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PROCEEDINGS
OF THE
COUNCIL OF THE GOVERNOR OF BOMBAY
FOR THE
**PURPOSE OF MAKING LAWS AND
REGULATIONS.**

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "the INDIAN Councils' Act, 1861."

The Council met at Bombay, on Tuesday, the 30th January 1872, at noon.

P R E S E N T :

The Right Honourable Sir W. R. S. V. FITZ GERALD, G.C.S.I., Governor of Bombay, *presiding*.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable S. MANSFIELD, C.S.I.

The Honourable H. P. ST. G. TUCKER.

The Honourable MUNGULDASS NATHOOBHOY, C.S.I.

The Honourable the ADVOCATE GENERAL.

The Honourable VENAYEKRAO APPASAHEB of KOORUNDWAR.

The Honourable Colonel M. K. KENNEDY.

The Honourable Sir JAMSETJEE JEJEEBHOY, Bart., C.S.I.

The Honourable A. R. SCOBLE.

The Honourable E. W. RAVENSCROFT.

The Honourable the Advocate General took the usual
affirmation of office, and declaration of allegiance to Her Majesty.

The following papers were then presented to the Council :—

I.—The following letter from the Government of India :—

From Whitley Stokes, Esq., Secretary to the Government of India; to E. W. Ravenscroft, Esq., Acting Chief Secretary to the Government of Bombay—dated Fort William, 22nd December 1870.

SIR,—I am directed to acknowledge the receipt of your Acting Under-Secretary's letter No. 168, dated 5th November last, to the address of the Secretary

to the Government of India, Home Department, and in reply to communicate the following observations.

2. The Bill sent up with the letter under acknowledgment for His Excellency the Viceroy's assent, purports to bring under the general Regulations and Acts in force in the Bombay Presidency certain Villages lately received from the Nizam. It does not appear that under section 47 of the Indian Councils' Act the Governor General in Council has altered the limits of that Presidency so as to make them include those villages. If no such alteration has been made, His Excellency is advised that the Bombay Legislature has no power to deal with the ceded territory; but even assuming this alteration to have been made His Excellency is advised that as the effect of the Bill would be to extend the appellate and the extraordinary original jurisdictions of the High Court at Bombay, the proposed enactment is beyond the powers of the Bombay Legislature.

3. However, before proceeding to communicate the formal refusal to assent to the Bill, the Viceroy is desirous of giving His Excellency the Governor of Bombay in Council the opportunity of offering such explanations as he may have to make on the subject, and I am accordingly to request the favour of an early reply in the sense above indicated.

4. I am to remark that little or no inconvenience will be caused by dropping the present Bill, as the villages in question will be comprised in the Local Extent of Acts and Regulations' Bill now before the Council of the Governor General for making Laws and Regulations.

5. I am, in conclusion, to call attention to the final paragraph of my letter No. 249, dated 16th May 1870, and again request that no Bills may be submitted for the Governor General's assent without the official report of the discussions that have taken place upon them.—I have the honour to be, Sir, your obedient Servant,

(Signed) WHITLEY STOKES,

Secretary to the Government of India.

The following is the reply to the above:—

From the Acting Under-Secretary to the Government of Bombay, to the Secretary to the Government of India, Legislative Department,—dated Bombay Castle, 12th July 1871.

SIR,—I am directed to acknowledge the receipt of Mr. Secretary Stokes' letter No. 992, dated 22nd December 1870, and in reply to state that on consideration of the objections taken by the Government of India to the proposed Act "to bring under the general Regulations and Acts in force in the Bombay Presidency certain Villages received in exchange from the Nizam," this Government considers it advisable that the present Bill should be dropped, and the Villages dealt with as proposed in the 4th paragraph of Mr. Stokes' letter.—I have the honour to remain, Sir, your most obedient Servant,

(Signed) J. NUGENT,

Acting Under-Secretary to Government.

II.—Letter from the Secretary to the Council of the Governor General for making Laws and Regulations, No. 704, dated 21st June 1871, returns with the assent of His Excellency the Governor General signified thereon the authentic copy of the “ Bill to provide for the cost of the Police employed in towns and suburbs where Act XXVI. of 1850 is in force.”

III.—Letter from the Secretary to the Council of the Governor General for making Laws and Regulations, No. 703, dated 21st June 1871, returns with the assent of His Excellency the Governor General signified thereon the authentic copy of the “ Bill for imposing duties on the non-agricultural classes in the territories subordinate to the Presidency of Bombay.”

