least be impartial.

There is another thing I want to point out and that is that when I referred to mis-management of mills, I did not mean that all the mills were mis-managed. There are some mills which are making profits and yet they have served notices on their workmen that there would be a cut in wages. About half the number of mills in Bombay were working at a profit and yet they reduced the wages of their workers. Is that just? Is that fair, is that right? It is for this House to judge.

It is said that the industry is a national industry. I admit that. I also admit that the wealth and influence of the city of Bombay are due to the existence of this industry to a large extent. But I must say that the welfare of about 2 lakhs of people depends on the fate of the industry and so Government must take some action and should not adopt the policy of "wait and see". That policy will be dangerous not only to the prestige of Government but also to the interests of the mill-workers, the mill-owners and even the country as a whole. I would go further and say that Government might as well take steps even to nationalize the industry.....

The Honourable the PRESIDENT : The honourable member is exceeding the limits of the issue raised in his resolution. The question of strikes, reduction of wages, and various other matters might perhaps be indirectly brought in but this question is about an enquiry into the management of the mill-industry and therefore all these questions which the honourable member is now entering into can hardly be regarded as relevant to the issue.

Mr. S. K. BOLE : What I was going to say was that if the mill industry is nationalised, then the profits that are divided amongst the agents, and the shareholders could be restricted. A certain amount would go to the management, and the rest would go to the workers. That would save a very considerable.....

The Honourable Mr. COWASJI JEHANGIR : Is it the point of the honourable member that it should be nationalised?

Mr. S. K. BOLE: Ultimately, if the committee of enquiry thinks it should be done, it may be done.

The Honourable the PRESIDENT: How can that be the issue in the resolution as moved by the honourable member? An enquiry into the management of the mill industry—that is the issue.

Mr. S. K. BOLE: I have placed my views on the point before the House. What I urge is that it is high time that Government should step in and institute a thorough enquiry, and investigations should be made into the management of the whole mill industry.

Khan Saheb A. M. MANSURI (Ahmedabad & Surat Cities): Sir, I rise to oppose the resolution that has been moved by my honourable friend Mr. Bole. I fail to understand why a man of his standing, who has been working in the mill areas for a long time should have emboldened himself to bring a resolution of this nature before the House. Sir, under the statute as it is at present, any shareholder, who has got his interest in any mill which is a limited concern, is at full liberty to apply to a court to enquire into all the details of the management of the mill, in case the mill refuses to show him the accounts. As it is, Sir, I do not think that any mill will refuse to allow a shareholder to go into the statements of account. Sir, my honourable friend the mover of the resolution fails to realise that we are fortunate in having such philanthropic people who have come forward and started mills, which is a nation-building industry. Is it right and fair that people should come up, without having the least interest for themselves in the industry with such a resolution as my honourable friend Mr. Bole has moved? Sir, I think the time at our disposal is limited, and I do not think a long speech is necessary. I would simply say the resolution is uncalled for, undesirable and unjust, and should be thrown out.

Mr. A. N. SURVE (Bombay City, North): Sir, I rise to support the resolution that is before the House. The resolution shows the good intentions of the honourable mover. There is no doubt that the mill hands are not justly, equitably and fairly treated. The existing statutory arrangement is not quite sufficient to give them adequate protection. There are the factory laws. Those laws only provide to see that the mill hands are not overworked, and provision is made for some other matters also. If the Statistics Bill had been passed, then perhaps the Government would have been able to appreciate better in what ways the mill hands were ill-treated. At least I can point to one or two instances in which they are very unfairly treated.

Take for instance, the non-payment of fractions of annas. In some mills, if a mill hand gets say about 11 pies, then, at the time of making payment to him those 11 pies are not given to him, because it is a fraction of an anna. In some mills they cut fractions of 2 annas. That is, if a man gets about 1 anna and 11 pies, that man will not be paid that amount. I really do not see under what particular rule the millowners can make a cut like that. If each man every month has to lose these fractions of an anna, it makes a very large sum, because the number of the mill hands is over a lakh and a quarter. All this money practically

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goes into the pockets of the millowners. Also, take for instance the fines. They maintain a fine fund, but what happens to that fine fund ? It is only the millowners that know. I had sent in some questions on the subject, but according to our rules they were not admitted. If the Government had the power of getting out the facts on these points, they would see what a vast amount the millowners are pocketing from these mill hands. There are other factors also. The mill hands are in the hands of the jobbers, the other higher servants in the mill, and they have to surrender to inequitable demands on the part of these jobbers. So, there is very good scope for an enquiry into the question raised by the honourable member representing labour. His intentions are very good, and I request Government to see their way to accept this resolution as far as they can.

Mr. S. K. BOLE : Sir, I was not surprised to see that my resolution was opposed by the honourable member Khan Saheb Mansuri who is dealing in cotton waste. Sir, the resolution no doubt affects his interests.

The Honourable the PRESIDENT : The honourable member is not entitled to attribute motives to any honourable member for the attitude he takes in regard to such public questions.

Khan Saheb A. M. MANSURI : May I rise to offer a personal explanation ?

The Honourable the PRESIDENT : I have already ruled him out of order.

Khan Saheb A. M. MANSURI : I am not a mill agent.

Mr. S. K. BOLE : He said there are shareholders who could scrutinise the accounts of the mills. The thing is this, that these mill agents themselves possess a large number of shares and hold from other shareholders proxies and in that way they nonplus any shareholder who takes objection at such meetings. That is the way how the mill agents get the upper hand at the annual general meetings, and those shareholders who take any objection are not able to cope with the situation. My honourable friend Mr. Surve was right when he said that had the Government got the Statistics Bill passed in this House that would have helped the Government very much. But in that connection I think the Government have played into the hands of the capitalists and did not introduce such a bill. So also, the Industrial Disputes Enquiry Committee that was appointed by this House had made a report that some Board of Arbitration should be appointed by Government for the settlement of strikes and for that purpose a bill was suggested by them. The Bombay Government took up the suggestion and introduced the Industrial Disputes Bill into this Council, but the Government of India came in the way and the bill was withdrawn. Had that bill been passed, it would have helped us now. All these things will show how the Government of India is responsible for these things. Still I hope the Bombay Government will find out some means to ease the

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situation that has been created. With these words, I request the Honourable Member in charge of the portfolio to accept the resolution.

The Honourable Mr. COWASJI JEHangIR: Mr. President, honourable members who have followed the discussion in the press and sometimes on the platform during the present mill strike most probably are already aware of many facts connected with this resolution. This is not the first time that the honourable mover is face to face with Government discussing this question. I regret that the honourable mover did not confine himself a little more to the resolution before us and point out how Government can give effect to it. He has made serious allegations against the millowners in Bombay, and I am not here to defend them. That is not my duty. As you have already pointed out, Mr. President, the responsibility of defending the millowners lies on the shoulders of the representatives of the millowners in this Council. In their absence it is not for me to either defend them or to condemn them. I have only to confine myself within the four corners of this resolution and examine how Government can give effect to it and if Government give effect to it, what the result will be. If the honourable mover had helped Government by his suggestions in this direction we should have been obliged to him; but I have listened to his speech most carefully and did not find one single practical suggestion as to how to put this resolution into effect and that if we did what would be the result. He simply asks Government to appoint a committee to enquire into the whole question of the management of the Bombay mill industry. In other words, he asks this honourable House to join him in a demand for the appointment of a committee to go into the internal management of a particular industry in this presidency.

Now, Sir, it has always been held that Government should interfere as little as possible in the private affairs of the citizens of this presidency. This resolution demands that the committee should be appointed to investigate how certain industrial concerns are being managed and the honourable member Mr. Surve would actually require this committee to go into such details as how they make payments and how fines are disposed of by private companies. Suppose for one minute that Government were inclined to give effect to the suggestion put forward by my honourable friend and my honourable friend was the chairman of this committee. How would he proceed? He would first require evidence to prove the many accusations he has made. I think he would find it rather difficult to obtain proof without the assistance and co-operation of those whom he accuses. Either they must plead guilty to the charges he may make or they must defend themselves before this committee. He knows that the committee can be given no powers to compel any witness to appear before them. He knows also that Government cannot compel any one to serve on this committee if he does not desire to do so. Under these circumstances this committee will be a fiasco.

What would be the result of the appointment of this committee? Assume for the sake of argument, that the committee has been appointed and that there is some mismanagement in certain mills. The well-

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managed mills may submit their accounts. How is he going to insist upon the co-operation of the mills that have been mismanaged? My honourable friend will turn round and ask: "When are these people going to be prevented from continuing their nefarious actions resulting in the ruin of their employees?" The answer to it is: If there is mismanagement, it is not only the employees who suffer but all those who have invested their moneys in that concern. Those who have invested their moneys in the concern have an effective voice in the management and it is for them to ask for explanations and to call upon the management to remedy the state of affairs both in the interest of themselves and perhaps in the interest of their employees. My honourable friend says that the shareholders are helpless and that the millowners at general meetings possess proxies. He has given a complete answer by that assertion to his own argument. The very fact that the millowners get proxies from shareholders shows that the shareholders have confidence in the management and that they do not believe in these allegations of mismanagement....

Mr. S. K. BOLE: They themselves possess a large number of shares.

The Honourable Mr. COWASJI JEHANGIR: That is another point. Surely my honourable friend does not mean to contend that in the mill industry of Bombay the majority of shares are held by mill agents. They are not.

Mr. President, I must repeat that this investigation can only be effectively held by the shareholders themselves. Under the present circumstances Government are absolutely helpless....

MOULVI RAFTUDDIN AHMAD: Why?

The Honourable Mr. COWASJI JEHANGIR: Because if you appoint a committee Government cannot insist upon millowners being members of the committee or give power to the committee to insist upon millowners to appear before them to refute or plead guilty to any charge that may be made. To go into the question of mismanagement you must make them produce their account books. They will not do so. With no account books and with no co-operation it will be a futile effort, and for those who are really anxious to see better management the position will be worse than ever. The committee will have to admit that they could prove none of the allegations, and the position of my honourable friend and his friends who supported him would be worse than it is to-day.

Mr. President, I have tried to point out that however anxious Government may be to help those who are now in distress, if they adopt the method now suggested it would be to the advantage of nobody. Therefore I regret that Government cannot accept this resolution and cannot appoint this committee for reasons which I have already stated, for reasons which have repeatedly been stated to the honourable member who happens to be a member of the associations which have approached Government officially with this suggestion.

Question put and lost.

Mr. N. E. NAVLE (Ahmednagar District): Sir, I beg to move the resolution that stands in my name, namely :

" 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. "

Sir, the police and revenue patils, as is well known both to Government and to the people, are very important Government servants. They have in the past rendered important services to Government, and they are still rendering very important services to Government. These people are extremely low paid. I know a number of cases, at least in my own district of Ahmednagar, where the patils get Rs. 3 or Rs. 5 annually. It may be argued that along with this emolument of Rs. 3 or Rs. 5 they have their inam lands and they get some income from those inam lands. But if we take into consideration the condition of agriculture in the Ahmednagar district, we shall be convinced that the yield of these inams, owing to the famine-stricken condition of the district, is very meagre. When they get practically little or no yield from these inam lands, and when they are given only Rs. 3 or Rs. 5 for their valuable services, I do not understand how in these hard days they can maintain themselves and do very great services to officers of Government. If Government want services from these people, they ought to pay them at least a fair remuneration for their services. I have not with me the exact number of cases in which these people are paid below Rs. 5 in the Ahmednagar district. But in my opinion there is no need of having such statistics. If a patil of a village, whether a revenue patil or a police patil, gets below Rs. 25 annually, then, in my opinion, he ought to get at least Rs. 25. Government derive revenue from the village, and the patil has to render so many important services about which I need not say much here, because much has already been said of the patil and his valuable services by the Commissioner, S. D., when the Hereditary Offices Act Amendment Bill was before this House some two days back. These loyal servants of Government are not paid properly by Government and Government seem to neglect them altogether. My submission to Government is that if they cannot pay them a bigger sum, they should at least pay them Rs. 25, which is a very moderate payment in their case. I had tabled a resolution asking Government to double their pay, and another resolution asking Government to increase it by 50 per cent. But for all those resolutions I did not get a favourable ballot. In the case of this resolution, fortunately I have secured the ballot, and I am able to move it. The demand I am making in this resolution is very modest—only Rs. 25 in the case of a patil who gets below that sum in the Ahmednagar district. I hope that Government will be able to accept the resolution.

Question proposed.

Mr. A. N. SURVE (Bombay City, North): Sir, I rise to support this resolution. During the past five years this question has come several times before this House, and the information elicited during the discussions is really very startling. During the life of the first Council, I remember that it was stated by the benches opposite that there were

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some patils—whether they are revenue or police patils matters very little for our present discussion—there were some patils who were getting the princely salary of four annas per year. If that is a real fact, I really do not know why they should be paid at all. We are always told that the patil is not a full time servant. But I may tell this House that his position is worse than that of a full time servant. If a man is engaged as a full time servant he works during fixed hours of the days. Take, for example, a clerk: he has his office hours from 11 to 5 or 6. But a police patil has to work at any time almost. If there is a fight say at mid-night he cannot say that it is midnight and that he will attend to it the next day. He must run and attend to the fight and catch the defaulters. Thus, to say that a police patil is not a full-time servant is not quite a sound argument to advance. The police patil I know has to attend to several duties and those duties generally engage much more of his time. In some places his duties really are very exacting. Again the police patil is the representative of Government in the village and as such he ought to be paid as befits his dignity. I think the suggestion made in the resolution is a very modest one, Rs. 25 per annum, that is Rs. 2 per month. I think nobody in this House on the non-official side would grudge to give Rs. 2 per mensem to the representative of Government in the village. With these remarks I support the resolution.

Mr. G. W. HATCH: Sir, it would seem absurd to oppose a resolution of this character. The resolution suggests that patils in receipt of an annual remuneration of less than Rs. 25 be given Rs. 25 annually with effect from March 1926. The amount is not a large one, it only means an expenditure of Rs. 3,000 per annum roughly for the Ahmednagar District. It looks preposterous at first sight that an official like the patil occupying the responsible position and performing the responsible duties which my honourable friend on my right (Mr. Mountford) so eloquently described a few days ago should be paid such an inadequate salary. But I hope to show in a few words that it is not so preposterous as it looks at first sight. The remuneration of the patil as this House is probably aware is based on what is known as the Wingate scale; that is, on a percentage of the land-revenue of the village. Well, if the land revenue is small the remuneration is also small. There is one village I have a note of in the Ahmednagar district where the land revenue is Rs. 49 and the patil's remuneration is Rs. 1-8-0. That is a deserted village with no population, the patil probably living in a neighbouring village. He has to collect and pay up land revenue of Rs. 49 once in a year and having done that his work is finished. The remuneration of Rs. 1-8-0 is not entirely inadequate for the work that he has to perform. So it goes on in other villages. There are a number of small villages with a population ranging from 7 to 200, land revenue ranging from Rs. 49 to just over Rs. 200 and the remuneration of the patil in proportion. In cases such as these I do not think it is too much to say that the patil's work can be measured in hours per annum. Therefore the trifling remuneration that we give him is commensurate with the work he has to do. If his village grows bigger he will have more work to do, both

[Mr. G. W. Hatch]

from the land revenue point of view and the point of view of other miscellaneous work that he is expected to do. A patil who draws Rs. 30 has to bring in 3 times as much land revenue as the patil who draws Rs. 10 per annum. If we accept this resolution, the latter would get an increase of $2\frac{1}{2}$ times his present pay, the former would get nothing. It is therefore quite clear that there is no logic or sense in the resolution placed in this form. We cannot accept it. Besides this remuneration the patil in important villages gets special allowances which may come up to Rs. 50 per mensem. There is in addition his emoluments as pound-keeper. In some villages in East Khandesh the patil gets as much as Rs. 150 a year as pound-keeper. So much about his emoluments. Now, it is clear that a patil's emoluments have really nothing to do with the case. Whether we pay or whether we do not pay, the patil takes up his office. I have never in my service known an occasion in which the appointment of a patil did not produce several candidates all eager for the post. The indirect advantages are so great that no man asks whether the remuneration is sufficient for the work that he has to do, he simply takes up the job. I can well imagine some future Government hard up for money putting the patil's appointment up for auction (Hear, hear). Some thing similar was known in the past. To deal with the present I may say that we have not been entirely deaf to requests where there was real hardship. Within the last few years the wages of patils have been increased in three districts, Bijapur, Ratnagiri and Kolaba. There are I believe a few cases in the Central Division where the emoluments are not commensurate with the work. Such cases, I am authorised to state, we are prepared to deal with. I, as Commissioner, shall be prepared to put up recommendations in those cases where the work of the patil has increased and the emoluments are incommensurate with the work he has to do. I will put up such cases to Government with a recommendation that increased remuneration should be given either in the form of cash or land.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Sir, I rise to oppose the resolution as far as alienated villages in the Ahmednagar district are concerned. Supposing this resolution is accepted by the House, then the inamdars will have to pay this additional charge for the revenue and police patils in their inam villages. I have marked the speech of the honourable mover and I do not remember of his having made any mention of alienated villages. If he excludes these alienated villages from the operation of this resolution, then, I have nothing to say about it. But if he includes these villages in his resolution then certainly I strongly oppose the resolution and my argument for that is that Government have got many sources of income from which they can make up this additional charge. But the inamdars get limited income only from land revenue and some miscellaneous items in their inam villages. Agriculturists depend on rain for their income and similarly the inamdars also depend on the rain for their income. As there is lately a succession of famines in the Ahmednagar district the agriculturists have had very bad years, and the inamdars also are similarly

[Mr. G. N. Mujumdar]

placed. It being so, how can this additional charge be met by the inamdars ?

The inamdars are unable to pay this charge and as far as alienated villages are concerned, I strongly oppose this resolution.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I was very much startled to hear the arguments of the honourable representative of the inamdars. The case that has been brought here by my honourable friend behind me is for fair remuneration and, if there is any injustice, to remove it. Well, I cannot find any justification for my honourable friend getting up there and saying that even if there is a case made out for the inamdars to pay a fair remuneration to these people, that the inamdars would not do it and that they should be exempted from it. If non-official members on this side of the House won't do equity to their own people, what right have they on this side of the House to ask the benches on the other side (official benches) to do equity to our people ? I think that is a very unfair attitude for any non-official member to take. On the contrary, I have very great sympathy and I was very much moved by the consideration shown by the honourable member the Commissioner for the Central Division. He, at any rate, said that if there be any cases of injustice, Government would look into the whole affair and remove it. I think that is a very fair attitude to take up and I do not think there is anything for my honourable friend behind me to complain at the attitude of Government. But I do think that these demands come when the Government benches exaggerate the importance of a particular office, when the police patil becomes the representative of His Majesty in the village and all sorts of things are said about him, then, Sir, why, it gives members on this side opportunity to actually bring these observations to the notice of the officials, and then, when such observations are brought to the notice of the officials, when the office is so important, when you expect so many things from them (the patils), why don't you give them a little more than what they now get ? So, "the hen comes home to roost" (Laughter). I know that honourable members (the official benches) will not show mere lip sympathy and refuse the demands when they are actually made here. With these remarks I support the resolution.

Mr. N. E. NAVLE (Ahmednagar District): Sir, I have nothing more to add except one remark. The honourable member the Commissioner of the Central Division was very kind in his remarks in saying that if particular cases of hardship are brought to his notice, he would enquire into such cases and if such cases are found, he would give them proper consideration. But, Sir, he said that no representation has reached Government from the patils complaining against low remuneration. I think he is rather mistaken in this remark. The police patils held a big conference in Poona under the presidentship of His late Highness the Maharaja of Gwalior and I think the representation must have reached Government: when they had such a big conference here and they passed several important resolutions.

The Honourable Sir CHUNILAL MEHTA : May I point out to the honourable member that the Commissioner, Central Division, did not say that no representation had been made by the patils about the inadequacy of their pay? He said that during his long period of service he had not come across any case where a patil was ready to give up his office owing to low remuneration.

Mr. N. E. NAVLE : I am rather mistaken. Sir, resolutions were moved in the first Council for the increment of the patils. But I think any how Government has not seen its way to do something for these people. I hope, Sir, that something may be done for these loyal servants of Government, if not in the terms of the resolution which I have placed before the Council, at least some assurance may come from Government and something may be done for these patils.

The Honourable Sir CHUNILAL MEHTA : Sir, I think the Commissioner for the Central Division explained in great detail the sympathetic point of view that Government are prepared to take on this matter. He said that he was authorised to make a statement and he has done so. I should only like to add a few words for the consideration of the honourable member who has moved this resolution. It is perfectly true that his resolution is restricted to one particular district. I do not think, Sir, that it would be fair to take action with regard to one particular district only. As a matter of fact, for several years together ever since 1920 and 1921, the question of revision of the remuneration of the patils all over the presidency has been examined with very considerable care by Government. As a result of that, in Ratnagiri, Kolaba, Kanara and Bijapur the rates of pay of the patils have been revised and Government looked at it from the point of view, which I believe is the correct point of view, that in considering any revision they ought to take into account the fact that this remuneration is not based upon any economic standard of living at all, that it is part-time service, that the duties are, if I may say so, fitful in their nature, and they (Government) were then guided by the one principle that, where cash remuneration was paid to the patil and where that was insufficient, an increase in the cash remuneration should be given. Well, the reason why we cannot now accept the figure of Rs. 25 that has been put forward by the honourable mover is that in those revisions that have actually come into force in the four districts that I mentioned, the minimum is fixed at Rs. 12 and the maximum is fixed at Rs. 72. Obviously, if we accepted this resolution for Ahmednagar district, we could not possibly say that other districts should not get an equal or, indeed, where circumstances so required it, even a higher minimum. On that ground, Sir, it is not possible to accept the resolution as it stands. Moreover, the revision scale in these districts was fixed on the population of the villages to which these revisions applied, and you will find that where the population was below 500 the pay per annum was Rs. 12, and as the population increases and consequently the work increases, the scale rises from Rs. 12 to Rs. 72, as I said. So it was based on the amount of work that was involved on the patil in the collection of the revenue, etc. I repeat now the assurance that has been given by the Commissioner, Central Division, that wherever cases of hardship are brought to the notice of the

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Collectors and the Commissioners, they have authority to deal with them in a sympathetic manner and they will get the support of Government to that end. I think that the honourable member may rest satisfied with this assurance, and for the reasons that I have given, I hope he will withdraw the resolution.

Mr. N. E. NAVLE (Ahmednagar District): After the assurance given by the Honourable the Revenue Member, I beg leave to withdraw the resolution.

Question put and leave granted.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I move the following resolution: —

"This Council recommends to Government that the Poona Urdu normal classes should be converted into a full training college teaching the third year course."

It is not necessary for me to make a lengthy speech in favour of this resolution. As you are aware, Sir, about 12 years ago after the councils were reformed under the Morley-Minto scheme I had brought a resolution in this House for establishing training colleges for Urdu in the several Divisions and Government had accepted that resolution. Government have accordingly established training schools or classes for Mahomedan pupils in different parts of this presidency. The Committee for the Education of the Mahomedans that was appointed by Government in 1913 had made several recommendations, one of the most important of which was the establishment of a full Urdu training college. I must also state that last year during the Poona session at the instance of the honourable member, the then Educational Secretary (Mr. Thomas), a committee of the Mahomedan members of this Council met under the presidency of the Honourable Khan Bahadur Shaikh Ghulam Hussain. It was asked to point out the urgent educational needs of the Moslems. The committee made a unanimous recommendation about certain matters of which a full Urdu training college with a third year course was a prominent one. The Secretary Mr. Thomas assured us of his support and the Honourable the Minister for Local Self-Government as chairman gave us to understand after some correspondence that there would be no difficulty and Government would accept that demand.

The whole question of primary education as far as the Mahomedans are concerned, is the question of supplying trained teachers. Trained teachers cannot be supplied without normal schools and any economy in this respect was a bad policy. Considering the number of new schools that would come into existence in view of the Compulsory Education Act, the department will require a very large number of trained teachers. The only objection, which I anticipate from the Honourable the Minister for Education who has been so loud in his sympathy for Mahomedan education and whom I am now putting on his trial, is to the latter part of the resolution about the third year course. For that reason a few remarks on the subject would be necessary. The Honourable Minister told me the other day that Government had abolished the third year course in every vernacular training college, and the second year course is the

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ultimate course now that is to be obtained in every vernacular training school and college. We knew this when we met last year in committee. Let me point out to him that Gujarati and Marathi training colleges, have produced a very large number of third year trained teachers, during the last 60 years that these schools and colleges had been in existence. It is therefore quite easy to understand that these teachers have outgrown the demand and that therefore they are not necessary. But the Urdu normal schools teaching the whole course in Urdu have been in existence only during the last ten years. The teachers that have passed the third year course through these schools are, very few indeed. There are no doubt other Mahomedan third year teachers in the department but I want to point out to him that these third year Urdu trained teachers were trained in Marathi or Gujarati and they have learned all the subjects in those languages and they are therefore quite incompetent to teach the course which is thoroughly Urdu. There is, therefore, a very great demand not only for first and second but also for third year trained teachers and therefore I hope the Minister will meet the reasonable demand that the third year course should be added to the Urdu training college. The Urdu normal schools are still called classes. They have not reached the dignity of normal schools. There must first be at least one college teaching the full course. That is a very moderate and a modest demand which I think is admitted to be an urgent one. I have shown the reasons why we want the third year course for Urdu teachers and I have already mentioned that a promise was given to us last year. Hence I hope the Honourable Minister will have no hesitation in accepting this resolution.

Question proposed.

The Honourable Mr. B. V. JADHAV : Sir, I need not take much of the valuable time of this House in giving my reply to this resolution. This resolution, as has been observed by my honourable friend the Moulvi Saheb, consists of two parts. One part is that the Poona Urdu Normal Classes should be converted into a full Urdu college and the other part is about the teaching of the third year course.

As regards the first part, Sir, I need not say much. Up to the present year the Urdu classes were located in the building of the Marathi Training College and the Principal of that training college was the head of the Urdu training classes also, but from the current year this has been changed, and the Urdu training classes have been removed to another building and full authority is invested in the headmaster of the training college. It is now a training college and does not occupy the secondary position which it did up to the last year.

As for the third year course I need not say much. I will merely read a few lines from the Resolution No. 2658 dated 6th November 1923. This resolution is about the training of Urdu teachers and it says that the percentage of second year and third year Urdu teachers in the Central Division and the Southern Division is sufficient, and there is no need of increasing, at all events, the third year trained teachers. So

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in the Poona Urdu training school two classes—a first year training class with 35 boys and a second year training class with 25 boys—have been maintained, and every year 35 and 25 students from the first year and the second year class respectively are turned out as Urdu teachers, and that is quite sufficient for the necessity of the present demand. I may also at the same time say that, when the need for third year trained teachers arises, Government will always be ready to open third year training classes for Urdu teachers, and also for the Marathi, Gujarati and Kanarese schools, if the necessity arises, they will also open those classes. But at present, the number of teachers for Marathi, Gujarati, Kanarese and Urdu is quite sufficient according to the proportion laid down, and until the necessity arises, Government do not think it necessary to open additional classes and have additional teachers, because there is not sufficient work for third year trained teachers. It has also been found that there is not much difference in the efficiency of second year trained and third year trained teachers. The third year trained teacher is a dearer article, but his efficiency does not rise in proportion to his training. The department is rather unwilling to have a third year training course. They are now proposing to have improvements in the second year course, so that the second year teachers in future will be made more efficient. All these rules will be applicable to the Urdu training colleges as well. The needs of the Urdu schools are sufficiently borne in mind, and the proportion of Urdu teachers to Urdu schools is maintained, and I do not think there is at present any need of a third year training course for the Urdu schools. As for the Northern Division, there was need for them, and even after the closure of the third year training classes for Gujarati, Marathi and Kanarese, the third year training classes were maintained for Urdu teachers in Ahmedabad college for two years. So, Government are alive to their duty of having an adequate supply of Urdu teachers, and therefore I hope that this explanation of mine will satisfy the honourable mover and he will withdraw the resolution.

MOULVI RAFI UDDIN AHMAD (Central Division): Sir, I must say that the reply of the Honourable Minister is extremely disappointing. He has not answered my arguments. He says that there is already an adequate number of third year trained teachers in Urdu schools, but he has not quoted figures to show that. I do not know what he calls an adequate number. I say that they are inadequate.

Secondly, I have told him that the Gujarati and Marathi training colleges have been teaching for the last 50 or 60 years and the Urdu training schools have been started only ten years ago. Should not more consideration be shown to the new Urdu schools and do they not fall in a different category? He has no reply to give to that.

Then, Sir, he says that there is adequate number of third year trained Mahomedan teachers. But I challenge him to deny that these third year trained teachers are trained in Marathi schools and therefore I ask that an additional number of such trained teachers from the new schools is necessary. Is that not a legitimate demand? We do not benefit

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much from the old third year teachers, and we badly require new third year trained Urdu teachers. The answer given by the Honourable Minister is no answer at all. In the first place, we require a large number of fully qualified Urdu teachers. Other communities have got the benefit of having an adequate number of third year trained teachers because their colleges had a start of 50 years. Ours are infant institutions. Some of the third year trained Urdu teachers are sent to Marathi schools, which is another grievance of ours. He has no answer. Then, Sir, the second year trained teachers cannot be as efficient as the third year teachers. Other communities produced such teachers in excess of their requirements. We are hampered at the very start.

Then, Sir, I want to ask the Honourable Minister what is his idea of a full training college? He is ready to give us a full college, but a full college must teach up to the third year course. Our school just now teaches only up to the second year course and to develop into a college it must teach the third year course. Other training colleges have all been teaching the third year course so long that they have too many of the third year teachers and therefore they need not turn out any more of them. But that is not the case with the new Urdu training institutions.

Lastly, Sir, there is the question of payment. We have heard so much in this House of the Sathé-Paranjpye scheme which is intended mainly for third year trained teachers. Our Urdu teachers cannot be satisfied with the pay of only second year certificate. The Honourable Minister stops their prospects of promotion by refusing to grant them the third year course. The Urdu teachers from these new schools have just come into existence. They complain that the Honourable Minister desires to shut their door of promotion as he does not allow them the third year course. That is a very legitimate grievance.

Sir, I have advanced very sound arguments, and I am not satisfied that my arguments have been answered. At any rate it was open to the Honourable Minister to say that as an exception he would allow this facility to the Mahomedans. He has made no such answer. After that how can he avow that he is satisfying Mahomedan aspirations, and what becomes of his loud sympathy for Moslem Education? It is hypocritical. Is it too late to ask him to change his mind and accept this resolution?

The Honourable Mr. B. V. JADHAV: Sir, the honourable mover of the resolution wants figures, and I am ready to supply them. His argument is that the third year trained teachers are trained in the other vernaculars but Urdu, and they are unfit for teaching Urdu. I do not accept that view, and from the figures it will be shown that his presumption is not correct. In the Central Division the number is vernacular-Urdu, 5; Urdu-vernacular, 52 third year trained teachers; in all 57. They are Urdu teachers for Urdu schools, they are not for other vernaculars.

MOULVI RAFI UDDIN AHMAD: Where do they teach?

The Honourable Mr. B. V. JADHAV: They teach in the Urdu schools in the Central Division. In the Northern Division the number is vernacular-Urdu 43 and Urdu-vernacular 33; in all 76. In the Southern Division.....

Mr. A. E. PATEL: What is the total number of third year trained teachers in Urdu? For comparison, give us the total number of other trained teachers also.

The Honourable Mr. B. V. JADHAV: These are Urdu teachers employed in Urdu schools, and they are teaching Urdu.

MOULVI RAFIUDDIN AHMAD: To ascertain the proportion between the Urdu teachers and the other vernacular teachers, will the Minister give figures of other vernacular teachers also?

The Honourable Mr. B. V. JADHAV: I fail to understand the propriety of that question. If the other schools are ten times more in number, the number of teachers will also be ten times more. The teachers are provided for the schools, and not for any other purpose. If the number of schools increases, the number of teachers will also increase.

In the Southern Division, the number of teachers is 22 *plus* 86, that is 108; they are third year trained. The total number of the second year trained teachers there is not very high. So, it will be seen that the proportion of the third year trained teachers is too high. The second year trained teachers in the Central Division are 16 *plus* 100, that is 116; it is 38 *plus* 34, that is 72 in the Southern Division. In the Northern Division there are 72 second year trained teachers while there are 76 third year trained teachers, a difference of 4. As a matter of fact, if the third year training class is maintained, the number of third year trained teachers will abnormally increase, and we cannot maintain the proportion of first year, second year, and third year trained teachers. The second year trained teachers in the Southern Division are 18 *plus* 74, that is 92; while the number of third year trained teachers in that Division is 108, that is, 16 more than the number of second year trained teachers. So, it will be admitted that due proportion of first year, second year and third year trained teachers ought to be maintained. The number of third year trained teachers ought to be stopped for a time. The first and second year teachers are trained in large numbers and as soon as proper proportion is reached, that will be time for starting the training of third year teachers.

Khan Saheb A. M. MANSURI: What about Ahmedabad?

The Honourable Mr. B. V. JADHAV: It is in the Northern Division. There are 76 Urdu third year trained teachers.

MOULVI RAFIUDDIN AHMAD: How can you call them third year trained teachers in Urdu, when they are trained in Marathi and Gujarati training schools.

The Honourable Mr. B. V. JADHAV: They are teaching the Urdu vernacular.....

MOULVI RAFIUDDIN AHMAD: Are there not third year Mahomedans who are trained in Gujarati and Marathi training colleges? Is the Honourable Minister prepared to deny this?

The Honourable Mr. B. V. JADHAV: I think I may deny that.

MOULVI RAFIUDDIN AHMAD: What are your arguments?

The Honourable Mr. B. V. JADHAV: They are shown here as Urdu trained teachers who have had three years' training in the Urdu training college.

MOULVI RAFIUDDIN AHMAD: Have they not received their degrees in the Marathi and Gujarati training colleges?

The Honourable Mr. B. V. JADHAV: Those teachers trained in Marathi and Gujarati schools are not teaching in Urdu schools but they are teaching in Marathi and Gujarati schools.

MOULVI RAFIUDDIN AHMAD: Have these third year trained teachers received training throughout in Urdu?

The Honourable Mr. B. V. JADHAV: Ever since the Urdu training college has been started, the teaching has been through Urdu.

Khan Saheb A. M. MANSURI: What about these 76 teachers?

The Honourable Mr. B. V. JADHAV: They have received their training in Urdu training college.

Khan Saheb A. M. MANSURI: Whether these 76 teachers received their training in Urdu only or whether they had their training in Gujarati and Marathi schools also?

Question put. House divided. Ayes: 7; Noes 17. Resolution lost.

Division No. 18.

Ayes.

BEDREKAR, Khan Bahadur I. M.
BOLE, Mr. S. K.
KAZI INAITULLAKHAN
MANSURI, Khan Saheb A. M.

NAVLE, Mr. N. E.
PATHAN, Mr. A. F. I. K.
SARDESAL, Mr. S. A.

Tellers for the Ayes: MOULVI RAFIUDDIN AHMAD and Mr. A. E. PATEL.

Noes.

BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
DEHLAVI, the Honourable Mr. A. M. K.
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
HARRISON, Mr. R. T.
HATCE, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
JADHAV, the Honourable Mr. B. V.

JEHANGIR, the Honourable Mr. COWASJI
MASTER, Mr. A.
MEHTA, the Honourable Sir CHUNILAL
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
PAINTER, Mr. H. L.
THOMAS, Mr. G. A.
WILES, Mr. G.

Tellers for the Noes: Mr. A. MASTER and Mr. G. A. THOMAS.

Mr. R. S. NEKALJAY: Sir, I beg to move:

" This Council recommends to the Governor in Council that a small mixed committee of official members of the Council nominated by Government and non-official members elected by the House, with a clear non-official majority be appointed to hold an open enquiry and to take evidence with a view to investigate the question of the difficulties of watandar Mahars and Dheds. "

[Mr. R. S. Nekaljay]

Sir, I need not take much of the time of this House, as most of the honourable members are anxious to go home. I have already made a tedious speech during the last session of this Council—a speech which had the honour to be described by the newspaper *Bombay Chronicle* as a very tedious speech,—and I am not going to do so on this occasion as the House as well as the Press gallery is tired. In moving my resolution during the last session I have already enumerated the difficulties of these people, and I do not think it is necessary for me to repeat them now. The additional difficulty is this, that most of these people have lost their watan inam lands. In this connection I have received about thirty applications, which I have forwarded to the Honourable the Revenue Member on the 3rd of October. When I came here for the Council session, I immediately asked him what reply he was going to give to those applicants. He told me verbally that he was going to forward those applications to the collectors of the districts concerned and get the grievances redressed. Similarly I had a talk with the Commissioner, Central Division, and he said that if these people were tired of their duties, they could go. I would like to know from the Commissioner, Central Division, and also from the Commissioner, Southern Division, who also said the same thing during the last session, as to where these people are to go. They say that they can go and take up jobs as motor drivers. May I know from the Commissioners whether they are going to provide such jobs to all the watandar Mahars and Dheds in the presidency?

The Honourable Sir CHUNILAL MEHTA: Will the honourable member permit me to interrupt him? I do not quite understand him. Is he speaking of the conversations he had with the Commissioners outside this House?

Mr. R. S. NEKALJAY: I may point out to the Honourable the Revenue Member that the honourable member Mr. Mountford (Commissioner, Southern Division) stated in this House that they can go.

The Honourable Sir CHUNILAL MEHTA: I think the honourable member referred to some conversation that took place outside this House.

Mr. R. S. NEKALJAY: Partly outside and partly inside.

The Honourable Sir CHUNILAL MEHTA: I would suggest that any conversations that took place outside this House should not be repeated or used here.

Mr. R. S. NEKALJAY: Then, I need not say much about it. I leave it to Government, and I hope Government will accept the resolution. Question proposed.