The Council then proceeded to consider the Bills and Orders of the day.

The Honourable Mr. TUCKER, in moving the first reading of Bill No. 1 of 1872—a “ Bill to amend Act XIII. of 1856,” said—The Bill, of which I am about to propose the first reading, is a measure of very limited scope, and is intended to effect a small but necessary object. It is to amend the law relating to the Bombay City Police Superannuation Fund, and to alter the rules under which pensions hitherto have been granted to the police of the Presidency town. The Bombay City Police Force was originally governed by Act XIII. of 1856, an Act passed by the Indian Legislature, in which certain rules were laid down for the creation of a superannuation fund by certain deductions from the pay of those men of the police who were not otherwise entitled to pensions, under the rules applicable to the Uncovenanted Service, to which were added the aggregate of particular fines and other realizations from the sale of clothing, &c., all of which, when collected together, were to form a fund from which retiring pensions were to be paid. It was found necessary last year to make a considerable reduction in the Police Force of the City of Bombay. This reduction was decided upon at the urgent solicitation of the Bench of Justices, and the discharge of a certain number of officers and men, both Europeans and Natives, was ordered. Now, the Act which originally regulated the pensions of the police of all the Presidency towns had been amended by the Indian Legislature in 1866 so far as it affected the Calcutta Police, and power had been given to the Bengal Government to make rules, under which rules an increased contribution had been levied and pensions granted after shorter periods of service. For example, under Act XIII. of 1856 a man was obliged to serve sixteen years to obtain a pension equal to one-third of his average salary for the five years immediately preceding his retirement, and twenty-four years to get a pension equal to one-half of the average salary of the last five years of his service. By the Calcutta rules these pensions can be granted after fifteen years' service and twenty years' service respectively. It is proposed now to adopt in Bombay the Bengal standard and to shorten the periods of service qualifying for pension. This reform is necessary as the character of the duties which devolve on the police render it expedient that all the men retained in the force should be able-bodied and of active habits, and that there should be an early possibility of retiring for those who have been weakened by exposure, or who, on account of advancing age, have suffered a diminution of physical vigour. I think ye shall all be agreed upon this point. To effect this object, sections have been introduced into the present

Bill to be substituted for those in Act XIII. of 1856, which it is proposed to repeal. In addition to this alteration in the general law for the government of the police, power has been given to Government to grant pensions to the officers and men who have recently been discharged. It has been considered that the case of these persons is a special one which requires exceptional treatment. They have been got rid of experimentally with the view of diminishing municipal expenditure, and they have very strong claims for consideration. We must all acquiesce in the policy of making some provision for men who have been suddenly thrown out of employ, in consequence of a financial crisis, for no fault of their own, and as it has been ascertained that the fund now accumulated will be able to bear the additional burdens which will be imposed upon it if this Bill should pass, it is trusted that the proposal to confer upon Government power to grant retrospectively pensions to the men discharged at the close of the past year will meet the approval of this Council. The sanction of the Government of India has been accorded to the changes which it is desired to make. I need say no more. I move, Sir, the first reading of Bill No. 1 of 1872.

The Honourable the ADVOCATE GENERAL said he wished to make a few remarks upon this measure. The Bill provided for the creation of a new superannuation fund. By one of the sections of the Bill allowances were to be paid in the case of a reduction of the force, although officers had not been in the force for a sufficient number of years to earn a pension. Of course as regarded any future reduction in the force there was no objection to the Act in point of principle, but by the 8th section of the Bill it appeared that members of the police force who had been discharged during the year preceding the passing of the Act would be entitled to a pension from the superannuation fund. He did not know whether the fund would be sufficient to meet these charges, but it was in his opinion hardly fair that the new fund should be charged with pensions to officers who had never subscribed to it, and had been discharged prior to the passing of the Act.

HIS EXCELLENCY THE PRESIDENT said that the only remarks which should be addressed to the Council on the first reading of a Bill ought to be on points affecting the principle of the measure, and that remarks on particular clauses were more properly to be considered when the Bill came on for discussion in detail. The question at present was whether the Bill should be read for the first time—that was, whether the Council should have an opportunity of considering the question.

The Honourable the ADVOCATE GENERAL said his observations involved a principle of the Bill, but as he had been reminded by His Excellency that remarks on the point he mentioned would be more appropriate on the second reading, he would postpone his observations.

The Bill read a first time and referred to a Select Committee.