The Honourable Sir CHUNILAL MEHTA: Mr. President, I would like to point out that it is not possible to accept the resolution. It recommends the appointment of a committee. In the first place we are not altogether clear as to what the committee is required to do. I see that at the last session there was a very long discussion on this very question and the honourable member suggested two points. One was that the pay of the Mahars should be raised, and the other was that the

[Sir Chunilal Mehta]

lands at present held by watandar Mahars should be continued free of assessment with the present holders. That resolution, as the records show, was lost, and therefore the question of pay cannot be one of the points on which investigation is required. I understand from the honourable member that the most important point to which he wants to draw the attention of Government is that Government should see that the watandar Mahars do not lose their Watan lands. That was mentioned officially by the honourable member in a letter he wrote to my predecessor, Mr. Lalubhai Samaldas when he was acting as Revenue Member. We are quite prepared to see, and we are anxious, that the watandar Mahars do not lose their lands if it can be helped. We will assist every watandar Mahar to retain his land as far as we possibly can do it. As a matter of fact I have a report here from the Commissioner that such cases are being investigated very closely every day by prant officers, and I may assure the honourable member that it is the desire of Government that these lands should not be lost to the watandar Mahars. I have received also some representations from the honourable member, and, as I have informed him, these representations have already been sent to the Commissioners for necessary action. I think that his purpose would be served by the action I have already taken. I can go further and tell him that if he brings to the notice of the Commissioners or Collectors any cases where lands are being unfairly taken away from the watandar Mahars Government will be only too anxious to help them.

Mr. R. S. NEKALJAY: I thank the Honourable the Revenue Member for his assurance, and I hope he will keep his promise. In view of the assurance I beg leave to withdraw the resolution.

Question put and leave granted.

Mr. R. G. PRADHAN (Nasik District): Sir, I beg to move:

"This Council recommends to the Governor in Council that a small committee consisting of some elected members of the Legislative Council, one or two officials and one or two financial experts be appointed to consider and report on the financial measures that should be introduced in order to give full effect to the policy of prohibition of the traffic in alcoholic drink and drugs."

Sir, in moving this resolution I deliberately refrain from criticising the general excise policy of Government, because, in the first place, that is not germane to the issue that I have raised, and secondly my object in moving this resolution is not to censure the Government or the Honourable Minister for Excise (A Member: Hear, hear) but to give a little more impetus to the matter and above all to offer my co-operation to Government in the solution of a problem the difficulties of which I have never denied.

Prohibition is now the declared goal of our excise policy. I take it that we are all earnest about it and that we are anxious to see that that goal is reached at the earliest possible moment. A policy of prohibition necessarily involves loss of revenue. Our excise revenue amounts at the present moment to over Rs. 4 crores. If we pursue—as we ought to pursue, and I hope the Minister for Excise will do his best to pursue—this policy of prohibition to which we are pledged, it is bound to result if not

[Mr. R. G. Pradhan]

in the total extinction of our Excise revenue at least in a considerable reduction of that revenue. This is admitted by all and therefore as a responsible body it is our duty in the interests of efficient administration of the province to see that there is no serious financial dislocation as a result of the measures we may adopt in order to carry out this policy of prohibition. We must therefore be ready to face the financial aspect of the problem and in order that we may be able to face that problem satisfactorily and that we may be able to propose financial measures which will be of a sound character and which will be acceptable to both sides of the Council, I venture to bring forward this resolution. The honourable House has no doubt carefully read the report of the Excise Committee which was appointed by this Government in the year 1922-23. That committee recommended in paragraph 212 that before any steps are taken to introduce any changes into the present excise policy it is necessary that legislation should be passed which may enable Government to impose the taxation requisite to avoid financial difficulties. Now, in a letter which I received from His Excellency, in connection with my ill-fated Prohibition Bill, I was told that His Excellency had been advised to accept that particular recommendation to which I have made reference. Government therefore, it is obvious, ought to be willing to thoroughly examine the financial aspect of the problem. Nobody will say that the financial question is an easy one. No questions are probably more difficult than the financial questions; those questions are always the most difficult, as I am sure my honourable friend the Financial Secretary will agree. It is therefore necessary that this financial aspect of the prohibition problem should be thoroughly investigated and as we are earnest about this prohibition policy we should ultimately arrive at a set of financial proposals whereby we may be in a position to recoup the loss which would be caused by the adoption of this policy. I venture to think that this is a resolution which ought to be acceptable to Government and I do hope that they will accept it.

Question proposed.

Mr. A. N. SURVE (Bombay City, North): Sir, I rise to support the resolution. It must be within the memory of this House that about this time last year a resolution was moved and carried fixing 20 years as the period for the introduction of the total prohibition. That goal has not been accepted by Government, but the Honourable the Minister has said that he would do his utmost to reach that goal as early as possible; Therefore whether Government reach that goal within 20 years or even earlier than that, I think it would be in the right spirit if this resolution is accepted by the Government. Because the point underlying it is that if we make any suggestion that suggestion will materially help the Honourable Minister in fighting the case of the non-official benches in the cabinet. Another matter is that the recommendations made by the Excise Committee are altogether one-sided. You can see the nature of their recommendation from the fact that the Primary Education Committee, as well as the Excise Committee, make the same recommendations. They suggest the same source. Now the difficulty would be

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that primary education would be absorbing the money and the Excise Committee suggestions are in the direction of stopping a revenue which actually we are getting. Now both committees indicate the same source. Another difficulty is that some of these sources are not examined as thoroughly as they should be. Take for instance taxation on gambling on the race course. The non-official side of this House do not like that that source should be tapped. For this reason I think it is most desirable that the sources suggested by both these committees should be examined from all points of view, not only from the point of view of their bringing in money. Therefore I heartily support the resolution which is before this House.

Mr. N. E. NAVLE (Ahmednagar District): I rise to support the resolution so ably moved by my honourable friend Mr. Pradhan. Sir, Government have declared in clear terms that their policy is to make the country dry. The period suggested was 10 years but they have declared that they will achieve it within 20 years. But, Sir, the whole process and the methods to be adopted should be entrusted to a committee of honourable members as proposed in this resolution. The committee will go into the question properly and also be able to deal with the financial aspect of the question suggesting ways and means and the methods to deal with the question exhaustively so as to reach the goal within a reasonable time. With these words, Sir, I support the resolution.

The Honourable Mr. A. M. K. DEHLAVI: Sir, the honourable member has done well in bringing this resolution, for it shows that he and those who think like him, are prepared to investigate the enormous difficulties, particularly financial, which face the great problem of prohibition in this presidency. Cries of prohibition raised from several quarters in an irresponsible spirit, and which are usually oblivious to the innumerable difficulties which threaten the demand for prohibition, do not carry weight if they are not accompanied with a determination to make a practical effort, and endeavour to investigate the real barriers in the way, and find out the ways and means to surmount them. I, therefore, congratulate my honourable friend for showing his willingness to enquire into and solve the financial difficulties of prohibition first, and then ask it to be pushed on. I, therefore, accept his resolution and stand here to assure him of Government's wholehearted assistance to the committee he proposes in its endeavour to come to practical conclusions and suggestions for the consideration of Government so that the uphill path may be made easy.

I accept the resolution for the evident reasons which I may refer to here, briefly, so that the facts and figures which I am able to place before this House may help the committee in its financial enquiry and enlighten the House on the fact that the problem of prohibition is a huge one and cannot be pushed on at such a rapid, or even an easy, pace as people, who have not studied it, are apt to think.

Government has declared total prohibition as the goal of its excise policy, and I need hardly assure the House that Government is prepared

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to stand by it, if the honourable House, and the country behind it, is equally and practically prepared to stand by Government. The House perhaps remembers my statement made at the last budget session while introducing the famous resolution of this Government on their excise policy—a resolution, I may take this opportunity to submit, which is the first of its kind, perhaps in the history of India, and one for which the best compliment Bombay Government could receive was paid to it by all India during the last debate on excise in the Assembly. Well, Sir, in that statement of mine I have already briefly and sufficiently pointed out to this honourable House as to how far Government are prepared to go towards prohibition and how far Government rightly expect people to go with them in the matter of facing and meeting the great difficulties of prohibition. Now that this resolution, brought by my honourable friend with the best of intentions, is before the House I can more appropriately refer to a few of those difficulties which this resolution proposes to overcome. It needs no argument to state that, having prohibition as our goal, every step taken towards it, by one and one hundred methods, which in turn may have to be adjusted and readjusted as experience, circumstances and conditions demand, will annually cause a gap in the revenues of the presidency, and that that gap will grow bigger and more alarming as we pass on from year to year towards prohibition. The House very well knows that one of the methods adopted by Government as the surest means to prohibition is rationing. It was started in 1922 and has been kept up by Government, in spite of the fact that the Excise Committee did not advise it in every direction, and let that action of Government be the most complete answer to those who are inclined in various irresponsible quarters to take an uncharitable view of Government's excise policy, let that prove Government's *bona fides* beyond suspicion. But let us see for the purposes of this resolution what this particular method of prohibition has already cost the country, and what it is likely to cost every year in future. There are figures in my hand which show that at the end of 1924-25 the presidency has actually lost Rs. 18,93,760, *plus* roughly a loss of 5 lakhs more under what is called "Gain on liquor" in that one year. Our entire loss from 1922-23, when we started rationing, to the end of 1924-25, is Rs. 33,81,954, both still-head duty and license fees taken together. This is the result of 40 per cent. cut in Bombay, and 20 per cent. cut in the mofussil by rationing. Now, if we continue the cut at that rate next year also, it is easy for this honourable House to imagine as to how much more we will stand to lose in revenue; and I would be failing in my duty as the responsible Minister in charge, if I did not point out, for the most careful and serious consideration both of Government and this House, as to whether it would be in the interest of sound administration and sound finance to go on incurring this increasingly recurring loss without preparing ourselves to make it good, and thus jeopardise, if I may say so, the whole financial programme of the presidency. I was asked by some honourable friends, who take an interest in this question as to why I did not do away with the auction system, because they

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thought that rationing and auction together were inconsistent, and that the consequential high bids put up prices of liquor too high, which had a direct effect both on crime, and on driving custom to cheap poisonous foreign liquors. I think there is a good deal in that, Sir. This moment I have before me the proposals for the excise arrangements for the coming year from the Commissioner of Excise. They include this and similar questions which will undergo a careful scrutiny and the best consideration of Government. But what I wish to point out here on this resolution is that, if it were not for the auction system, the loss of revenue I have pointed out, in the figures I have already quoted, would indeed have been very much bigger than it is to-day. The actual figure can easily be worked out from these figures. I am sure....

MOULVI RAFI UDDIN AHMAD: I would rise to a point of order, Sir. Is the Honourable Minister right in reading out his manuscript speech?

The Honourable the PRESIDENT: On all such occasions when important questions of policy are to be expounded by the Members of Government, they are allowed to read from manuscript speeches.

The Honourable Mr. A. M. K. DEHLAVI: I am sure I am echoing the feelings of this honourable House and of the presidency, that our revenues are hardly sufficient for the legitimate needs and ambitions of the presidency. The medical, the educational, and the irrigational calls of the country are pressing, and have been waiting long for expansion. On the other hand, there is the intricate problem, which great minds are trying to solve, as to whether the country can bear the burden of any more taxation. Permit me, Sir, quite frankly to state that it is for this House to consider and decide as practical administrators, in view, I repeat, of the requirements and the ambitions of the presidency, whether we are right, or are prepared to push on our excise policy in such a way as to create a fresh and a serious gap in our revenue, and undermine our activities in the directions I have referred to just now, without preparing ourselves seriously and actually to fill the gap so created, at our own bidding. From year's end to year's end the budget figures convince us that the excise revenue is the second biggest source of revenue of the presidency. All this is food for reflection for this honourable House and may help the committee in its inquiry.

But this is not the only loss to be considered and taken into account. As we go along pushing our policy of prohibition from year to year the expenditure on excise administration is bound to grow and must be met. The Excise Commissioner calculates that to approach 2 crores. By the time prohibition is reached the loss to be met, therefore, roughly speaking will be 6 crores. Let that be ascertained and ways and means found to meet it. These figures may be disputed, and perhaps rightly, but the argument cannot be refuted that a heavy loss will have to be met, unless the presidency can afford to ignore the gap and the additional expenditure brought about by our own policy. But I am sure, that we cannot afford to do. That will not be practical politics. If I am asked by any one why expenditure on administration would increase so

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enormously, my simple reply to him is that he has not studied the question. All the same I do not mind mentioning a few of the reasons. Apart from the question of finance, the chief difficulties in the way of our prohibition policy are the Indian States, foreign liquor, and crime. Unless the Indian States are brought round to see eye to eye with us in the matter of our excise policy, they will always stand as an expensive handicap in our way; and to bring them round is not an easy problem to my mind.

Now Foreign Liquor—The greatest possible check has to be kept on it, otherwise the high still-head duty, the auction system, and the consequential high prices will drive the drinkers to these deleterious cheap liquors; and what is worse, if once the taste is acquired for them not only would the havoc of this poisonous stuff have to be faced, but it would practically mean the transference of the provincial revenue elsewhere, over and above the fact that no advance towards prohibition would be made, the point involves the question of loss of revenue if the difficulty is met. It may be asked, why raise still-head duty, why keep up the auction system, why let the prices go high? My reply is, these are not only within certain limits some of the methods of prohibition, but, if given up, they may still further affect the revenue, and make the financial situation more difficult for the advocates of prohibition to meet. Government is not bound to any of these methods, as I have said before, and may have to change and rechange any or all of them; but this is an item for the consideration of the committee my honourable friend proposes.

The third difficulty I have referred to was crime. Crime consists mainly of two elements, illicit distillation and illicit importation. Sir, let it be taken from me and accepted as a fact beyond doubt, that ever since we have launched on this policy, crime has come into existence, where it did not exist before, and it has gone up four times in most places. A policy started with such sublime intentions, both by the advocates of prohibition and accepted by Government, in the best interests of our country, should not be permitted, if it is to exist and continue, as it should, to be rendered ineffective by neglecting to guard the gates and the loopholes, which will result in rendering it useless. All this means increasingly extra expenditure from year to year.

Before I conclude I think I am entitled to ask that no unkind or uncharitable construction should be put on my speech and I should not be painted as a half-hearted representative in Government of the wishes of the advocates of prohibition. I have formulated the policy of prohibition and I am ready to stand by it. I point out all these things only to show that this great and unprecedented policy should not be doomed, as being impracticable by reason of the people not rising to the occasion to face the problem and surmount the difficulties. Again, as the representative of the people, and as a Minister of Government, it is my honest duty to lay bare before this House the pitfalls of the problem, and ask the House to meet them, if they expect me to

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carry out their wishes, as one with heavy administrative and political responsibilities.

Sir, I have only to submit in conclusion that I accept the resolution proposed by my honourable friend Mr. Pradhan, and would ask him if he would agree to the omission of a few words in the resolution, namely the words "one or two" which occur in the second and third lines of the resolution. If he agrees to omit them, I can assure him that Government will be pleased to appoint a committee which will represent every opinion in it.

Mr. R. G. PRADHAN: I am willing to omit those words if the House allows me to do so.

Question put and leave granted. Resolution amended accordingly.

The Honourable Mr. H. S. LAWRENCE: Mr. President, the Honourable Minister has given us an excellent exposition of the policy of the Excise Department. As this resolution has a certain financial flavour about it, I think I ought to say one or two words upon it.

In the first place I would respectfully protest against the language used by the honourable mover in this resolution. He suggests that the committee should consist of some elected members of the Legislative Council, officials and financial experts. I understand that he means that no official can be a financial expert, also that no member of the Legislative Council can be a financial expert, at least no elected member. The honourable member may be congratulated upon its acceptance by Government. He has moved this resolution in advance of the report of the Taxation Enquiry Committee which has been investigating this question with regard to conditions in the whole of India. That report will be in our hands before very long and it will no doubt be of considerable assistance to this committee. The problem before this committee will have to be defined in the terms of reference and it will not be easy to draft those terms of reference. This year we have seen the results of the policy of the Minister represented not only in a very large reduction in the consumption of alcohol but also most unfortunately, as I think honourable members will agree, in a very large reduction in the revenue of Government. This problem has already become exceedingly urgent, and the advice of this committee will be most welcome to the Finance Department. We are told by the honourable member and also by one at least of his supporters that the House will be prepared to fill the gap in the revenue which is already being caused by the reduction in the consumption of alcohol. I must say that so far we have not seen any keenness on the part of the House to accept any new measures of taxation, and I only hope that the honourable members who have stood as sponsors for the keenness of this House will make good their words. I suggest that this is a most urgent problem which is facing us to-day—how are we to make good the revenue that is already being lost through the progress that has been made by the excise policy of Government in the increase of temperance and the reduction of the consumption of licit liquor?

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I wish to suggest to the honourable member that in the committee he should suggest that no fresh taxation should be proposed, but any decrease in revenue should be made up by decreasing the departmental expenses.

Mr. R. G. PRADHAN (Nasik District): Sir, I plead guilty to the charge involved in the protest made by the Honourable the Finance Member. I certainly did not mean, when I used the words in the resolution that officials, at any rate some of them, were not financial experts, nor certainly shall I ever be so disrespectful to my colleagues on this side or to myself (Honourable Members: Hear, hear, and laughter) to suggest for one moment that we are not financial experts. All that I meant by using the words "financial experts" was financial experts outside the Legislative Council. That was the idea in my mind, and therefore I used this language.

Well, Sir, I am very grateful to the Honourable Minister for accepting this resolution. I only wish that he had followed my example and denied to himself the privilege he has taken of defending his excise policy. I deliberately refrained from criticising the excise policy of the Government, and I do honestly think that he would have also done better if he had not attempted to defend every aspect of his policy. However, let that go. I have no desire on this present occasion to enter into any controversy with him. I will have, if necessary, other occasions to point out to him where his excise policy can be improved. At present I do not want to make any reply to the various statements that he has made in his speech in defence of his policy.

One thing, however, I do want to refer to before I conclude. He has referred to the various difficulties in the way of carrying out the policy of prohibition. There is a tendency on the part of the Government always to exaggerate such difficulties, just as there is a tendency on this side of the House always to under-rate those difficulties. Difficulties there are, and difficulties there will be, but it is only a weak man and a weak Minister who is afraid of those difficulties. My earnest appeal to the Honourable Minister will be to take courage in both his hands, and face those difficulties boldly; and if he finds that any section of the House or even any single member of this House does not support him in carrying out the prohibition policy, and in carrying through the financial proposals, let him do his best to use his influence and exercise all his persuasion and reasoning to win their support. Above all, it is his duty to formulate a definite and complete prohibition policy, to stick to it, to ask for the support of this Legislative Council for that policy; and if he finds that support is not forthcoming, I for one would advise him that as a Minister responsible to this Legislative Council and as a self-respecting member, he should be prepared even to give up the high office which he is holding.

The Honourable Mr. A. M. K. DEHLAVI: Sir, I have very little to say except a word as regards the last sentiment which my honourable friend has uttered regarding the habit of Government to exaggerate difficulties. This committee will be able to find out whether, in this

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respect, Government have exaggerated matters or not. I am very glad that the proposal has come, and the committee will go into the question of the financial difficulties, and see whether Government have been guilty of exaggeration or not.

The Honourable Mr. H. S. LAWRENCE: I suggest that the word "other" may be put in before the words "financial experts".

The Honourable the PRESIDENT: I do not think the Honourable the Finance Member really wishes to press his suggestion.

Resolution, as amended, put and carried.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move the resolution that stands in my name, as follows:

"This Council recommends to Government to represent to the Government of India the necessity of amending the Bombay Electoral Rule No. 7 (1) (d) by prescribing 18 years as the age qualification."

Sir, when the Major Municipalities Bill was under consideration, I have already stated in great detail and at great length the reasons why this suggestion should be accepted. Therefore at this stage of the proceedings I shall not repeat what I have already stated. I think that the House is with me and will accept my suggestion. This is the most opportune moment because next year there will be a fresh election; and for that reason the Government of India would be revising the electoral rules. Therefore, if my suggestion is accepted by this House its decision can be sent to the Government of India. I think this is a fair opportunity when we must make this suggestion. With these remarks I place the resolution before the House.

Mr. E. CLEMENTS: Sir, I do not think that this is a resolution which this House is likely to accept, because it is against the general rule adopted by this House with regard to all other elective bodies. In the case of district local boards and municipalities the age-limit given for electors is 21. The only exception is the case of the Village Panchayats Act, which gives the vote to all adult males. I do not know what the honourable member's reasons are for making this proposal, but I cannot think they have much force. This proposal, moreover, has not the least chance of being accepted by the Government of India.

Mr. A. N. SURVE: I have nothing to add.

The Honourable Sir MAURICE HAYWARD: Mr. President, I suggest that it would be wrong to give to a gentleman of 18 years only the right to elect, when it is proposed by the same honourable member that no one under the age of 21 should be trusted to bet on the totalisator. I submit seriously, Sir, that the time has not yet come to recommend that the age-limit should be revised by the Government of India.

Question put and lost.

Mr. S. A. SARDESAI (Bijapur District): Sir, I beg to move the following resolution that stands against my name:

"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 Sathé-Paranjpye scheme from March 1923."

[Mr. S. A. Sardesai]

I think it would not be out of place were I to give this House at this stage certain figures with regard to the Sathé-Paranjpye scheme. The Sathé-Paranjpye scheme recommended that unpassed persons should get Rs. 20 ; untrained but qualified assistants should get Rs. 25- $\frac{1}{2}$ -30, untrained but passed headmasters should get Rs. 30- $\frac{1}{2}$ -35 ; first year passed head masters Rs. 30-1-50 ; second year passed headmasters Rs. 35-3- $\frac{1}{2}$ -65 ; third year passed headmasters Rs. 40-2-80. The salary for the selection cadre of 10 per cent. was proposed as Rs. 55, Rs. 75 and Rs. 100. They also recommended that till this scale comes fully into operation they must be given some temporary relief which they have suggested. This is the recommendation of the committee appointed by this Council. They recommend that all unpassed men should get Rs. 20 and that all untrained and passed assistants should begin to get Rs. 23 and all untrained and passed headmasters and first year men should commence to get Rs. 25. They also recommend that every other teacher, if he is getting more than Rs. 25 at present should continue to get their salaries on the present scale till the full scheme given above comes into operation. They further say that the scale they recommend should come into operation from 1st November 1921.

Then, Sir, a press-note was issued by Government on this Sathé-Paranjpye scheme which suggested that the recommendations should come into force shortly ; but we find that the recommendations were never given effect to at all. In all walks of life we find that the clerical establishment has had increase of pay. In mills and in other private services all the establishments are getting increased pay in view of the increased cost of living. I request Government by this resolution to give the same sort of relief to the poor school masters who need really this relief. With these words, I commend this resolution to the acceptance of the House.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, this matter about the salaries of primary teachers is under consideration. This House had appointed a committee which has published its report but it has not yet been discussed ; though there is a keen desire to expedite the discussion. The matter is very important and I do not wish that this resolution should be discussed in such a thin House, and thrown out by Government. It is not fair either to this House or to the primary teachers to take up this resolution on this last day. I suggest, therefore, to my honourable friend Mr. Sardesai to withdraw it.

Mr. R. S. NEKALJAY: May I know whether the other resolutions are unimportant ?

The Honourable the PRESIDENT: That is a matter of opinion.

MOULVI RAFIUDDIN AHMAD: The honourable member's resolution is more important than this. I am sure my honourable friend the honourable member Mr. Sardesai can either withdraw the resolution or ask for its postponement to another session. These primary teachers have been holding meetings in all parts of the presidency and writing to

[Moulvi Rafiuddin Ahmad]

me as to other members of the Committee appointed to consider their claims to bring the matter for discussion before a full House. I hope the honourable member will beg leave to withdraw his resolution.

The Honourable the PRESIDENT: I want to make it definite whether the honourable member is moving for the postponement of this resolution to the next session.

Anyway it is 7 o'clock. The House will now adjourn till 2 o'clock to-morrow, Thursday, the 5th November 1925.

Thursday, the 5th November 1925.

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Thursday, the 5th November 1925, the Honourable the President, Sir IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E., presiding.

Present :

AHMAD, MOULVI RAFI UDDIN
BEDREKAR, Khan Bahadur I. M.
BOLE, Mr. S. K.
BUNTER, Mr. J. P.
CLEMENTS, Mr. E.
COOPER, Khan Bahadur D. B.
DEHLAVI, the Honourable Mr. A. M. K.
FRAMJI, Mr. K. S.
GHOSAL, Mr. J.
GUNJAL, Mr. N. R.
HAMID M. ABDUL ALI, Mr.
HARRISON, Mr. R. T.
HATCH, Mr. G. W.
HAYWARD, the Honourable Sir MAURICE
HOTSON, Mr. J. E. B.
JADHAV, the Honourable Mr. B. V.
JEMANGIR, the Honourable Mr. COWASJI
KALBHOR, Mr. G. M.
KARI INAITULLAKHAN
LAWRENCE, the Honourable Mr. H. S.
MANSURI, Khan Saheb A. M.
MASTER, Mr. A.
MAVALANKAR, Mr. G. K.
MERTA, the Honourable Sir CHUNILAL
MONTGOMERIE, Mr. A.
MOUNTFORD, Mr. L. J.
MUJUMDAR, Sardar G. N.
MUKADAM, Mr. W. S.
NAVLE, Mr. N. E.
NEKALJAY, Mr. R. S.
PAINTER, Mr. H. I.
PATEL, Mr. A. E.
PATHAN, Mr. A. F. I. K.
POWAR, Mr. M. B.
PRADHAN, Mr. R. G.
SAHARA, Mr. H. D.
SARDESAI, Mr. S. A.
SURVE, Mr. A. N.

SURVE, Mr. V. A.
 SWAMINARAYAN, Mr. J. C.
 THOMAS, Mr. G. A.
 WILES, Mr. G.

The Honourable the PRESIDENT : Order, order. Questions.

TRANSFER OF AGRICULTURAL LANDS, AHMEDNAGAR DISTRICT.

Mr. N. E. NAVLE (Ahmednagar District) : Will Government be pleased to give the number of transfers of agricultural lands made during the year 1924 in the Ahmednagar district ?

The Honourable Sir CHUNILAL MEHTA : Information will be called for.

THE NASIK STATION ROAD.

Mr. R. G. PRADHAN (Nasik District) : Will Government be pleased to state—

- (a) (1) for what amounts the toll bar between the Nasik City and the Nasik Road Station was auctioned during the last three years ;
 (2) the amounts spent during the same years in repairing the road between the city and the station ;
 (b) whether they are aware that the condition of the road is not satisfactory and that it badly needs repairs ?

The Honourable Mr. B. V. JADHAV : (a) (1) The toll bar was auctioned for the following amounts :—

Year.	Amount.
	Rs.
1922-23 (1st June 1922 to 31st-March 1923) ..	7,025
1923-24	13,750
1924-25	22,100

(2) The following amounts were spent in repairing the road :—

Year.	Amount.
	Rs.
1922-23	5,281
1923-24	11,111
1924-25	12,409

(b) Yes. An estimate for improving the road has been sanctioned and the work will be taken in hand as soon as funds become available.

ENGINEERING COLLEGE, POONA.

MOULVI RAFIUDDIN AHMAD on behalf of Mr. HOUSENALLY M. RAHIMTOOLA (Bombay City) : Will Government be pleased to state—

- (a) if they have reserved any places in the Engineering College, Poona, for students of the different communities ;
 (b) if so, the names of such communities and the number of places reserved for each ;
 (c) whether any places have been reserved for the Mahomedan community ;
 (d) if so, the number ;
 (e) if not, will Government state the reasons ?

The Honourable Mr. B. V. JADHAV: (a) to (e) The attention of the honourable member for Bombay City is invited to Government Resolutions No. 1394, dated the 6th November 1922, and the Government Resolutions quoted therein and also to Government Resolution No. 1653, dated the 2nd September 1925, copies of which are in the Reading Room for the members of the Legislative Council. As 60 new admissions are made to the College of Engineering, Poona, annually 6 places will be reserved for Mahomedans and 15 places for the Hindu backward classes including depressed classes in accordance with the orders referred to above.

MOULVI RAFIUDDIN AHMAD: May I know from the Honourable Minister whether in the case of vacancies occurring owing to sufficient numbers of students not taking advantage of the reservations for the backward and depressed classes, Mahomedan candidates will be given preference in the filling up of those seats?

The Honourable Mr. B. V. JADHAV: When there will be necessity for Mahomedans, places will be given to Mahomedans. As a matter of fact it has been found that the ten per cent. reserved for Mahomedans is almost sufficient for the present. If there be necessity, Government will increase the percentage.

MOULVI RAFIUDDIN AHMAD: My question is, in case there are any vacancies in the seats reserved for the backward Hindu communities, will Mahomedan candidates be given preference?

The Honourable Mr. B. V. JADHAV: Yes.

Mr. N. E. NAVLE: In case there are vacancies in the Mahomedan seats, will preference be given to the Hindu backward classes?

The Honourable Mr. B. V. JADHAV: Yes.

NASIK STATION ROAD.

Mr. N. E. NAVLE on behalf of Mr. R. D. SHINDE (Nasik District): Will Government be pleased to state—

(a) what is the total income realised during the last five years by the auction of the toll naka on the road from Nasik town to Nasik station;

(b) what amount of money was spent for each of those years for repairs of the road;

(c) whether Government are aware that the road is at present in a very bad condition;

(d) what steps are being taken to improve the road?

The Honourable Mr. B. V. JADHAV: (a) The tolls which were abolished during the period 1909-10 to 1921-22 were re-imposed in the year 1922-23. The total income realized during the last three years by the auction of the toll naka referred to is therefore as follows:—

		Ra.
1922-23 (1st June 1922 to 31st March 1923)	..	7,025
1923-24	.. .. .	13,750
1924-25	.. .. .	22,100

(b) The following amounts were spent :—

					Rs.
1920-21	..	..	..	..	6,506
1921-22	..	..	..	..	10,097
1922-23	..	..	..	..	5,281
1923-24	..	..	..	..	11,111
1924-25	..	..	..	..	12,409

(c) and (d) Yes. The plans and estimate for improvements to the road have since been sanctioned. The work will be taken in hand as soon as funds become available.

ASSISTANT DEPUTY EDUCATIONAL INSPECTOR, NASIK DISTRICT.

Mr. N. E. NAVLE on behalf of Mr. R. D. SHINDE (Nasik District) : Will Government be pleased to state—

(a) whether it is a fact that Mr. E. G. Rotithor, lately assistant deputy educational inspector, Nasik District, has been suspended on account of certain allegations made against him ;

(b) if so, what steps have been taken by Government to investigate into the several complaints made by the teachers ;

(c) if an enquiry has been already made, what is the result of the inquiry ?

The Honourable Mr. B. V. JADHAV : (a) No.

(b) An enquiry into the conduct of Mr. Rotithor was conducted by the Educational Inspector, Bombay Division, and the allegations made against Mr. Rotithor were carefully investigated by that officer.

(c) The officer has been reverted to the teaching branch and his increments of pay have been stopped for two years.

SUBMERGED LANDS IN KOLABA DISTRICT.

Mr. A. N. SURVE (Bombay City, North) : Will Government be pleased to state—

(a) Whether it is a fact that some rice and garden lands have been submerged along the coast of the Kolaba district during the past five years ?

(b) If so, their extent and situation ?

(c) What steps they have taken to help the people who have suffered by this calamity ?

The Honourable Sir CHUNILAL MEHTA : (a) Yes ; garden land was permanently submerged in one case during the period.

(b) It was in Milkatkhar and its area was $1\frac{1}{2}$ acres.

(c) The owner of the land did not apply to the Collector on this account and no action was taken.

Mr. A. N. SURVE : With regard to part (c), if the owner applies for compensation, will he be paid any ?

The Honourable Sir CHUNILAL MEHTA : It is rather a hypothetical question.

PROPOSED ANGLO-URDU MIDDLE SCHOOL, NASIK.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) whether it is a fact that in 1922 the Mahomedans of Nasik had urged that a Government Anglo-Urdu middle school should be opened in Nasik as early as possible;

(b) whether it is a fact that they also urged that the Anglo-Urdu class maintained by the municipality was not working well;

(c) what amount of money is required for recurring and non-recurring expenditure for this object;

(d) whether it is true that details were called for from the Director of Public Instruction as far back as 1919 and the proposal was administratively approved by Government;

(e) whether it is true that Government intended to open the school from April 1925 and the item of expenditure in this behalf was inserted but was subsequently removed from the Budget of 1925-26;

(f) if the answer to the preceding question be in the affirmative, why was this item removed from the budget;

(g) what steps they have taken to remove the grievance of the Mahomedan community referred to above?

The Honourable Mr. B. V. JADHAV: (a) Yes.

(b) Yes.

(c) The ultimate annual recurring expenditure involved in the proposals before Government for opening the proposed school amounts to Rs. 7,800, the charge in the first financial year of the school for 9 months beginning from the month of June being Rs. 3,510. The non-recurring cost is estimated at Rs. 2,000.

(d) Yes.

(e) Yes.

(f) Owing to financial stringency, no provision could be made for the school in the budget for 1925-26.

(g) If funds permit, it is proposed to make the necessary provision in the budget for 1926-27.

Mr. A. N. SURVE: Will the Honourable Minister kindly state if there has been any saving in the rent of buildings which were used as schools in Nasik City?

The Honourable Mr. B. V. JADHAV: I cannot say at present whether there is any saving. If notice is given, I will find out.

MOULVI RAFIUDDIN AHMAD: I would remind the Honourable Minister of the fact that in the Finance Committee this item was discussed. It was not first put in the budget, but when the Mahomedan members insisted upon it, it was put in. I want to enquire why it was taken out later.

The Honourable Mr. B. V. JADHAV: I think the answer to that is given in (f) and (g) of the answer. "Owing to financial stringency no provision could be made for the school in the budget. If funds

permit, it is proposed to make the necessary provision in the budget for 1926-27."

MOULVI RAFIUDDIN AHMAD: Would the Honourable Minister see to it that the necessary funds are provided in the coming budget, because it has been hanging fire for a long time?

The Honourable Mr. B. V. JADHAV: I will try my best.

MOULVI RAFIUDDIN AHMAD: The Honourable Minister replied yesterday that there was one Anglo-Urdu middle school. Was it this school (the Anglo-Urdu class maintained by the municipality)?

The Honourable Mr. B. V. JADHAV: No.

MOULVI RAFIUDDIN AHMAD: What school was it of which the Honourable Minister made a deliberate statement in the Council?

LEPROSY IN MAHADEVKHAR.

Mr. S. K. BOLE: Will Government be pleased to state—

(a) whether they are aware of the spread of leprosy in the Mahadevkhar village near Revdanda in the Kolaba district;

(b) if so, how many persons are affected by the disease and what is the total population of the village;

(c) what steps they have taken to check the disease and to uproot it altogether?

The Honourable Mr. B. V. JADHAV: Inquiries are being made.

AHMEDABAD RAILWAY STATION.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(a) what is the estimated cost for overhauling the old railway station at Ahmedabad and building one on the modern lines like the one at Poona;

(b) how much of the sanctioned amount has been spent on the said scheme till now;

(c) what work remains to be executed out of the proposed changes.

(d) Is it a fact that the original intention of the Railway Company to bring the metre gauge line side by side with the broad-gauge line to avoid inconvenience and hardship to passengers has not been carried out by the B. B. and C. I. Railway Company.

The Honourable Sir CHUNILAL MEHTA: (a), (b), (c) and (d) The information is being called for.

COST OF COMMITTEES.

Sardar G. N. MUJUMDAR (Deccan Sardars and Inamdars): Will Government be pleased to state the cost of each of the various committees appointed since 1921?

The Honourable Mr. H. S. LAWRENCE: The honourable member is referred to the statement placed on the table during the July sessions a copy of which is now printed in the appendix.*

* Vide Appendix No. 60.

The Honourable Sir MAURICE HAYWARD : Sir I want to read the answer to question No. 1 * of Mukhi Jethanand Pritamdas.

(The Honourable Sir Maurice Hayward then read the answer to question No. 1 * of Mukhi Jethanand Pritamdas.)

BAKRI-ID HOLIDAY IN THE SMALL CAUSES COURT, BOMBAY.

MOULVI RAFIUDDIN AHMAD on behalf of Mr. HOOSENALLY M. RAHIMTOOLA (Bombay City) : (1) Will Government be pleased to state if it is a fact that—

(a) Friday, 3rd July, was fixed for Bakri-Id holiday in the Small Causes Court, Bombay, when Government had originally announced tentatively Thursday 2nd July ;

(b) when Government changed the day to Friday 3rd July it was changed to Thursday 2nd July in the Small Causes Court ;

(2) If so, will Government state the reasons for fixing a day in the Small Causes Court originally other than that which was fixed as a public holiday by Government.

(3) Will Government also state the reasons for changing the actual day in the Small Causes Court to a day which was not a holiday when Government had changed the tentative day to the actual day as a public holiday ?

The Honourable Sir MAURICE HAYWARD : (1) (a) and (b) In the affirmative.

(2) The holidays in the Small Causes Court, Bombay, are notified under section 92 of the Presidency Small Cause Courts Act and do not necessarily fall on the same days as those notified under the Negotiable Instruments Act.

(3) The orders to observe the Bakri-Id holiday on 3rd July were not received in time by the Chief Judge of Small Causes Court.

* The following question and answer were printed as question No. 1 in the Fifteenth List of Questions and Answers.

ABDUCTIONS IN SIND.

1. MUKHI JETHANAND PRITAMDAS (Eastern Sind) : Will Government be pleased to state—

(a) how many cases of abduction of Hindu minor boys and girls and Hindu women by Mahomedans in Sind have occurred since January 1923 ;

(b) how many such cases of abduction have occurred in which offenders are Hindus and the victims Mahomedans ;

(c) how many of the victims of each community have been recovered and restored to their guardians ;

(d) whether Government propose to take any action in the matter ?

The Honourable Sir MAURICE HAYWARD : (a) 22.

(b) 6.

(c) 20 Hindus,

6 Muhammedans.

(d) Cases as they arise are dealt with under the ordinary criminal law and Government do not think that any special action is necessary at present.

POSTAL INCONVENIENCE. KANARESE DISTRICTS.