The bill was then read a first time, and referred to a Select Committee, composed of—

The Honourable The ADVOCATE GENERAL,
 The Honourable Mr. RAVENSCROFT,
 The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.,
 The Honourable Mr. MUNGULDASS NATHOQBHOY, and
 The Mover.

The Committee was instructed to report next day.

The Honourable Mr. RAVENSCROFT, in moving the first reading of Bill No. 2 of 1872, a "Bill to secure the payment to Government of certain additional sums of money by the Corporation of the Justices of the Peace for the City of Bombay," said—

Mr. Ravenscroft moves the first reading of Bill No 2 of 1872.

Sir,—I have to solicit your permission to introduce an Act numbered No. 2 of 1872, entitled, a "Bill to secure the payment to Government of certain additional sums of money by the Corporation of the Justices of the Peace for the City of Bombay." I do not think it will be necessary for me to go into any details of the causes which have led to the state of embarrassment into which, I regret to say, Bombay has been allowed to drift. The report of the committee of which Mr. Hope was such an able president shows very clearly and fully the facts and figures as far as they could be ascertained; and that report proves that, in round figures, a sum of about 15 lakhs of rupees has been found to be deficient. What, therefore, this Government had to do, was to find the best means of meeting this deficiency; and that matter has, I think, been arranged by the Bill under discussion. At the same time it will be necessary for us to pay the penalty which the extravagance and mismanagement has entailed on the Justices, the Municipality, and the Government. If the Council will refer to the Statement of Objects and Reasons, they will see that the Government of India, to whom this question was referred, lay down as one of their stipulations for the granting of this loan, "that this Council should cancel all the existing borrowing powers of the Municipality, leaving it, should it require a loan, to obtain it under the conditions and subject to the stipulations of Act XXIV. of 1871," that is to say, compelling the Municipality to go in future to the Government of India for loans instead of, as hitherto, to the local Government. If you will refer to the 9th section of this Act XXIV. of 1871, you will see that nothing contained therein shall be deemed to include the Municipalities of Madras, Calcutta, or Bombay, whose borrowing powers had been conferred upon them by special Acts. It is clear, therefore, that the action which the Government of India have thought it proper to take, places the three Municipalities of Bombay, Calcutta, and Madras, on altogether different footings. It allows the two former to retain the liberty they at present enjoy—that is, of going to their own local Governments,—whereas it takes the same right away from the Municipality of Bombay. This is practically saying that Calcutta and Madras may be trusted, while for its extravagance and imprudence Bombay must be deprived of privileges it has enjoyed up to this time conjointly with the other Municipalities. There are a good many who say—and I place great reliance upon their judgment—that the Bombay Municipality has been merely unfortunate, and that in point of fact it is no greater a sinner than either Calcutta or Madras. Whether this be so or not, I have not had sufficient experience of other parts of India to enable me to form an opinion; but this I know, that the withdrawal of this privilege from Bombay will grate most harshly upon the feelings of some of our most worthy citizens; and will cramp energy, and cause delay. For these reasons, I, as an individual, would be only too happy if any means could be discovered by which the Municipality could be extricated from its present difficulties, and at the same time be left in possession of those privileges which Calcutta and Madras still enjoy. But I am afraid no such means exist. This deficiency of 15 lakhs is, I am sorry to say, an undoubted fact,

which can only be met in one of two ways. One of these is to go to the Government of India and say, Will you advance us this money? and the other is to attempt to raise it ourselves under the provision of section 253 of Act II. of 1865—in other words, to allow the Justices the sanction of Government which is requisite under this Act to raise loans. The words of the section are—“ It shall be lawful for the Justices, with the sanction of the Governor in Council, to borrow on mortgage such sums of money as they shall require;” and then it provides that any money shall be borrowed only to defray the expense of works of a permanent character. From this it is perfectly clear, as far as I can judge, that money can only be raised under this section when it is required to defray the expense of any permanent works already completed or in progress. The question then arises—Are these 15 lakhs, which are proved to be owing, required to pay for the execution of permanent works, which have been constructed, or are they not? On the answer to this question must depend our powers to raise money. To the best of my belief we cannot say this is the case. It has been urged by some, and those on whose opinion I place much reliance, that during the period in which these 15 lakhs of debt have been contracted, works which cost more than 15 lakhs have been constructed; and that therefore the provisions of this section have been met. But I must say I do not think that this meets the difficulty. It is quite true that during the period in which this debt was contracted, works which cost more than 15 lakhs have been constructed; but then, as a matter of fact, these works have been paid for out of current revenue; and I believe that at this moment only 3 lakhs are owing for the construction of works of a permanent nature. These 3 lakhs the Government of Bombay can undoubtedly raise, or sanction the Justices in raising, under section 253 of Act II. of 1865. But as regards the residue, it has, in my humble opinion, no authority. It would be utterly absurd to raise one portion of the loan under one Act, and then to go to the Government of India with reference to the other 12 lakhs. I may add that I do not think the Government of India would sanction any such proposal, because when they did hear that the Justices were negotiating a loan, on other terms except their own, they at once telegraphed to say that if these negotiations did not come to a termination, their previous offer would be withdrawn. Under these circumstances there was no alternative. We must either have said to the Justices—“ Accept the money on these terms,” or, “ You have chosen to get into debt, and must yourselves find means of getting out of it.” In my opinion, from the explicitness of the terms laid down by the Government of India, I think that though they may seem to be harsh and likely to retard the material progress of Bombay, it would be better to accept them at once than to protract the discussion. I will read a letter which it is proposed to send to the Government of India—