Mr. S. A. SARDESAI (Bijapur District): Will Government be pleased to state—

(a) whether their attention has been drawn to the inconvenience caused to the people of the Karnatic owing to the irregularities of the post office referred to in the issue of the "Laka Baudhu" of Dharwar of the 16th August 1925;

(b) whether their attention has been drawn to the inconvenience caused to the people of the Karnatic owing to the absence of Kanarese forms, notices, receipts, delivery timings, etc.;

(c) if so, whether they propose to take any action in the matter?

The Honourable Sir CHUNILAL MEHTA: Information has been called for.

TRANSFER OF COLLECTORS' HEAD CLERKS.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) whether there are any rules governing the transfers of head clerks of Collectors from one place to another;

(b) the number of years the following officers served as head clerks in one district—

(i) the head clerk of the Collector of Sholapur;

(ii) the last head clerk of the Collector of Poona?

The Honourable Sir CHUNILAL MEHTA:(a) No.

(b) (i) 6 years and 6 months. (The transfer of this officer has been decided upon and will shortly be notified.)

(ii) 6 years and 6 months.

Mr. A. N. SURVE: With reference to part (a) is it the intention of Government to make rules providing for transfer of head clerks?

The Honourable Sir CHUNILAL MEHTA: There is no such intention at present.

Mr. A. N. SURVE: With reference to part (b) will the Honourable the Revenue Member kindly state the circumstances under which it has been decided by Government to transfer these men?

The Honourable Sir CHUNILAL MEHTA: I should like to have notice of this question. I myself did not order the transfer. It happened that the transfer was recently decided upon and therefore I mentioned it. If the honourable member wants to know the circumstances, he will have to give me notice.

BUCKETSHOP GAMBLING.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to state—

(a) the number of cases relating to bucketshop gambling that were detected in Bombay and Poona (city and cantonment) since it was made illegal;

(b) will Government be pleased to state what steps they have taken to enforce the provisions of the law for the suppression of bucketshop gambling?

The Honourable Sir MAURICE HAYWARD: (a) and (b) The cases detected have numbered 40 in Bombay and 19 in Poona.

Mr. A. N. SURVE: With reference to (b) no answer has been given.

The Honourable Sir MAURICE HAYWARD: The answer is there that the cases have been detected by the Police. Those were the prosecutions by the police.

Mr. J. C. SWAMINARAYAN (Ahmedabad District): I do not want to put my question.

Question again proposed.

"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 Sathé-Paranjyee scheme from March 1923."

Mr. S. A. SARDESAI (Bijapur District): I moved the resolution yesterday. To-day I find that the House is thinner than yesterday and many of the representatives of several districts are not here. I think this is not the proper time to.....

The Honourable the PRESIDENT: If the honourable member wishes to withdraw his resolution, he should ask for leave to do so.

Mr. S. A. SARDESAI: I beg the leave of the House to withdraw my resolution.

Question put and leave granted.

Mr. S. K. BOLE: Sir, I beg to move the resolution that stands in my name which runs thus:

"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."

Sir, I do not think that any speech is necessary in support of this resolution. I think that Government do not want to be as hard-hearted as the mill-owners themselves and they would come to the relief of persons, men, women and children, who are suffering on account of these strikes in the city of Bombay. There are so many cases of misery and distress among the mill workers that if no immediate steps are taken it will result in great hardship and even in death and disease. Millowners themselves want these men to be starved to submission and I think Government would not like that they should die of starvation. It is impossible for any private agency to take up this work and therefore I submit that Government should do the needful in the matter. With these words I move my resolution.

Question proposed.

Mr. S. A. SARDESAI (Bijapur District): I beg to support this resolution. I think, Sir, this is a necessary demand, but unfortunately the mover of this resolution does not state what sort of help he wants Government to give, whether he wants Government to find labour for them or to do any other thing. The resolution is vague and the mover of the

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resolution should make it clear what particular help he wants from Government. With these observations, I support the resolution.

The Honourable Mr. COWASJI JEHANGIR : Mr. President, I think my honourable friend Mr. Sardesai has practically replied on my behalf. The resolution, as has been pointed out, is rather vague, and the honourable the mover of the resolution has not made it clearer by his speech when introducing it. He has asked Government to give relief to the mill workers, but we have not been told either in the resolution or by the mover in his speech in what direction he thinks Government ought to give relief. Does he mean that Government should find employment for these men or does he mean that Government should have a system of doles ? If the honourable member had made his meaning a little more clear, I should have been able to give a reply. If he means doles, that is, hard cash, I think he realises that this honourable House is as much interested as Government in providing money. If he means finding employment, perhaps he might have pointed out how Government should do it. The Development Department and the Port Trust, on account of the restrictions on their activities, cannot find employment for these men, but the Municipality can. But up to now there has been no demand on the part of mill workers for any work other than in the mills. I will reply again, Mr. President, if the mover of the resolution will make his meaning a little clearer than it is at present. I think I will give him a chance of speaking again.

Mr. A. N. SURVE (Bombay City, North) : Sir, I rise to support the resolution moved by the honourable member representing labour. Sir, the Honourable the General Member says that the resolution is vague and it does not contain any suggestions as to the direction in which help should be given. I think several suggestions were made by the friends of labour which waited upon His Excellency and, I think, of them, the free passage was one—that the labourers should be given free passages to go to their native places. The idea underlying was that at their native places they may at least get something to eat, whereas in Bombay they would be all the while starving. Well, nothing was done in that direction. Therefore, when the Honourable the General Member says no demand came from labour, I think he is not quite accurate.....

The Honourable Mr. COWASJI JEHANGIR : I said no demand for some other kind of employment.

Mr. A. N. SURVE : Another point is that even foreign countries are coming to the rescue of the Bombay millhands. Even the General Council of the British Trades Union Congress have sent some help to the Bombay workers. I might just read the telegram which is a very short one :

"The General Council of the British Trades Union Congress has appealed to all societies affiliated to the Congress to contribute to the International Relief Fund for the Bombay cotton mill strikers. It is stated that the Council has decided to send £250 sterling to assist the strikers."

Sir, if foreign associations are coming to our help, is it not the duty of our paternal Government to do something in the matter ? If they have the

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will, they can find many ways. Even to-day there have been private organisations in Bombay who are actually collecting funds and giving rations to the needy and starving millhands. Why cannot Government contribute something to that fund? Thus there are several ways in which if they have the wish to do it, they can do it. I very heartily support this resolution.

Mr. S. K. BOLE : Sir, I am told that I did not make it clear in what way the relief should be given. I did not do that as I thought that if Government meant to do it, they would find out all sorts of means. But I know that though I cry hoarse, that will be a cry in the wilderness if the Government do not mean to do anything. So I did not waste the time of the Council by doing that, because in this connection all the suggestions, in what way Government should help these men, are made in the press and on the platform. The deputation which waited on Government, pointed out to them some ways and means for giving relief to some of the men. That is my impression. As regards the first demand, referred to by my honourable friend Mr. Surve, I think something can be done by Government in arranging for free passage to the men who want to go to their native places either by trains or by steamers. There are several men who cannot find it easy to go to their native place on account of want of funds. So, free passages may be given to these men, and that suggestion was made to Government several times. And then, in the case of distress, there are many cases in which, as I have already pointed out, no private agency can cope with the situation. There would be many cases of distress in the case of women and children who are actually suffering on account of this strike. There are hundreds of women in the city of Bombay who were working for their own maintenance and they are greatly suffering for want of food, etc., on account of this strike. So, Government may give these women doles and if they want to do it, I think they can get sufficient funds for doing that. The other day when the proposition was brought forward before this House for giving some extra allowance to the police guards that have been posted to protect the mills on account of this strike, it was told that Government are considering that matter, and if Government are considering that matter I do not understand why Government should not find money for giving relief which is quite necessary in this matter. I therefore submit that it is the duty of Government to find out the ways and means how relief can be given to these men and in what direction. They can hold a big meeting for collecting funds and they can subscribe their own contribution to the funds and go on collecting subscriptions, and in that way they will be able to collect a large amount from which they may give help in the shape of rations as well as in the shape of cash to women and children, particularly to those who may be suffering extremely on account of this strike. I think, Sir, that this appeal will go home to the Honourable the General Member, who is in charge of the department, and I hope he will make it a point to see that something is done in this connection.

The Honourable Mr. COWASJI JEHangIR : Mr. President, I have been referred by the honourable mover to discussions in the press and to certain measures suggested to Government by deputations that waited

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upon Government. My honourable friend Mr. Surve has asked me to explain the question of free passages. The House realises that the peculiar character of this strike is the large number of workmen that have already left Bombay. A large majority of those that are left in the city are permanent residents. There might be a few who may be anxious to go and cannot do so. But I should think that that number is extraordinarily small. Besides that, to give free passages to a very large number of workmen who may happen to be on strike is going in for a principle which is not only exceptional but one which requires mature consideration and the existence of exceptional facts and exceptional circumstances before Government can adopt it. I should have thought that honourable members would have suggested such a method only if the health of the city was in jeopardy, or if there were other serious similar reasons which would tempt Government to adopt an extreme measure of this character, but under the present circumstances the men have already left. Only a comparatively small number are in the city of Bombay and out of that small number, a large majority are permanent residents of the city and have nowhere to go to. Therefore to rake up the question of free passages as a means of granting relief is rather out of date and unnecessary....

Mr. A. N. SURVE : May I point out, Sir, that the voluntary organization that has come into being now is giving free passages even to-day ?

The Honourable Mr. COWASJI JEHANGIR : My honourable friend relies upon a few facts that he reads in the newspapers ; would he mention how many free passages have been given and how many have demanded those free passages from the organization that my honourable friend mentions ?

Mr. A. N. SURVE : I cannot mention them here because I was not prepared for it, but that information can be got from the report in the press.

The Honourable Mr. COWASJI JEHANGIR : We cannot always rely upon facts that appear in the newspapers and base our arguments upon them. The honourable member Mr. Bole stated that a suggestion has been made that doles should be paid out. I do not think it would be any breach of confidence if I informed this honourable House that while discussing this question with the deputations we asked for suggestions as to how much should be paid, and from their own figures we worked out that it would cost Rs. 45 lakhs a month. They suggested that Government should give a rupee per head for the relief of workers who had gone on strike. If you take the number of men to be 150,000, it comes to 45 lakhs a month. The argument may be now put forward that there are a very few men left and that we should give this dole to those men that are left in Bombay, but my honourable friend seems to forget that if this very handsome dole were given, all those who have left Bombay would return very quickly indeed and we should very quickly reach the figure of 45 lakhs a month. Is this honourable House prepared to even consider such an extravagant proposal ? Besides that,

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the principle of handing out doles is not one that should be easily or readily accepted by this House. A principle is involved which should only be adopted after mature consideration and under the most unusual circumstances. I contend that unusual circumstances do not prevail that should lead this House to ask the Government and to demand of Government that doles should be paid out. On the last occasion when a strike broke out children's kitchens were started and my honourable friend the Leader of the House took a very prominent part in collecting funds, I believe, and setting that organization afoot. The result was that very few women and children took advantage of the kitchens. It is very easy indeed for honourable members to come to this House and ask that relief should be granted from public funds. My honourable friend ought to have stated in this resolution that in the opinion of this Council Government ought to have spent so many lakhs of rupees and put that definite proposal to the House for their rejection or acceptance. To throw the whole onus and the whole burden of giving this relief on Government and to absolve the whole Council from any further responsibility is not a method that I most respectfully suggest any honourable member should adopt. We are jointly responsible for the public funds. And if my honourable friend desires that 10 or 15 lakhs of rupees should be spent in this connection, let him take a vote of the House whether that 10 or 15 lakhs should be spent or not. I have nothing further to say except to trust that this House will not accept a resolution of this kind without further investigation and at least mature consideration.....

MOULVI RAFI UDDIN AHMAD: May I know if Government is going to take a most sympathetic view of the matter?

The Honourable Mr. **COWASJI JEHANGIR:** Government is most sympathetic and willing to do anything that will have a real practical result and I can assure my honourable friend that if any suggestions are made which will really do some good, Government will not be behind-hand in adopting them and in carrying them into effect.

Question put and lost.

Khan Sahab A. M. MANSURI (Ahmedabad and Surat Cities): The resolution that stands in my name runs thus:—

"In view of the fact that the liquor shop situated at Patharkuva, Ahmedabad, is situated in the immediate vicinity of two mosques, this Council recommends to Government that it be forthwith removed from its present place."

Sir, this liquor shop is situated in the immediate vicinity of two mosques and there are poor Mahomedans who are staying in the vicinity. The people who mostly frequent these shops are millhands and they are living not in this very locality but at some distance from this place. These drunkards when they return from their mills, take their drinks freely outside the shops and cause great nuisance and annoyance to the Mahomedan ladies who remain in the locality. These Mahomedan ladies usually do their marketing such as the purchase of milk, ghee, and other necessaries just about that time and they are very much oppressed and troubled by these drunkards and I have no words to portray their real hardships. They are very much harrassed and troubled, and I do not think words

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would be sufficient to describe their real hardships. I do not ask Government to close up the shop, so that any revenue of Government may be lost. My humble submission is that from this place the shop may be removed to a locality a little further off, where these drunkards mostly abound. I can assure the House that practically there are no drunkards in the locality in which the shop is situated. With these words, I commend this resolution for the acceptance of the House.

Mr. J. GHOSAL : Mr. President, I am afraid it is very difficult for Government to accept the resolution as it stands. In the resolution it is stated that the liquor shop should be removed, because of its being in the vicinity of mosques. I think the honourable mover knows Ahmedabad thoroughly well, and knows that if we strictly follow the rule that there should be no shop near temples, schools and mosques, there would be no liquor shop in Ahmedabad. This is not a new shop, it is an old one. Formerly it used to be near Pismad Mosque, which was a bigger mosque, and then it was removed from there, and the present site was selected after great difficulty and after personal inspection by Mr. Chatfield. Mr. Garrett, the present Collector, has also approved of this site. We would be only too delighted to move it to another place, if that was possible. This site, I must say, has got some advantages. It is quite true that there are a couple of mosques near by, and the nearest mosque is in sight of this shop, but it opens on another street. Then, this shop faces an open square, and has a yard with a high wall, and there is less objection to this site than to many other possible sites. The honourable mover in the resolution wants this shop to be promptly removed. This is one of the very biggest shops in Ahmedabad with a license fee of Rs. 1,25,000 and with a ration of 10,000 gallons. It is impossible to close it all at once and immediate removal means this.

Khan Saheb A. M. MANSURI : I do not ask for it.

Mr. J. GHOSAL : That is what the resolution implies though the honourable mover only wants it to be removed to another place. We have looked at every other possible site but have been unable to find any suitable one. What I am prepared to do is this. If the Collector can find any other site, or if the honourable mover will help me to find out any other site, I would be glad to move the shop at once.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I fail to understand the position taken up by the honourable member the Commissioner of Excise. According to his contention it is as if were necessary that there must be a house of Satan where there is a house of God. He says in any case the evil must exist, and we are bound to face it. If these liquor shops cannot exist without giving offence to people at prayers or to worshippers proceeding to the mosques, then it is better that these shops should not exist at all and we forego the revenue derived from them. This is the opinion of this House. Government has adopted prohibition as their goal. How do matters stand in practice ? There is a liquor shop between two mosques ; this liquor shop is found to be a source of serious annoyance to the public whose humble request is that it should

[Moulvi Rafiuddin Ahmad]

be removed somewhere else. The Commissioner of Excise himself does not move but asks the honourable mover to suggest another site for the shop. Let me inform the Commissioner that the honourable mover does not receive three thousand rupees per month to conduct the department. Public opinion must prevail and the Commissioner must accommodate himself to it. I think the Commissioner of Excise should have given a better reply than the one he has given. I expect, especially when there is a Mahomedan Minister in charge of Excise, that he would at once come to the rescue of the poor Mahomedans in Ahmedabad. This prayer, although brought forward by the honourable mover here, is really the prayer of the Mahomedan community of the whole of Ahmedabad. Is it too much to expect Government seriously to take it into consideration and remove this grievance as soon as possible? Although the resolution says that the shop should be immediately removed, surely the honourable mover will be satisfied if it is removed as soon as arrangements can be made. But the kind of reply given by the Commissioner on behalf of Government when the excise policy of Government is solemnly announced to be prohibition, is most unsatisfactory. I would beg of the Honourable Minister to see that this resolution in some shape is accepted and relief is afforded to the Mahomedans of Ahmedabad.

Mr. A. N. SURVE (Bombay City, North): Sir, I had absolutely no desire to intervene in the debate, but I rise only to ask for some information. The honourable mover of this resolution has not stated whether this shop is an old one or a new one. The shop may have been there for a very, very long time, and the mosques may have been newly built. So, I want information on that point. If that information is given, I shall be in a position to make up my mind in which lobby I should vote.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, this shop has been there for the last $4\frac{1}{2}$ years, and there were many applications and memorials submitted to the Collector. Only the other day, that is on the 15th of last month, when I had occasion to celebrate a marriage ceremony and to give a big caste dinner to 5,000 people, the Collector sent word at 2 o'clock that he would come in to see the site, and there were no less than 400 persons residing in the locality who accompanied us. We went round with the Collector, and not only the Mahomedan but other caste ladies also told the Collector that the liquor shop was a source of great danger and trouble to them and a great nuisance. The licensee was also there, and the Collector, after visiting that place, when he was approached by so many persons in all solemnity asked the licensee to find out some other suitable place. Then we went round to another place which is at a distance of less than a quarter of a mile, and after the Collector had inspected that place, we asked the licensee whether he could not remove the shop to that place. The licensee replied that he would not be able to do so. The Collector then asked the licensee to find out another suitable site and promised to give him assistance to do so. I do not know what happened afterwards. Perhaps, some clerk in the office must have put up to the new Collector some old papers, saying

[Khan Saheb A. M. Mansuri]

that there was no application from the people of the locality for a change of the liquor shop. It was during the time of Mr. Chatfield that this thing happened, and perhaps his successor has not seen the previous orders of Mr. Chatfield on the subject. I tell this House in all seriousness that this liquor shop is a real nuisance. I have not the least personal grievance against the licensee of this shop. It is really a serious grievance, and the seriousness will be realised when I say that even *pardah* ladies came out in the open and appealed to the Collector to remove the shop. I do not understand what tactics were employed afterwards. I think there must have been some mishandling of the matter somewhere.

Sir, I fail to understand the attitude of the Honourable Minister, who is a Mahomedan, on this question. He does not appear to have any sympathy for the Mahomedans. I had a talk with him about this resolution and he said to me "We will give you a reply that you should find out a suitable place". This, I think, on the very face of it, does not seem to be a sensible reply. I give him a challenge that if he takes up this position, I will see that he is not returned by his constituency during the next elections. With these few words, I commend my resolution for the acceptance of the House.

The Honourable Mr. A. M. K. DEHLAVI: Sir, I am sorry the honourable mover of the resolution has sat down with a threat to me. I accept it because the conscience of Government and the Minister is clear on that point. It is the definite policy of Government that liquor shops which are situated near any places of worship—no matter whether they be Mahomedan or Hindu places of worship—or near schools should be removed wherever there is a possibility and whenever there is an opportunity to do so. Further, no new shops are permitted to be located in places where they may be a nuisance to the public. This is an old shop 4 or 5 years old—my honourable friend says it is 4½ years old. The shop is situated at the back of a huge old mosque, a stone building. The mosque opens in one street and the back of the mosque walls another street. I may say that the entrance is in street A and the back in street B.