HIS EXCELLENCY THE PRESIDENT—I would suggest to the honourable gentleman that it is not consistent with the courtesy observed between two Governments that before a letter is despatched and in the hands of the Government to which it is addressed, it should be read even before a meeting of the Legislative Council. I would suggest to the honourable gentleman that the letter should be published as soon after the Government of India has received it as it can be, but in the mean time I think some exception would be taken by that Government if we were to read it now, when it has not been remitted to them.

The Honourable Mr. RAVENSCROFT—After what His Excellency has pointed out I think it will be sufficient to say that although the terms of the Government of India are harsh, the only means by which we can relieve the Municipality of their difficulties is to accept those terms which are embodied in this Bill, which I now beg to propose may be read a first time.

The Honourable Mr. SCOBLE,—I would ask the honourable member in charge of the Bill whether the Bench of Justices have expressed any opinion as to the conditions upon which this loan is to be granted?

The Honourable Mr. RAVENSCROFT,—I believe that the Committee representing the Bench expressed an opinion.

The Honourable Mr. SCOBLE,—But there has been no expression of opinion by the Bench of Justices?

The Honourable Mr. RAVENSCROFT,—It was understood that the Committee represented the Justices.

The Honourable Mr. TUCKER,—I may say that it was mainly because the Justices had expressed no opinion, and apparently because the matter had not been formally brought before them, although their Committee agreed to accept the loan, that Government has thought it necessary, for the interests of the town, to make a representation on the subject to the Government of India. I may say, I believe, on the part of Government, that we were very reluctant indeed to see a different position assigned to Bombay than was given to the other Presidency Municipalities. No reason has been alleged for this invidious—if I may so term it—distinction which has been made by the Government of India. Only so late as last year they passed the Public Works Loan Act, especially excluding from its operation all the great Presidency towns and Municipalities. Unless something has happened to cause them to change their minds, it is not apparent why Bombay should now be placed upon a different footing from Calcutta or Madras. I doubt the policy which would restrict the Municipality to one source of supply and which would make the State its sole banker. A time may arrive when even the Imperial exchequer may not be in a condition to grant loans, and when important works for sanitary or other purposes may be urgently needed, and which could not be deferred without great injury to the town and its inhabitants. The public welfare, then, might be endangered and general prosperity checked, because the Municipality could not avail itself of its credit and borrow funds for the execution of the required works from its own citizens or from banks or other capitalists. We have not rejected the offer of the Supreme Government because, as the Honourable mover has remarked, we could see no other way of extricating the Municipality from its present difficulties, inasmuch as the whole sum wanted could not be raised under the powers given by the Municipal Act, but we have respectfully protested against the withdrawal of these powers, and we hope to receive a favourable answer before the time comes for the passing of this Bill.

The Honourable Mr. MUNGOLDASS NATHOOBHOY said—Sir, it is a matter of deep regret to find that during the last three years this Council has, on the application of the Bombay Municipality, been called upon to sanction measures for raising loans from the Government of India to the amount of thirty lakhs of rupees in order to extricate

the Corporation from its pecuniary difficulties. In 1869 the Council sanctioned a loan of 15 lakhs; it was required, not for the purpose of erecting permanent works for the benefit of present and future generations, but for the purpose of liquidating debts incurred for current expenditure, and for providing a working cash balance. We are now asked to sanction another loan for the same amount, the bulk of which is again required for a similar object: The result of these loans is disastrous to the majority of the rate-payers of Bombay, who are suffering from heavy taxation and who will have to bear additional burdens to discharge this loan for the next twenty years. I therefore sincerely hope that in the new Municipal Bill which is shortly to be introduced in this Council, such stringent provisions will be made as to render a recurrence of such evils impossible.

HIS EXCELLENCY THE PRESIDENT said—I would only say a few words, in much the same tone as the honourable gentlemen who have preceded me. Certainly the Government has been very adverse to the passing of such a Bill as this, but it was practically the only way in which the money could be raised, so as to relieve the Municipality of Bombay from their pressing difficulties. We were advised, as has been pointed out by the Honourable the Chief Secretary, that it was impossible to raise the sum required by the Municipality under the general borrowing powers given by the Municipal Act. Of course it would have been in the power of this Government to have sanctioned a loan to be raised by the Municipality from the public by a special Act, but after the intimation we received from the Government of India it was quite clear that if this Council did pass such an Act, it would not receive the sanction of the Supreme Government, and therefore the only method by which the money could be obtained was by accepting the terms which have been imposed by the Government of India. I may say that I am not without hope that the Government of India, when the earnest but respectful protest which we have felt it our duty to make is presented, will reconsider their determination, and relieve the Municipality of Bombay from what the Honourable Mr. Tucker very justly calls the invidious as well as onerous conditions which they have thought fit to impose; and I think it may be fairly pointed out to the Government of India that the conditions which they impose upon the Municipality are practically a repeal, by the mere authority of the Governor General, of a special provision of the Governor General's Council. Only last year the Governor General's Council determined that the provisions of the Municipalities' Act should not apply to the Municipalities of Calcutta, Madras, and Bombay, and looking to the independent spirit that has been on more than one occasion manifested by the Council of the Governor General, it seems to me to be not improbable that this Act would not have been passed by that Council if that clause had not been inserted. That clause forms part of the Act; and now this action on the part of the Supreme Government is practically the repeal of a special enactment of the Council of the Governor General. As I have said, I am not without hope that the Supreme Government may see fit to reconsider their determination, and more particularly because the Act referred to provides that money shall only be borrowed subject to certain rules which shall be made by the Governor General in Council, and which may from time to time be amended and altered by the same authority. It may be observed however, that although this Act has been passed, up to the present time no conditions and no rules whatever have been promulgated by the Government of India under the Act, and thus the stipulation

thus peremptorily imposed upon the Municipality is that they must accept the loan in entire ignorance of what the conditions, not are, but may be, under which it is contracted. I find, further, that the rules under which loans shall be made stipulate the manner of making application for loans, inquiries to be made in relation to such loans, the manner of conducting such inquiries, the cases in which Government may make loans with the sanction of the Governor General, the manner of imposing such conditions, the time of making loans, the inspection of all works carried out by loans, the instalments by which loans shall be repaid, the interest to be charged, the manner and time of repaying both loan and interest, the sum to be charged against the fund, the cause of effecting the loan; that on any omission to pay either the interest or the loan power is given to attach all securities, and the manner of the disposal of them. That of course opens a field for conditions of such stringency that it seems a great hardship, I must confess, to call upon the Municipality to accept a loan in this way, when the Justices do not know positively what rules the Governor General may think fit to lay down. And then by the 5th section I find that if a loan be made under this Act, and if either instalment or interest is not paid according to the conditions laid down by the Governor General in those rules which have not yet been promulgated, the Local Government may attach the funds, rates, taxes, duties, or property on the security of which the loan was made, and that after such attachment no person, except an officer appointed by the local Government shall in any way deal therewith, but that such officer may do all such acts therewith as the municipal officers might have done if no such attachment had taken place—which is practically to say that, if there is any delay in the payment of any instalment, it shall be in the power of the local Government to appoint an officer who shall immediately supersede the Municipality, and have control over all its property. I must confess these are conditions so stringent that I hope after the earnest but respectful protest which Government has thought it its duty to make, the Government of India will not insist upon their stipulations. At the same time the money is wanted, the interest is accruing day by day at an exorbitant rate; and therefore it appears to me necessary for this Council to pass an Act such as is now before us, and rely upon the forbearance and consideration of the Government of India to relieve the Municipality from the conditions which they threaten to impose.