Khan Saheb A. M. MANSURI: I do not know what he wants to say by saying street A and street B. There are two mosques as the two entrances to the Council Hall opposite to each other and the shop is between them. I do not know why he should bring in A, B and C.

The Honourable Mr. A. M. K. DEHLAVI: I would request my honourable friend not to get excited. I assure him that it is the intention of Government to come to his rescue. I was just trying to explain the situation.

These are the facts. I have got a report here in support. According to this report the shop is behind this mosque. The front of this mosque is in a street which is different from the street where this shop is situated. The back of the mosque is entirely closed right up and there is no question of disturbing the people who come to say their prayers. There is no possibility of any noise being heard from street B into the mosque

[Mr. A. M. K. Dehlavi]

through the huge pucca stone wall which has been standing there for centuries. The yard of this shop again is surrounded by a high wall. The customers sit in this yard and drink. Therefore, as far as the question of nuisance is concerned, there is not the least disturbance to the mosque. No doubt, it is a fact that the shop is situated behind the mosque and there is another mosque at a short distance from there. As the Commissioner of Excise pointed out, it is an old shop, and it is difficult to remove it from that place until a suitable location is found. The standing orders are that shops should not exist in such places. If it is possible to remove them to some other place, they will remove them forthwith.

I have got the report from the Collector about which there seems to be some misunderstanding. I do not know myself how the facts stand. My honourable friend says that the Collector did actually promise to remove this shop. I do not find the promise in the report. It is not easy to find another suitable place for the location of a shop whenever an attempt is made to remove hops. The honourable member the Commissioner has assured my honourable friend that when he goes to the spot, he will examine the question on the spot, and I hope my honourable friend and other interested citizens will assist him—it is not their bounden duty to find another place for the location of this shop but it is their public duty to the people there.

MOULVI RAFIUDDIN AHMAD: Has the Honourable Minister visited the locality?

The Honourable Mr. A. M. K. DEHLAVI: I have lived in Ahmedabad for five years. I know the locality of this particular mosque; but I do not know the shop.

Khan Saheb A. M. MANSURI: Will the Honourable Minister visit the place now?

The Honourable Mr. A. M. K. DEHLAVI: I assure my honourable friend that during the last eight months I have visited such places in Surat and Broach, where objections were raised to the location of liquor shops. I found that in those places the location of the shops was objectionable such as no Muslim could tolerate. The shops in consequence have been removed from there though the step was likely to cost Government nearly a lakh of rupees.

The difficulty with regard to the removal of shops must be clearly stated. When a question for the removal of a shop is brought up, it must be a genuine case of nuisance. When it is a genuine case, the Government officials are bound and are instructed to pay their best attention to it. If it is not a genuine case, it usually ends in being found out to be an indirect attempt to bully the department. Suppose, for instance, my honourable friend succeeds in pointing out some place for this shop, I am sure there will be a hundred petitions from that locality on the ground that the shop has been newly brought to that locality and causes nuisance. In that way, if it is not a genuine case, it will happen to be a source of harassment to the department and to

[Mr. A. M. K. Deh'avi]

other people. If it is a real grievance, as a Muslim — and I am quite as ardent a Muslim as my friend — it is my duty to have it removed at once. But the assistance of the people of that place is necessary for the removal of the shop. I can assure my honourable friend that the Commissioner will take every necessary measure to remove this shop if a suitable place can be found.

The Honourable the PRESIDENT: I put the question. Noes have it; noes have it. The resolution is lost.

Khan Saheb A. M. MANSURI: I ask for a division.

The Honourable Mr. A. M. K. DEHLAVI: Again I request my honourable friend....

MOULVI RAFIUDDIN AHMAD: Then why should not the Honourable Minister accept the resolution?

The Honourable the PRESIDENT: Order, order. A division has been called for and I must grant it.

Question put. House divided. Ayes 2; Noes 18. Resolution lost.

Division No. 19.

Ayes

AHMAD, MOULVI RAFIUDDIN

| MANSURI, Khan Saheb A. M.

Tellers for the Ayes: Khan Saheb A. M. MANSURI and MOULVI RAFIUDDIN AHMAD.

Noes

CLEMENTS, Mr. E.	| LAWRENCE, the Honourable Mr. H. S.
DEHLAVI, the Honourable Mr. A. M. K.	| MASTER, Mr. A.
FRAMJI, Mr. K. S.	| MEHTA, the Honourable Sir CHUNILAL
GHOSAL, Mr. J.	| MONTGOMERIE, Mr. A.
HATCH, Mr. G. W.	| MOUNTFORD, Mr. L. J.
HAYWARD, the Honourable Sir MAURICE	| MUJUMDAR, Sardar G. N.
HOTSON, Mr. J. E. B.	| PAINTER, Mr. H. L.
JADHAV, the Honourable Mr. B. V.	| THOMAS, Mr. G. A.
JEHANGIR, the Honourable Mr. COWASJI	| WILES, Mr. G.

Tellers for the Noes: Mr. J. GHOSAL and Mr. A. MASTER.

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I beg to move:

"This Council recommends to Government that an Anglo-Urdu middle school for Mahomedan girls should be established at Poona at an early date."

Question proposed.

The Honourable Mr. B. V. JADHAV: Sir, imitating the very good example of the honourable member Moulvi Rafiuddin Ahmad, I shall not take much of the time of this honourable House. At present the Central Urdu Girls School teaches English up to the third standard, but the demand is to have a separate school. Government is agreeable to that. If they find that thirty girls are available, then a separate school will be opened. At present there are 33 girls in the English classes, but 11 of them have not completed their Urdu course. I will promise that as soon as Government are assured of a regular attendance of thirty

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girls, they will be prepared to have an Anglo-Urdu middle school for Mahomedan girls in Poona.

MOULVI RAFIUDDIN AHMAD: If Government accepts the resolution I have nothing more to add.

The Honourable the PRESIDENT: I do not know whether the Honourable Minister accepts the resolution.

Question put and carried.

Mr. R. S. NEKALJAY: Sir, I beg to move the resolution that stands in my name:

"This Council recommends to the Governor in Council to prohibit by law the practice prevailing among certain classes of eating the flesh of dead animals keeping intact the right to take out the skin of dead animals."

Sir, I move this resolution purely from the medical point of view and of sanitation. The people who eat this kind of flesh are attacked by a number of diseases and are put to great difficulties. You are aware, Sir, that the Bombay Corporation gets a monthly statement from the Commissioner of the amount of bad flesh destroyed in the Bombay markets. This amounts to several pounds, and this flesh is destroyed in the interest of the health of the citizens of that city. Therefore, I do not think it will be a difficult task for Government to adopt a legislation of this kind in the interest of the people in the rural areas. Perhaps the Minister in charge might say that it is difficult to get this thing done. I may point out to him that when rabid dogs are moving about in the villages, the village patils are made responsible for killing those rabid dogs and taking their tails to the village officers. A similar arrangement can be made in every village in the case of dead animals. Soon after an animal is dead, it should be flayed and buried in the presence of the village officer (patil). This arrangement, I hope, will be a very good one. Then I may point out to the Honourable Minister that the members of the community themselves are prepared to give up this habit. In the Satara district, to which the Honourable Minister belongs, he might be aware that in many villages the people have left this habit. I may also point out to him that several resolutions in this connection have been passed by the communities. If he wants to refer to any of these, then I have got some of them here. But I need not go far in this connection. I would only suggest to the Honourable Minister that if he is really anxious for the removal of untouchability, and if he wants to take the credit for removing the stigma of untouchability, he should accept this resolution.

Question proposed.

The Honourable Mr. B. V. JADHAV: Sir, I am afraid I shall not be able to accept this resolution moved by the honourable member for the depressed classes for the simple reason that if Government undertake legislation it will be very difficult to bring it into operation. A man ought to be free, Sir, to choose his food, and if Government were to prescribe what one ought to eat or one ought not to eat, the restrictions put by Government may, instead of doing good, prove injurious to the independence of the man and cause friction. I do not wish myself

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that carrion flesh should be eaten, but whether they should eat carrion flesh (as they have been doing all along) or whether they should give it up is a matter for the decision of that community. Nobody can dictate to them in that respect and I do not think Government intervention is called for in this respect, and for this purpose Government cannot undertake this responsibility.

Question put and lost.

Mr. A. N. SURVE : Sir, I beg to move that :

"This Council recommends to Government to appoint a committee to inquire if the 11½ per cent. cut in wages effected by the millowners of Bombay is at all necessary."

Sir, this House is very well aware of the seriousness of the strike situation and the privations that the mill hands are suffering. Now to give a few reasons why this committee is necessary, I may be permitted to state the attitude taken up by the millowners themselves. First of all, the millowners avoided an inquiry by the taxation Committee. The second fact is that they were given a chance of proving their case by the Tariff Board ; there also they sat on their backs and gave out the excuse that unless their wrong is righted they were not going to submit to any inquiry. Then, the third point was the appeal made by the members of the Legislative Assembly. They requested them to withhold their resolution on terms that they would at the next budget help their case in getting the excise duty abolished. Even to that appeal the millowners have not given any sympathetic reply. If the millowners are the real sufferers, I do not really see any reason why they should avoid an inquiry. If the case as they represent is true, then all sympathy—sympathy from Government, sympathy from the people, and sympathy even from the mill hands—will flow in their direction. But, so far what has been the case ? The millowners have been putting off this inquiry and the only inference from this conduct on their part is that they have no case whatsoever which can bear scrutiny. Another point is that the attitude of the millowners towards their employees even in normal times is very unfair. Take for instance the conditions of service, the forfeited wages, the nonpayment of the fraction of an anna and the fines imposed. All these things are really helping them to put in their own pockets money amounting to over a lakh and a half per month. I am told that this non-payment of the fraction of an anna, the forfeited wages, etc., and the fines imposed per mill on an average amount to about a thousand and a half per month and there are 80 mills in Bombay. It works out about a lakh and a quarter per month. All this money which really belongs to the labour is pocketed by the mill agents themselves. That is my information. Now, let us look at the attitude taken up by the Millowners' Association. By the presence of this body the millowners have a chance of carrying on individual negotiations with the labourer and this fact becomes more important when you take into account that some mills are badly managed and some nicely managed. I am making myself clear. There are some mills worked with new machinery. Therefore their cost of production is comparatively less than the production of mills with old machinery. Now in order to save the millowners having old machinery,

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this association fixes particular kind of conditions for all mills. I really do not know why the millhands should be penalised if the millowner does not renew his machinery. Then a large cry is raised about the mill agents themselves. Various charges are laid against them. First, that there has been no reduction in the commission which they charge. But apart from that, they have various ways in which they can keep their profits quite secure. It is stated that in making purchases of raw materials these agents are able to obtain a very large amount of money. Now, I might as well state that the friends of labourers had made two proposals to the Government. The first was the not giving effect to the resolution for reducing wages, and the second was to institute a public enquiry. To that proposal the answer given by the Millowners' Association is very characteristic. They say :

"With reference to the demand for the appointment of a committee of enquiry for the purpose of investigating into the methods of management, my committee maintain that the question is one for the shareholders of the individual concerns who have ample redress under the Companies' Act if dissatisfied with the management of the particular concerns in which their money is invested. Neither the Government nor the Association have the power to compel individual mills to submit evidence before a court of enquiry such as has been suggested, and even if it were possible to institute such an enquiry, it could not possibly bring nearer the termination of the strike."

This last sentence shows the obstinacy of the millowners, that whatever the decision of an independent committee, they are bent upon not taking back the resolution which they have already arrived at. If they have a good case, then public opinion will not support the mill labourers. But here, they say that whatever the decision of the committee, it will not end the strike. That means it is showing their obstinacy. Another point is that the Millowners' Association seeks shelter behind the Indian Companies Act. Sir, I would ask, if the millowners have themselves the largest amount of shares and with proxies they can pass any sort of resolution which is in their favour, how can a small shareholder ever think of exposing the irregular actions taken by these large shareholders? That is the difficulty. The large shareholders are generally themselves the millowners or mill agents. Therefore, the excuse given that there is a remedy at law falls to the ground. There is absolutely no remedy.

Then, Sir, about the attitude of the Government themselves. Government themselves are convinced that the millowners have no case. I am quoting only two or three extracts from the speech of the Honourable the Finance Member. He told us on the 30th of July in the last session that there has been a lot of money with these millowners. What he stated is :

"These figures suggest that they have a margin now of 7 annas on 2,000 million yards whereas formerly they had a margin of 4 annas on 11 hundred million yards, that is to say, in round figures, 20 crores margin against 7. There is a very large margin there to meet many of their expenses."

Therefore, even Government themselves are not willing to accept the statements made by the Millowners' Association. Let us look at another statement made by the Honourable the Finance Member. He is referring to the Japanese competition. This House is aware that the millowners are raising a point about the Japanese competition

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But to that a reply has been given by the Honourable the Finance Member. He says :

" But these allegations when made are promptly denied, and the Millowners' Association does not appear to be in a position to prove its case. "

Where is the use of making allegations which one is not able to prove ? Sir, let us take the third extract. He says also :

" This industry has commanded profits actually greater than the whole revenue of the Bombay Government in recent years, and it is certainly incumbent on them to make these simple facts perfectly clear to the public, when they ask for the sympathy of the public. "

Thus it is quite clear that even Government is not willing to accept the statements made by the Millowners' Association. Now, the object of this enquiry is that at present the public is not able to form its judgment as to who is in the right, whether it is the millowners or the millhands, and in order to create a sort of public opinion it is absolutely necessary that there should be an enquiry. When public opinion has been created, the strike will come to an end in no time. Government is sitting quiet simply because there have been no disturbances. But if there were disturbances, would Government sit quiet as they are sitting quiet to-day ? Sir, the loyalty of Indians to their employers is proverbial. May I quote the instance of the siege of Arcot, where the Indian soldiers offered to take only rice water and give the rice to the European soldiers when they were in difficulty ? If the labourers see and are convinced that the millowners are really suffering a loss, I am quite sure that they will come forward and say " All right, we will come to your rescue and take the reduced wages. " But here, what do we find ? The millowners insist on them that they should accept them at their word. But do they give any definite statement ? The millhands are willing to accept reductions in wages provided they are only temporary. But what assurance do the millowners give ? " Well, if the trade conditions improve and the circumstances are just as they are now, then we will think of restoring the wages to the present level ". Sir, this is simply taking shelter behind words and I at least do not think that with such assurances anybody will sympathise with the millowners.

Then, the next point is that even foreign institutions have been moved by the privations that the millhands are suffering from. I have in my hands the " Bombay Chronicle " of the 3rd November which contains a telegram about the strike. I have already read the first part of it, but now I am reading the latter part of that telegram ;

" It is stated that the Council (that is, the General Council of the British Trade Union Congress) is making a representation to the India Office to support the strikers' demand for an inquiry. "

Sir, this is a thing to which Government should kindly give their most urgent and serious attention. Because the millhands are not quite so well organised and because they are very tame, therefore, I do not think that in ordinary humanity we can put them to the serious test that we are putting them to. Till now they have behaved in an exemplary manner. But human patience has, after all, limits and as statesmen Government will take into their hands this case very early and see that the strike

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comes to an end, and I think the suggestion which I have made in my speech is a very reasonable one and it will be accepted by this House.

Question proposed.

Mr. S. K. BOLE : Sir, I rise to support this resolution. This cut of 11½ per cent. will give relief to the millowners to the extent of 6 lakhs of rupees while they say they are making a loss of 24 lakhs per month and that they are going to bear the burden of 18 lakhs themselves. I submit that when they are going to bear the burden of 18 lakhs they ought to be able to bear the smaller burden of 6 lakhs which is a mere flea-bite. I am afraid a keen fight is going on between the Government of India and the millowners of Bombay for the removal of the excise duty. A tug-of-war is going on between them in this respect and the poor mill workers are made to suffer. The mill workers were prepared to share the losses of the millowners by accepting short hours rather than accepting a cut in wages. They were prepared to help the millowners and they were also prepared to make a demonstration in asking the Government of India to remove the excise duty, but at the same time they made a request to the millowners that in the meantime they should restore the cut. Our representation to the Government of India for the removal of the Excise duty was duly submitted but the request fell flat. A deputation on behalf of the workers waited on the Committee of the Millowners Association and the Government of Bombay and placed all the facts regarding the cut before them, and showed how the cut was unjustifiable. They also made out a strong case for enquiry. There is no justification for this cut I submit, and therefore an enquiry in the matter was very necessary. I do not know why the millowners are shirking the enquiry. That very fact clearly shows that there must be something rotten in the industry and in the management itself. With these words I support the resolution.

The Honourable Mr. COWASJI JEHANGIR : Mr. President, this is a demand for another enquiry into the strike and I presume the main object that my honourable friend has in view is to have an enquiry which will bring an end to the strike. That is his main object. In moving the resolution he has again brought forward a long list of complaints against the millowners of Bombay. He has alluded to their refusal to go before the Tariff Board ; he has alluded to what he believes to be a fact, namely their refusal to negotiate with the Leader of the Swaraj party in the Assembly, and he has quoted from their replies and has drawn the inference that if a committee is appointed they are not prepared to consider the question of restoring the cut even if the committee comes to the conclusion that the cut was not justified. It is not my duty to reply to all those allegations against the millowners. I desire to confine myself within the four corners of the resolution.

The resolution asks that a committee be appointed to consider whether there is any justification for the cut of 11½ per cent. My honourable friend has himself supplied the strongest argument against appointing such a committee and against the usefulness of doing so. He has stated

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that there are some mills in which this cut is justified, while in others it is not. Without expressing any definite opinion, I think he hit the nail on the head when he made this assertion. Suppose this assertion is correct, that there is justification for this cut in some mills while there is no justification for any cut in other mills, it may be that in the minority of the mills there is no justification for a cut and that in the majority of the mills there is a justification. If that is a fact, how is a committee going to investigate whether on the whole the cut is justified or not? They will have to go into the management of each individual mill. They will have to show in which mills the cut is justified and in which it is not, and if they investigate the management and financial position of each mill in Bombay, they will come to some general conclusions. But, Mr. President, my honourable friend most probably realises the length of time that will be taken for such an investigation. Again such an investigation is only possible if the committee have the wholehearted support and co-operation of the mill agents in Bombay. Mere balance-sheets will not give the necessary information or satisfactory information, and as my honourable friend knows very well indeed, this Government cannot compel either the millowners or the representatives of labour to join such a committee or to co-operate with such a committee. Suppose that we had the co-operation of the millowners and of labour and such a committee was appointed. I do not know whether the leaders of labour are in a position to give an undertaking that if this committee comes to the conclusion that this cut is justified that they are in a position to guarantee that the strike will come to an end. Without divulging any secrets or being accused of breach of confidence, I can state that I have not yet heard any labour leader in the city of Bombay coming forward to undertake that on his advice or on their combined advice they are in a position to guarantee that under any stated circumstances labour will go in and give up the fight. On the other hand, the millowners are in the happy position of being able to guarantee and see that their guarantees are carried out. The whole object of this resolution is to influence the strike one way or another by the force of public opinion. But as far as labour is concerned, public opinion does not go very far. That is one more reason for refusing to appoint such a committee. My honourable friend will remember that the McLeod Committee was appointed last year on a clear-cut issue. The millowners contended that they were not bound to continue to give the bonus; the millhands contended that there was a guarantee in writing entitling them to a bonus. That was a clean-cut issue which could be decided by a committee; the committee had only to express the opinion what the agreement really meant, and force of public opinion would do the rest. Here the issues are extraordinarily wide and extraordinarily intricate, and to decide whether this cut of 11½ per cent. is justified or not requires facts and figures, co-operation and assistance which Government are not able to obtain, and therefore the object of my honourable friend is bound to be frustrated. When we know what the result of this committee will be, it is futile for Government to appoint one, and I feel sure that my honourable friend

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himself will realise the futility of the proposal he has put forward before this House.