The Honourable the ADVOCATE GENERAL,—I would ask whether the first reading of this Bill should not be postponed. The terms laid down by the Supreme Government seem rather hard, and their effect will be to deprive Bombay of the power of borrowing which it now enjoys, and place it in an invidious position in comparison with the other Presidency Municipalities. I gather from what has been said by His Excellency that a representation is to be made to the Government of India, and that there is some prospect that the terms may be relaxed. Perhaps, therefore, it would be well to wait until we know the result of that representation. I would observe that if we urge that the borrowing powers which the Municipality at present possesses are not unfettered,—that it must be dependent upon the sanction of the local Government whether a new loan is granted—and that the restriction thus put upon the powers of the Justices to borrow is sufficient for the protection of the Supreme Government—our representations may be of some avail. I apprehend that on an application to our Government by the

Bench of Justices for a loan for any purposes for which they are authorised to borrow money, our Government would take into consideration, in dealing with the question whether they would sanction it or not, the fact that the Municipality has already had two exceptional loans, amounting to thirty lakhs, from the Supreme Government under special Acts of the Legislature—the Act of 1870, and the Bill we are now considering for a first time. The question however of the repeal of the Municipality's borrowing powers appears to be one that affects the Local Government more than the Justices; for the Justices have already restrictions put upon the exercise of their borrowing powers which I apprehend are sufficiently stringent.

The Honourable Mr. SCOBLE,—SIR,—This Bill is as unpalatable to me, as I am happy to see it also is to all the members who have spoken upon the subject; but having regard to the absolute necessity of devising some means of liberating the Municipality from its present embarrassment, and considering that interest is accruing on the debts now due, I think it would be more advisable not to postpone the first reading of this Bill. I hope that the representations which I understand are to be made to the Supreme Government, as well as the expression of opinion of the members of this Council to-day, which they may gather from the report of these discussions, may induce the Government of India to modify its requirements before this Bill, with its obnoxious final clause, is passed by this Council. I will therefore vote for the first reading, hoping that when the Bill comes on for future discussion it will do so under more favourable conditions than it does to-day.

The Honourable Mr. TUCKER,—I think it would be better to proceed with the Bill through the preliminary stages, because then in the future we shall be in a better position to do quickly what may be necessary.

The Bill read a first time and referred to a Select Committee. The Bill was read a first time, and referred to a Select Committee, composed of—

The Honourable Mr. TUCKER,
 The Honourable Mr. MUNGULDASS NATHOOBHOY,
 The Honourable Colonel KENNEDY,
 The Honourable Sir JAMSETJEE JEJEEBHOY, Bart., and
 The Mover.

It was directed that the report of the Committee should be presented within three days.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
 Acting Under-Secretary to Government.

Bombay, 30th January 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations, under the Provisions of "the Indian Councils' Act, 1861."

The Council met at Bombay, on Thursday, the 8th February 1872, at noon.

P R E S E N T :

The Right Honourable Sir W. B. S. V. FITZ GERALD, G.C.S.I., Governor of Bombay, *presiding*.
 His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCE, K.C.B.
 The Honourable S. MANSFIELD, C.S.I.
 The Honourable H. P. St. G. TUCKER.
 The Honourable the ADVOCATE GENERAL.
 The Honourable MUNGULDASS NATHOOBHoy, C.S.I.
 The Honourable A. D. SASSOON, C.S.I.
 The Honourable BYRAMJEE JEJEEBHoy.
 The Honourable VENAYEKBAO APPASAHEB, of Koorundwar.
 The Honourable Colonel M. K. KENNEDY,
 The Honourable Sir JAMSETJEE JEJEEBHoy, Bart., C.S.I.
 The Honourable A. R. SCOBLE.
 The Honourable E. W. RAVENSCROFT.

The Honourable Mr. TUCKER presented the report of the Select Committee appointed to consider the "Bill to amend Act. XIII. of 1856." In doing so he said the members of the Committee were unanimous with regard to the principle of the Bill, with the exception of one clause, upon which two members—the Honourable the Advocate General and the Honourable Mr. Munguldass Nathoobhoy—had entertained doubts. Those two honourable gentlemen had expressed doubts as to whether it was fair that officers who had already been discharged should receive pensions or allowances from the fund to be constituted by this Bill, and had wished to be made acquainted with the position of the fund. The honourable gentleman said he had therefore had a statement prepared, showing the assets and liabilities of the fund, from which it appeared that on 31st December last there was a cash balance, bearing interest at 4 per cent., of Rs. 1,81,581-12-5, and capital invested in treasury notes at 5 per cent. of Rs. 87,500, which made in all Rs. 2,69,081-12-5. The average of three years' annual receipts, including subscriptions and interest, was Rs. 24,286-7-1; and the present annual payments to pensioners, including establishment, &c., was Rs. 10,943, so that there was no fear but that with the increased subscriptions which they proposed to legalize the fund would be able to bear what they proposed to put upon it. He had also had a list prepared of the European officers who had taken their discharge from the Bombay Police in the hope of being pensioned under the new Police Superannuation Fund Act. The three superintendents on this list had each paid to the old fund Rs. 604-11-0, and the other man, a first-class inspector, had paid Rs. 367-1-0. These officers being retired military servants, did not come under the Uncovenanted Service Pension rules, and so received permission to subscribe to this fund, as they would not otherwise have had the advantages which the