Question put and lost.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to move that :

" This Council recommends to Government that early steps be taken to give effect to the resolution of this House regarding the adequate representation of all communities in all the services, especially in the Educational Department and on the clerical staff."

Sir, I rise to say that though there is a resolution passed by the House the Mahomedans are not given their proper and legitimate share in the various services of this Government. I will take the various departments one by one.

First, I will take the Education Department. Sir, in the Indian Educational Service in the Bombay Presidency out of 58 there are only 2 Mahomedans. In the Bombay Educational Service, out of 70 there are only 6 Mahomedans, and out of these 6, 4 are Urdu deputies and 2 are headmasters of Anglo-Urdu Schools. There are 4 educational inspectors for 4 Divisions, out of which there is only 1 Mahomedan educational inspector in the Bombay Division. He has been there for a very long time, and during the last 12 years no other Mahomedan had any chance of becoming educational inspector. Looking to the number of headmasters, we find that out of 23 head masters, there is not a single Mahomedan headmaster. There are 2 headmasters, belonging to the Mahomedan community, but they are headmasters of Anglo-Urdu Schools, but there is not a single Mahomedan headmaster in other high schools and middle schools. Looking to the deputy educational inspectors, there is not a single Mahomedan among them, except the four that I mentioned, who are purely Urdu deputies. So also, among the assistant deputy educational inspectors, the number of Mahomedans is very meagre. Sir, look at the number of Mahomedan students in the various schools. In the Elphinstone High School, out of 900 students there are only 30 Mahomedans. In reply to an interpellation of mine on the question, the Honourable Minister has given a statement admitting the fact, but at the same time he has pointed out that that is due to the Anjuman Islam and other private schools being in the vicinity. But I would point out to my honourable colleague the Minister of Education—I call him a colleague because I had the honour of sitting with him on this side of the House before last year—that even 15 years ago, the number of Mahomedan students in the Elphinstone High School was the same, and at that time also these Anjuman Islam and other institutions existed. So, there is no justification for his statement that out of 900 students in the Elphinstone High School there are only 30 Mahomedans because some other educational institutions are in the vicinity.

The Honourable Mr. B. V. JADHAV : Does the honourable member mean to say that Mahomedan students find it difficult to get entrance ?

Khan Saheb A. M. MANSURI : Yes, I am prepared to prove it. In the R. C. High School there are only 24 Mahomedan students out of 400,

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and I would like to ask the Honourable Minister why there should be such a small number of Mahomedan students. Sir, I could point out that in other private schools, even in the non-co-operating schools such as the Proprietary High School, the number of Mahomedan students is much greater than in the Government High Schools, and I may assure this House that when I myself sent two Mahomedan students from the non-co-operating Proprietary High School to the Government High School, the reply was that there was no room for them. I fail to understand how the orders of Government with regard to the admission of a certain number of Mahomedan students in the high schools are brushed aside. I think it is due to the unsympathetic headmasters that are in the schools. They think they are lords and monarchs of all they survey, and there is nobody to ask them why they take up this attitude. In reply to a question of mine whether it was a fact that some Mahomedan students were refused admission in the Ahmedabad High School, the reply from the Honourable Minister was in the affirmative. But when I asked the Honourable Minister in all earnestness whether he had taken the trouble to enquire why they were refused admission.....

The Honourable Mr. H. S. LAWRENCE: May I ask, Sir, what has the number of Mahomedan students in high schools got to do with the present resolution?

The Honourable the PRESIDENT: The honourable member is trying to argue that the reason of the paucity of Mahomedan students in Government high schools is due to the fact that there are no Mahomedans as headmasters of such schools.

Khan Saheb A. M. MANSURI: Whenever a question is asked as to why there is a paucity of Mahomedans in a particular department, say for example the Education Department, the reply is that qualified men are not forthcoming. I am prepared to point out to the Honourable Minister that there are really capable and intelligent and experienced Mahomedans who are quite competent to occupy high and responsible posts in this Department. For example Mr. Kazi, Superintendent in charge of the Yerowda Reformatory is there. His work has been praised by His Excellency and by the Honourable Minister himself. May I know the reason why he has not been appointed as educational inspector?

The Honourable Mr. B. V. JADHAV: He does not want to leave that place.

Khan Saheb A. M. MANSURI: I can contradict that statement.

The Honourable Mr. B. V. JADHAV: I myself asked him.

Khan Saheb A. M. MANSURI: This is what he told me.

Mr. Noor Mahomed was a headmaster in Rangoon School. He was first in our service and Mr. Lory had a special liking for him and took him in his own department. He is the best man for the place of a headmaster.

Now, take the Judicial Department. Out of the 19 sub-judges there is not a single Mahomedan occupying the post. Out of the kind courtesies

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and sympathy for Mahomedans, only recently I think the Honourable the Home Member has passed orders to appoint one Mahomedan in the person of my old teacher, Mr. M. A. Kadri, in the new post now being created at Nadiad. There is practically no Mahomedan who is occupying the post of assistant judge. Government are going to confer this appointment on qualified pleaders who have got 10 or 15 years' experience at the bar. Mr. Mahomed Latif.....

The Honourable Sir MAURICE HAYWARD: Sir, the discussion of the qualification of so many persons is hardly in order on the general proposition whether Government intend to give effect to their orders, as early as possible, which they intend to do. There is no intention on the part of Government to oppose it. The honourable member can dispense with the discussion of the qualifications of these persons.

Mr. R. G. PRADHAN: Have we got a quorum ?

The Honourable the PRESIDENT (After a count): Under the Standing Orders, I call upon the Secretary to ring the bell for three minutes. (The bell was rung and a count was taken). We have a quorum.

Khan Saheb A. M. MANSURI: What I wanted to point out is this. Hitherto the plea has been that there is no suitable man available. I was just pointing out the men who are at hand duly qualified to take up these posts.

In the selection grade, there is not a single Mahomedan among the three persons. Among the first class sub-judges there is not a single Mahomedan. Out of the 26 second class sub-judges there are only two Mahomedans. Out of the 120 nazirs and clerks of courts, there are only three Mahomedans.

In the Revenue Department, among the aval-karkuns, in the Northern Division there is one Mahomedan out of 52, in the Southern Division and 6 out of 6 and 3 out of 9: in the Central Division. Amongst the mamlatdars, there is a very meagre number of Mahomedans.

In the Police Department, we had 4 superintendents of police who have recently retired. Not a single Mahomedan has been appointed to any of those vacancies. But, Sir, I must say to the credit of Government that, after similar resolutions have been passed in this House, they have lately changed their policy and are now appointing Mahomedans to these posts. Recently they have appointed a Mahomedan as Collector in Gujarat. I thank heartily the Government for this act. With these words, I commend the resolution to the acceptance of the House and hope that Government will see their way to accept it.

Question proposed.

The Honourable Sir MAURICE HAYWARD: Sir, I wish only to say that we are doing everything we can in this direction to give fair representation in the public services to all communities and orders to this effect have been issued. We are quite ready to meet the wishes of the honourable member. I am prepared, in the absence of the Honourable

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the Finance Member who has been called away on urgent business, to accept the resolution on behalf of Government.

Question put and carried.

(After recess.)

MOULVI RAFIUDDIN AHMAD (Central Division): Sir, I beg to move :

"This Council recommends to Government that no fees should be charged to outdoor patients receiving treatment at all civil hospitals in the presidency."

Sir, my object in moving this resolution is to elicit information as to what has taken place with regard to the resolution of this House passed at the first session of the Council in Bombay. That resolution recommended to Government that all fees should be abolished. I understand that Government had appointed a committee—whether to give effect to this resolution or to shelve it, I do not know. But we have not yet received the report of that committee. As I had made a formal protest some days ago against the action of Government in rescinding the deliberate resolutions of this House, I desire to know what Government intend to do about this resolution. If Government are going to carry out the wishes of this House as conveyed in that resolution, I have nothing more to say, but if Government are not going to carry it out without giving any sound reasons for it, I should like to make some observations.

Question proposed.

The Honourable Mr. B. V. JADHAV: Sir, the committee alluded to by the honourable mover have submitted their report to Government, and Government have accepted their recommendations and passed certain orders, and I think they are being issued in the *Government Gazette*. The patients are divided into two categories, well-to-do and others. The well-to-do patients are those who have an annual income of Rs. 1,800 or those who pay land revenue of Rs. 300 or above per year. All those who are not well-to-do are to be treated free both at the dispensaries and at civil hospitals. The fees for the well-to-do are also moderate. The object of charging fees for the well-to-do is to give some encouragement to the independent medical profession. If no fees are charged even for the well-to-do, it will be tantamount to killing the independent medical profession. Government found that it was not desirable to exempt well-to-do persons. Therefore these rules have been sanctioned by Government.

MOULVI RAFIUDDIN AHMAD: In the light of the information given, I beg for the present leave to withdraw this resolution.

Question put and leave granted.

Mr. A. N. SURVE (Bombay North): Sir, I beg to move that:

"This Council recommends to Government to insert a condition in the license given to the Western India Turf Club prohibiting persons under 21 years of age from betting on the totalisator."

Sir, the object underlying this resolution is the curtailment of a gambling tendency. Sometime back I had asked a question which is given in Volume, XI page 58 asking whether it is true that inexperienced boys

[Mr. A. N. Surve]

and girls go within the race course enclosure at Bombay for betting and the answer given was that it was possible that many persons of all ages do so. The only condition that is in force at present is that persons under 12 years of age are not allowed to enter the race course, but a person over 12 years, irrespective of the sex, can go to the race course and bet. There the question of his age does not arise at all. It was only last night that we were told in this House that if a person is to exercise his civic right, he must be of the age of 21 years whereas our law fixes 18 years in all other matters. Here when responsibility is to be thrown on the man to build up his character and discretion wisely, there the policy of the law is to the contrary. But where a person loses his money and loses character, the Government do not think it its duty to lay any sort of prohibition. Sir, this is a sad commentary. I think especially as the volume of gambling is going to increase Government should seriously consider the proposition involved in this resolution. It must be within the memory of this House that I had put a question during the session drawing the attention of the Honourable Leader of the House to the provisions of the legislation in the Dominions. I can state at least two or three instances where persons under 21 years of age are not allowed to bet at the totalisator. That kind of legislation is in force in the Cape of Good Hope. Even in Natal there is a similar provision. The age there is 18. Even in Transvaal persons under 16 years of age are excluded from the race course. Why is this so there? Because in the Dominions, government and the governed belong to the same class. What do we find here? We have urged on Government that race course gambling is not an Indian vice; it is imported from foreign countries; we, Indians, do not want it and so we request Government in the interests of the public to adopt stringent measures against it. What do we find? We find that Government is not taking any heed of the suggestions made by the opposition. This is a matter, Sir, having serious consequences upon the welfare of the subjects and I trust that Government will see their way to accept it.

Question proposed.

Mr. A. MONTGOMERIE: Sir, I am afraid Government cannot see their way to agreeing with the suggestion of the honourable member that we should engage in a legislation of this kind. I would only draw attention to the fact which was noted yesterday by the Leader of the House that the honourable the mover of this resolution seems to have a somewhat uncertain sense of values. He proposes that a man should be allowed to take part in choosing the legislators of the country of choosing the man to whom the destinies of the country are to be entrusted on his attaining the age of 18, while he suggests that for 3 years longer it would be unsafe to trust him with a modest Rs. 5 on the race course in Bombay. The honourable member assures us that this limit of 21 obtains in South Africa. I know the honourable member is not a betting man. But if he were I would offer him very long odds indeed, that if there is a law of this sort on the statute book of South Africa, it is certainly not enforced nor indeed enforceable; and it would be very much less easily enforceable

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in India. In India a man can marry and beget a son long before he reaches the age of 21, but we are to enact that married men with families should not be allowed to enter the race course or to make a bet. I have every sympathy with the honourable mover's desire to prevent this evil. But when he suggests that a man does not reach the age of discretion before 21, that will not I think commend itself to anybody in the House. Sir, there will be numerous practical difficulties in distinguishing the age. We must have a regiment of doctors at the entrance of the Turf Club enclosure making an expert examination of the crowd as they enter eliminating those who might be under the age of 21. It is perfectly easy to distinguish a child of 12 or 14 but to distinguish persons in this country of the age of 21 or 19 or even 24 is practically impossible. I therefore oppose the resolution.

MOULVI RAFIUDDIN AHMAD (Central Division) : I am sorry I am unable to support the resolution. I think the arguments of the honourable member the Home Secretary are very sound. I really do not see how even the very eminent managers of the Turf Club would find means to ascertain the age of persons entering the race course. I think the proposition is simply impracticable. I do feel that the honourable mover is not justified in asking us to pass this legislation. I hope he will withdraw his resolution.

Mr. A. N. SURVE (Bombay City, North) : Sir, I do not know if the honourable member, the Home Secretary, was quite serious. I think he said something about people getting married and having a child at the age of 21. Is there anything immoral in getting married and getting children ? I do not really think so. For a man to gamble it is certainly immoral. Another point is, that the Home Secretary has not given any explanation as to why in the Cape of Good Hope Government feel the necessity of having a provision in their law to that effect. The same is the case with Transvaal and Natal. Are we here to safeguard the interests of the Turf Club or are we here to safeguard the interests of the public at large ? It is a serious question. Simply we are looking at the goose that is laying the golden egg. But I warn Government that it should not prove the golden egg bringing in its turn a curse and ruination. I think I hardly need mention anything further.

The Honourable Sir MAURICE HAYWARD : Mr. President, the Children's Bill which we recently passed checks dealings of people under the age of 16 and I think that is about as far as we can go. This recommendation would keep persons under tutelage up to the age of 21. I do not think that is a practical proposition. As has been pointed out by the Home Secretary, that would mean that you are going to refuse responsibility for ordinary dealings to men who may be already burdened with the responsibilities of families. It is not, Sir, I think, a practical proposition. Nor do I think the necessity for the enactment has been proved. It is very doubtful whether there are any large number of persons under the age of 21 who put any money whatever on the totalisator, and if they do, it is certainly not to such a large extent that it would make

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any material difference either to the profits of the totalisator or to those of the Turf Club. I am afraid, however sympathetic we may be with the objects of the honourable mover, we could not accept this proposition as a practical Government.

Question put and lost.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to move the resolution standing in my name. It runs thus:

"This Council recommends to Government that the proposal made by the University Reforms Committee regarding the removal of the Ismail College from Andheri to the Fort should not be given effect to.

Sir, there is something very interesting about the history of this question. Sir Mahomed Yusuf, the donor of this college, after whom the college is named as the Ismail College, made a handsome donation of 8 lakhs of rupees to Government with a cherished wish that an institution for higher education be provided for in the suburbs of Bombay, both for his community and the other sister communities. Sir, it was as far back as the year 1914 that he made this handsome donation. But till 1924 Government had been sleeping away and sleeping a long sleep and had no time to think of the affair. Sir, after this handsome donation was made by Sir Mahomed Yusuf of 8 lakhs of rupees, certain people from Belgaum—I mean from the Southern Division—gave only 2 lakhs of rupees and a college has been already provided for those people and it has already begun its work. Sir, the foundation-stone of this College was laid by His Excellency Sir Leslie Watson seventeen months ago, but still I regret to say, Sir, that the Public Works Department have got so much work at their disposal that they have not found these seventeen months since the foundation was laid sufficient.....

The Honourable Mr. B. V. JADHAV: I rise to a point of order. The honourable member is discussing the delinquencies of the Public Works Department. I do not think the wording of this resolution justifies it.

The Honourable the PRESIDENT: I do not know how the honourable member wishes to argue his case. But if his argument is that the delay in establishing the college has led to this recommendation from the University Reforms Committee, that if the college had been built before now, no recommendation of the kind could have been made and that the building of the college should be expedited, then I cannot see how his remarks can be regarded as irrelevant.

Khan Saheb A. M. MANSURI: Yes, Sir. That is my argument. So, though it has been complete seventeen months since the foundation was laid, still the plans have not been ready. It has given rise to the suspicion whether Government are going to postpone this building on account of the recommendation of the University Reforms Committee. On this committee, Sir, my friend Mr. Mirza Ali Mahomed Khan had also the honour to serve, and he has written a dissenting minute in regard to the location of this college and he has pointed out that, if the college is located on the Cooperage, the public of Bombay will have something to say about it as.....

The Honourable the PRESIDENT: I understand that Government is prepared to accept the resolution. The honourable member need not, therefore, be long in his remarks.

Khan Saheb A. M. MANSURI: I am glad, Sir. Then, I have nothing to say.

Question proposed.

The Honourable Mr. B. V. JADHAV: Sir, I do not think Government are entertaining any idea of not having this college at Andheri or that they are going to accept the proposal of the Univeristy Reforms Committee as to the removal of that college from Andheri. So I may give an assurance that Government have no objection to accept this resolution.

MOULVI RAFIUDDIN AHMAD: Only one word, as I was very much interested in this movement. I think really, if the Government is in earnest, that they should make haste....

The Honourable the PRESIDENT: May I draw the honourable member's attention to the fact that there is another resolution from the same honourable member, on which this speech will be more appropriate?

Question put and carried.

Mr. R. S. NEKALJAY: Sir, I beg to move that

"This Council recommends to the Governor in Council to recommend to the Imperial Government to make necessary provision as early as possible to form a full Mahar battalion or a Mahar company in each of the Indian regiments.

I need not say much about this, Sir. A Mahar battalion was already formed during war time and it was confined only for the war measure and it was disbanded after the war was over. My reason for moving this resolution is that we are tired of the village life and Government is also tired of the watandar Mahars. They say they can go anywhere they like. Well, if my suggestion is accepted, I think Government will also be relieved to a great extent and these people will also lead a good life, and my object of their giving up the eating of the flesh of the dead animals will also be served, because they will be under the commanding officer and such kind of flesh, I know it for certain, will not be allowed. Another thing is that when the Mahars will get entry into the regiments, their children will be able to receive education, because in every regiment they have a school attached to it and many of such purposes will be served and they will be leading moral and honest lives which will make good improvement in them.

Question proposed.

Mr. L. J. MOUNTFORD: Mr. President, I would like to reassure the honourable member who has raised this point upon one or two features of this case that possibly may have escaped his notice. In the first place, I can assure him of the entire sympathy of this Government on the question of Mahar recruiting. That has been evidenced by the fact that as far back as December 1916, at the time when the Government of India did not allow Mahars to be recruited, the Government of Bombay approached

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the Government of India and obtained from them sanction to recruit Mahars. This speaks well for the sympathetic attitude of Government towards a resolution of this kind. The result of that decision of the Bombay Government to recruit Mahars when allowed to do so by the Government of India was that a separate battalion was raised. A meeting was held at the Town Hall, Bombay, which was probably attended by the honourable mover.....

Mr. R. S. NEKALJAY : Yes, Sir, I attended the meeting which was presided over by your predecessor, the late Sir Narayan Chandavarkar, and you were also there.

Mr. L. J. MOUNTFORD : At first a special company of Mahars was formed and it was afterwards turned into a battalion and a total of 3,200 men was enlisted. That battalion was stationed at Santa Cruz and when the Great War was over it was used in operations in the Aden hinterland. The 111th Mahars under Colonel Dyke performed extremely well in those minor operations and we were all quite content with the material and with the standard of military efficiency that was displayed. Soon after the Great War drew to a close, it was found essential to disband a large number of the regiments and it was natural that the latest formations such as third battalions, (there were even 5th battalions) in certain Maratha regiments and the Mahars, who were also one of our latest regiments, should be disbanded. It was entirely a question of cash and these reductions took place not only in Bombay but in the Punjab, Bengal and everywhere else. On account of the disbandment of the 111th Mahars, when the late Commander-in-Chief, Lord Rawlinson, came to Belgaum, I led a deputation to him to ask His Excellency whether the orders could not be revised and whether the 111th Mahars should not be absorbed in other regiments or whether it could not be continued to be maintained. I received a very sympathetic answer from His Excellency the Commander-in-Chief, but he told me it would be quite impossible as this was entirely a question of money and that if we could find the money, he would recommend the battalion to be maintained. That of course was quite impossible. The honourable mover therefore will see that not only has the Mahar won a position in the minds of this Government, of the Government of India and of His Excellency the Commander-in-Chief, but that efforts have been made to maintain the 111th Mahar battalion in its full strength and dignity and that those efforts broke entirely upon the rock of finance. You cannot maintain regiments beyond the required strength in the defence of the Empire and of India. You cannot maintain any unnecessary regiments and I can assure the honourable member that should there ever again be a necessity to widen the sphere of our recruiting, Mahars would most certainly be called upon to add to the fighting forces of the Indian Empire.

For the benefit of this House, I would like for one moment to allude to the past history of the Mahars to show that the call upon such material will meet with a good response. In the days of John Company a very

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large proportion of its regiments consisted of Mahars. Those of you, who have gone to Koregaon and taken the trouble of seeing the monument there, will remember there are names upon that monument which signalises one of the greatest and the most glorious feats of arms in the East, and that every name there is that of a Mahar. That was the time when Captain Staunton marched down just after the battle of Kirkee to join Colonel Burr before Poona and stopped at Koregaon. Captain Staunton with 800 troops, a large majority of whom were Mahars, including some Arabs, who manned the guns, met the troops led by the Peshwa in person; Captain Staunton lost his guns three times but re-captured them. The Peshwa's troops numbered 25,000 while Captain Staunton's force consisted only of 800 men who, be it said to their credit, kept the Peshwa's troops at bay for a day and a night and eventually routed them. That is the record of the Mahars. Later on the Mahars were put into the Marine battalion and stationed in Bombay, but owing to lack of discipline, they became disorganized and were finally absorbed into the first battalion of the Second Bombay Brigadeers and eventually it was decided not to recruit Mahars any longer. If we are to expect Mahar recruiting to be successful, it would be far more advisable in the future to try for a brigade of Mahars than for a small battalion, where they can be brigaded by themselves. As we all know, in another place there are frequent demands to cut down expenditure in the army and we have seen an earnest desire on the part of the Imperial Government for retrenchment in the army, and therefore it is quite impossible to make any recommendation for raising a new Mahar battalion to the Government of India. Honourable members may be assured that the Mahar, as a fighting man, has won the respect of this Government and also of the Government of India and that he will most certainly be called upon, if necessary, to swell the fighting forces of the Empire. Under the present rules it is still possible to have a limited number of Mahars attached to Maratha regiments, and if the honourable member would like to know what the orders are on the subject, I should be glad to communicate them to him. At the present moment the Mahars are taken on for the regimental bands or as clerks. These orders whereby Mahars can be enlisted came out only a year or two ago and therefore I cannot see any reason for making any such recommendation as is suggested by the honourable mover in his resolution. After this assurance, I hope the honourable member will withdraw his resolution.

Mr. A. MONTGOMERIE: Sir, I am quite willing to accept the resolution in a modified form for the reasons pointed out by the honourable member, the Commissioner, Southern Division (Mr. Mountford). It is impossible to make a recommendation to the Government of India for the formation of a battalion or a company, but there are other fields in which the Mahars may serve in the army. Their natural aptitude for mechanical appliances ought to make them very helpful indeed. Most of the chauffeurs and people of that sort who attend to engines are Mahars. They have shown an extraordinary aptitude for mechanical

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employment, and Government would be willing to accept the resolution if the honourable member would modify it in this form :

" This Council recommends to the Governor in Council to recommend to the Imperial Government to consider the question of giving further opportunities to Mahars of enlisting in the Indian Army. "

That would not tie us down to any definite recommendation but would do all that the Mahars desire.

Mr. R. S. NEKALJAY : Sir, I ask the permission of the House to amend my resolution as suggested by the honourable member the Home Secretary.

Question put and leave granted.

The Honourable Sir MAURICE HAYWARD : Sir, I shall be very glad, on behalf of Government, to accept the resolution in that form and make the necessary recommendation to the Government of India.

Resolution, as amended, put and carried.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities) : Sir, I beg to move :

" This Council recommends to Government that the opening of the Ismail College at Andheri be expedited. "

Sir, I rise to say that it is a well known fact that the wheels of the machinery of Government move slow but sure, but in this case the slowness has been more than proverbial. It seems that the wheels of the machinery of Government, so far as the Education Department is concerned, have been dislocated on account of the want of grease and proper oiling. It is eleven years since the charitable philanthropist, Sir Mahomed Yusuf, gave a handsome donation of Rs. 8 lakhs to the Government.

The Honourable Mr. B. V. JADHAV : : Is it necessary, Sir, to go into all that ?

The Honourable the PRESIDENT : It is not necessary.

Khan Saheb A. M. MANSURI : Though the donation was given eleven years ago, the college has not yet been started. It is meant not for Mahomedans alone, but for students of all classes. It is a residential college, and there is great necessity for the same, because it is not meant for people living in Bombay, but it is more or less meant for people from the mofussil, and especially the people living in the suburbs round about Bombay, and we know that Government have spent crores of rupees on the development of these suburbs.....

The Honourable the PRESIDENT : The honourable member would be entitled to point out that though the foundation-stone was laid 17 months ago, no progress has yet been made, and to ask Government to expedite the matter.

Khan Saheb A. M. MANSURI : Sir, though it is 17 months since the foundation-stone of the college was laid by His Excellency Sir Leslie Wilson, still it is a matter of great regret that the work has not begun till now. I sincerely hope and believe that if this fact is brought to the notice of this House, Government will see their way to begin the work of this

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college at a very early date. With these few words, I commend this resolution for the acceptance of the House.

The Honourable Mr. B. V. JADHAV : I may say, Sir, that the building work will soon be undertaken by the Public Works Department, with which I have got no concern, but I may assure the House on behalf of the Education Department that as soon as the buildings are ready, steps will be taken to open the college.

MOULVI RAFIUDDIN AHMAD (Central Division) : Sir, I desire to mention a very serious incident in the past for the information of Government and the Ministers concerned, owing to which Mahomedans apprehend that this college will not be built at all. Sir, some 15 years ago the foundation-stone was laid by Sir George Clarke of a Mahomedan college building not very far from here. We all witnessed the ceremony at the hands of the Governor. For two years no progress in its construction was made. I brought the matter to the notice of the Council, when Sir George Clarke was presiding, and told His Excellency that for two years no progress in the construction having been made, there was danger of the foundation-stone being stolen and desired to know the fate of the college. His Excellency assured me that there was no such danger, and the college was sure to be built. Sir, after 15 years, we know that the college was not built; the whole scheme was abandoned. I do not know what has happened to the foundation-stone.

The Honourable Mr. B. V. JADHAV : It is not stolen.

MOULVI RAFIUDDIN AHMAD : Therefore, Sir, the public have great apprehensions about the Ismail College. Seventeen months ago, when His Excellency the Governor laid the foundation-stone of the college, we were assured that the work would commence immediately and it was hoped that in two years' time His Excellency himself would perform the opening ceremony. The work of construction has not yet begun. It does not matter whose concern it is. If the cap fits the Minister of Education let him wear it; if it fits the head of the Honourable Minister in charge of the P. W. D. let him have it. What people desire to know is how 17 months have been allowed to be passed without any commencement. No report, no explanation is given to us, about the delay, until we bring this matter to the notice of the House. Therefore, I do hope and trust that the public will be assured at once by some notice in the papers that the work has begun and an opportunity given them to examine the works for themselves. With these remarks, I support the resolution.

Mr. K. S. FRAMJI : Sir, when the foundation-stone was laid by His Excellency the Governor in February 1924, no plans and estimates were prepared for this building. There was only a scheme to acquire the land. After the ceremony of laying the foundation-stone was performed, it was intended that the plans and estimates should be taken in hand. The Consulting Architect to Government was put in charge of this work. When the plans and estimates were ready after some time,

[Mr. K. S. Framji]

we could not undertake the work owing to limited funds and the plans had to be altered. Then I understand there was some delay on account of some dispute about the transfer of the land. Recently the Finance Committee has sanctioned the money, we have invited tenders for the work, and we have accepted a tender. We are now only awaiting the transfer of funds from the Education Department. That has now been done, and in a year or two the buildings will be ready.

The Honourable Sir MAURICE HAYWARD: I should like to say on behalf of the Honourable Minister in charge of the Public Works Department, who is unfortunately not here to-day on account of ill-health, that he will see that all possible delay is avoided in building this college so important for Mahomedans.

Khan Saheb A. M. MANSURI: After the assurance given by the Honourable Leader of the House, I am glad to withdraw the resolution.

Question put and leave granted.

The Honourable the PRESIDENT: This concludes the business before the House.

I have now to intimate to the House that I have received a commission from His Excellency directing me to announce that he is pleased to order that the present session of the Legislative Council should be prorogued. Accordingly, by virtue of this commission of His Excellency, I declare this Council prorogued until the date of which due notice shall be given. This Council is now prorogued.

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
	Khardahi	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

Appendices

APPENDIX No. 21—contd.

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 re-leased, 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 खाणीतून 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 होणेसाठीं तालुक्याचे दतरी दाखला राहून गांवांसही देणेची तजवीज व्हावी.

कळावे, 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) VASANTAO 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) RAFIUDDIN 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. (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. Continuance of councillors holding office at commencement of Act. Election in case of non-continuance.

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.

(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*

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.

Notice of certain business to be given to the Government Executive Engineer or Educational Inspector.

(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:

Certain Government officers may attend and may be required to attend meetings.

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.
 Other executive committees.

(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.*
 mittees consisting of such councillors as it thinks
 Consultative committees. 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 the municipality at 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 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 mode of appointing, etc., municipal servants; 32, (5), the mode and conditions of appointing, 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 provident funds ; 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 prescribing taxes ; 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 writing off amounts due. 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 Approval required to rules. 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 Govern- ment :

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.

(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 carcases 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; *as well as 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 *Cf. s. 65.*
assessment-list under section 77, give public

Public notice of time
fixed for lodging objec-
tions.

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

Objections how to be
made.

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 opportu-
nity of being heard in person or by agent,
Hearing of objections. 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 dele-
gate its powers and duties under this sub-section may be transferred to
any sub-committee appointed from its members or with the sanc-
tion 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

Authentication of list.

(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.

(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

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

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.

(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.

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.

Cf. Bom. III of 1888, s. 151.

Cf. s. 70.

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. Cf. s. 72.

Taxes on pilgrims may be assigned in part to local boards.

(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. Cf. s. 75.

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

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,— Cf. s. 76.

Power to examine articles liable to octroi.

(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.

(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 sub-section (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 Cf. Bom. 11

Entries in the assessment list and taxes and decisions to be final.

of this Act against which no objection is made of 1888, s. 219.

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 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 therewith, 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,
 Power to require sufficient drainage of houses. 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 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.* Provision of privies, 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.

Standing committee may execute certain works under this sub-chapter without allowing option to person concerned of executing 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.

Expenses in such cases by whom to be paid.

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.

Pipes, etc., constructed by municipality to be municipal property.

(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.

Power of carrying water mains.

(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.

Permission necessary for certain projections.

(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.*
brackets for lamps to be lighted with oil or gas
keta, 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 loco-
motive 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

Repairs to be made by owner or occupier; default by such.

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.

7. a. 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.

7. a. 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. ~

7. a. 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 ment, disuse or disputed ownership, or of its remain-
building. ing 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 Abkari Act, 1878. Bom. V of 1878.

172. 171. (1) The municipality may from time to time open or close Cf. s. 140.

Opening, closing and letting of markets and slaughter-houses. any public market or slaughter-house. It may also 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 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.

Slaughter-houses, etc., beyond municipal limits. Commissioner or, if authorized by him, of the 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.

Search for and inspection of unwholesome articles. committee, Chief Officer or any councillor or 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~~1~~ 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.

Cf. Bom. III of 1888, s. 362.

Police and municipal officers to aid fire brigade.

(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—

Cf. s. 154.

Service of notices, etc., addressed to individuals.

(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,

Service of notices on owners or occupiers of buildings and lands.

it shall not be necessary to name the owner or occupier therein, and the service thereof, in

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 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 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 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 :

Municipality may prosecute.

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.

Jurisdiction of Magistrate: recovery of compensation and expenses.

(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 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

Presentation of
accounts. Budget
Estimates.

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 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.

Government inquiry into municipal matters.

(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

Power of Government to provide for performance of duties on default by municipality.

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.

(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

Power of Government to dissolve or supersede municipality in case of incompetency, default or abuse of power.

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.

(2) When the municipality is so dissolved or superseded, the following

Consequences of dissolution or supersession. consequences shall ensue :—

(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. 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*),
 („) HOOSEINBHOY 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.

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 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 renamed 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 7 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 6 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 5 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 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.

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.

(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 1898. 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 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,
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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.

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.

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.

(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.

Cf. Bom. IV of 1898, s. 23.

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.

Cf. Bom. IV of 1898, s. 23A.

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."

Cf. Bom. IV of 1898, s. 24.

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.

Cf. Bom. IV of 1898, s. 32B.

(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,

(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 deposit and notice. 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
of 1898, s.
32H.

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. 31.
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.

(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.

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.

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.~~

(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 streets. 40 feet in width, nor, if made for foot traffic only, of 1898, s. 4 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:—

Bom. I of 1894. Extent to which Land Acquisition Act shall apply to acquisition of land otherwise than by agreement.

(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.

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.

Bom. IV of
1898.

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 :

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.

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.

(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 (x) (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 (x) 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 unrenovable 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 revert 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.

Audit of Accounts.

(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-
 posited in Imperial Bank
 of India or other
 prescribed Bank. with paid into the Bombay Head Office of the
Cf. Bom. IV
 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 de-
 posit, 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
Schedule of officers
 and servants of the
 Board. a schedule of the staff of officers and servants
Cf. Bom. IV
 of 1898, s. 90. 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.

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).

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 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.

Penalty for breach of by-laws.

Approval and publication of the 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>THE FLATS. (Deposited Plan "A")</p> <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.</p>	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.
			(Deposited Plan " B ".)				
1 (b) and 1 (d)	..	383 Part Tardao Division.	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	..	..	..
			(Deposited Plan " C ".)				
1 (c)	..	412 Tardao Division.	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 Tulse Pipe Road bearing Cadastral	4,104	..	13,338	..

Appendices
SCHEDULE C—*contd.*

1017

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></p> <p>Bombay Municipality bearing Cadastral Survey No. 110 and partly by private properties bearing Cadastral Survey Nos. 137, 139, 136 and 134.</p> <p>(Deposited Plan G.)</p>	Sq. yds.	Sq. yds.	Rs.	Rs.
1 (j)	..	46 Lower Parel Division.	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.	7,13,653	..	..	..
1 (k)	..	69 (Part) Lower Parel Division.	(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.	10,162	..	33,026	..
			Total ..	..	13,06,994	..	1,20,799
			<p>THE KENNEDY SEA FACE. (Deposited Plan H.)</p>				
2	..	Fort 7	Bounded on the North, South and West by the foreshore of Back Bay and on the East by a public footpath.	4,447	..	..	..
			Total ..	..	4,447	..	..

Appendices
SCHEDULE C—cont'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.
			THE COOPERAGE PLOT. (Deposited Plan I.)				
3	..	4 and 13	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.	58,267	..	..	..
			THE MARINE LINES ESTATE. (Deposited Plan J.)				
4 A	..	718 to 725 1416 to 1421 1429 to 1433 and 1435.	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.	32,795	..	3,27,950	..
			The MARINE LINES MAIDAN. (Deposited Plan J.)				
4 B	..	709	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	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—cont'd.</p> <p>(Deposited Plan J)—cont'd.</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 style="text-align: center;">THE WODEHOUSE ROAD PLOT—<i>contd.</i></p> <p style="text-align: center;">(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>Total Wodehouse Road Plot.</p> <p>..</p> <p>41,400</p> <p>..</p> <p>4,14,000</p>				
			<p style="text-align: center;">THE HORNBY ROAD PLOT.</p> <p style="text-align: center;">(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	7,707	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.
			..	4,657	..	46,570	
12 (A)	..	74 (part), 322, 323	THE PAREL ESTATE (Deposited Plan R.) 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.
			THE PARCEL ESTATE —concl'd.	Sq. yds.	Sq. yds.	Rs.	Rs.
			(Deposited Plan S) —concl'd.				
12 (G)	..	245	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.	3,130	..	..	..
			(Deposited Plan T.)				
12 (H)	..	681	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.	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.) Ward E.</i>				
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.
<p align="center">THE CENTRAL AGRIPADA ESTATE. (Deposited Plan C.) Ward E.</p>							
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
<p align="center">TOTAL, CENTRAL AGRIPADA ESTATE.</p>							
<p align="center">THE EAST AGRIPADA ESTATE. (Deposited Plan D.) Ward E.</p>							
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.
				Sq. yds.	Sq. yds.	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	7034 (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

Appendices
SCHEDULE E.

1035

(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 style="text-align: center;">THE NEPEAN SEA ROAD PLOT..</p> <p style="text-align: center;">(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 style="text-align: center;">THE COLABA RECLAMATION.</p> <p style="text-align: center;">(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.)

Bom. VI of Act, 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 .

Bom. VI of 9 of Bom. VI of 1923. Act, 1923, Amendment of section 2. In section 9 of the Bombay Local Boards Act, 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

V of 1898. (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 urther 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, 192 .
 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 watanar 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.~~

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.

Amendment of section 60 of Bombay Act 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.

(2) The district court shall be the principal court of original civil jurisdiction in the civil district.

Cf. XIV of 1869, s. 7 & Bom. XII of 1866, s. 3. 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

Appeal from decision of first class subordinate Judge.

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.

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-
ments. 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 licensed 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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