Papers presented to the Council.

other Police officers enjoyed. He hoped he had removed the objections of his honourable friends by what he had just stated, and he would now move that the report of the Committee do lie on the table.

It was agreed that the report should lie on the table.

The Honourable Mr. TUCKER presented the report of the Select Committee appointed to consider Bill No. 2 of 1872— a “ Bill to secure the payment to Government of certain additional sums of money by the Corporation of the Justices of the Peace for the City of Bombay.” He wished, he said, to make a few remarks with reference to what had occurred in the Select Committee. The Committee had received a letter from Mr. Hope, bringing to notice one or two points which he desired the members to consider, and he wished to explain why they did not think it necessary to make the alterations which Mr. Hope recommended. One of the proposed alterations referred to the calculation of the sum to be paid in discharge of the debt of 15 lakhs incurred to the Government of India. This sum had been calculated in different public offices, with varied results in each calculation. The amount had, therefore, been calculated in another public office after the receipt of Mr. Hope’s letter, by which calculation he understood the sum brought out was nearer the figure in the Bill than Mr. Hope’s figure, and therefore they had thought it best to adhere to the sum as calculated by the Accountant-General, although it did not quite agree with the figure arrived at by Mr. Hope. Secondly, Mr. Hope pointed out that inconvenience might occur by putting the name of the Controller in this Bill, as he had recommended to Government that there should be no Controller ; and Mr. Hope thought it probable that in the larger Act which would have to be passed, reconstituting or reorganizing the Municipal constitution, some inconvenience might be saved by introducing another set of words. But as we thought that it would be easy to provide in the new Municipal Bill that the duties which fall upon the Controller under this or any other Act shall be performed by the officer who may be substituted for the Controller under the new constitution, the Committee had thought it unnecessary to make any alteration. But of course that point would be considered when the clause regulating it came on for consideration before the Council. With these few observations he begged to move that the report lie on the table.

It was agreed that the report should lie on the table.

The Honourable Mr. TUCKER then presented the report of the Select Committee appointed to consider the “ Bill for the Regulation of Burial-grounds and Burning-grounds in the territories subject to the Government of Bombay.” The honourable gentleman said the Bill had been under consideration for a considerable time. It was introduced into the Council by his honourable friend Mr. Mansfield, and on his going home last year his name was substituted for Mr. Mansfield’s in reference to this particular measure. Since that time the Committee had had few opportunities of meeting, and they now brought up their report. He would notice that they had made one or two important alterations in the Bill. One was to provide that when any particular place for burial or burning or exposure of the dead was closed another should be provided. The Committee had used the word “ place,” although a somewhat ambiguous one, instead of “ land,” in order to leave it open for discussion by the Council whether it be sufficient only to provide “ land” and not to provide a “ place.” On that point several of the members of the Committee wished to reserve their opinion until the question came to be discussed. They had introduced a

very important principle into the Bill, namely, the imposition of the duty of providing funds for the maintenance of these places upon municipalities, where municipalities exist, and upon the local funds where they do not. With these observations he begged to move that the report do lie on the table.

It was agreed that the report should lie on the table.

The Honourable Mr. TUCKER now moved that Bill No. 1. of 1872— a “ Bill to amend Act XIII. of 1856 ”—be read a second time.

Mr. Tucker moves the second reading of Bill No. 1 of 1872.

The Honourable the ADVOCATE GENERAL said that he and the Honourable Mr. Munguldass Nathoobhoy had reserved their opinion when the Bill was before the Select Committee as to the propriety of the principle involved in the 8th Section of the Bill, as they had doubted whether it was fair to charge the fund with the pensions of officers who had ceased to be members of the Police force, and who presumably would not have contributed to that fund. But on inquiry it turned out that, although in form this Bill purported to create a new fund, to be raised partly by increased subscriptions and partly by fines and certain moneys arising from the sale of Police property, yet in point of fact the old fund would remain in existence, and would form a large portion of the new fund, and the two funds would form one common fund. So that the officers to be provided for by Section 8 of the Bill would be persons who had actually subscribed to the old fund. The honourable gentleman in charge of the Bill having explained the position of the fund, it appeared to him that there was no reason in point of principle why the 8th Section should not be accepted by the Council. Neither he nor the Honourable Mr. Munguldass, therefore, would now offer any objection to the second reading of the Bill.

HIS EXCELLENCY THE PRESIDENT said it seemed to him that if they repealed Section 17 of Act XIII. of 1856, they would have no power to deal with the fund created under that Act, so that Government would have no power to grant pensions which would fall upon the fund which had accumulated up to the present time.

The Honourable the ADVOCATE GENERAL said it appeared to him that the difficulty arose from the form in which the Bill had been drawn, that form being a repeal of the previous Act, which was the foundation of the old fund. He would submit that the best way of getting out of the difficulty would be to introduce a clause to the effect that the old fund should be transferred to the trustees, whoever they might be, in charge of the new fund, and that both funds should constitute one common fund which, so far as the granting of pensions and allowances would be concerned, would be subject to the terms of the new Bill.

HIS EXCELLENCY THE PRESIDENT said that Section 17 of the Act, which formed the Police Superannuation Fund, directed that a certain amount should be deducted from the pay of every member of the force; and it then went on to say that these moneys should be accumulated and invested so as to form a Police Superannuation Fund, and should be applied from time to time to the payment of such superannuation or retiring allowance as might be ordered by the local Government. Would it be desirable to repeal that? If so, then you will direct that in future there should be other deductions to supply pensions. It appeared to His Excellency that, if this Bill were passed, this Government would have no

legal power to deal with the moneys already contributed. It clearly appeared to him that there was a difficulty in the matter which would require to be got over.

The Honourable Mr. TUCKER : The defects which your Excellency has pointed out will certainly require to be remedied. From what has been said by the Honourable the Advocate General, it appears his objections have been removed, and I now desire to point out more clearly than I did before the exact state of the income of the fund. I find from a statement supplied by the Accountant General that, up to the end of March, 1871, the amounts received in official year 1870-71 were as follow :—subscriptions, Rs. 8,255-7-2; fines, Rs. 872-15-0; fees for stamping weights and measures, Rs. 3,396-4-0; pound fees, Rs. 9,255-12-9; interest on treasury notes, Rs. 4,550-0-0; interest on current account, Rs. 5,793-2-7; total, Rs. 32,123-9-6,—so that of the total annual receipts of the fund only a quarter or thereabout was raised by subscriptions.

The Honourable Mr. MANSFIELD thought from the figures the Honourable Mr. Tucker had quoted that the amount directed to be subscribed would be more than was necessary.

The Honourable Mr. TUCKER explained that the fund being in its infancy, there had been fewer calls upon it during the first portion of its existence than there would be in future, for the liabilities in subsequent periods of twenty years would be greater than in the first twenty years.

The Honourable Mr. MANSFIELD asked how long the old fund had been in existence.

The Honourable Mr. TUCKER answered that it had been in existence since 1856, but that it was only now that contributors were beginning to get pensions. He did not think there would be too much capital when the prospective charges on the institution were considered.

HIS EXCELLENCY THE PRESIDENT mentioned that one-third of the old fund was derived from fees which were not spoken of in Act XIII. of 1856 at all, such as the fees for impounding cattle, for stamping measures, &c.

The Honourable Mr. MUNGULDASS NATHOOBHOY said he was not aware that such fees as those mentioned by His Excellency the President were given to the Police Fund by Act XIII. of 1856, and, strictly speaking, he was of opinion that they should be given over to the Municipality, because the Municipality provided the enclosures for impounding cattle, &c.

The Honourable Mr. TUCKER said he was informed by the Police Commissioner that in Act XLVIII. of 1860 there was a special clause to the effect that it was the special duty of all Police officers to remove all cattle or other animals found straying on the roads or thoroughfares, and to confine such animals in any public pound; and if these animals were not claimed by the owners within ten days, and a sum paid to the person appointed by the Police Commissioner of eight annas for every goat, sheep, or horse, or one anna for every other animal, and also the cost of feeding such animals found so trespassing, would be publicly sold, and the produce of the sale, after deducting the expenses of keep, should be credited to the Police Superannuation Fund.

HIS EXCELLENCY THE PRESIDENT : But that clause does not authorise you to grant anything out of that Superannuation Fund.

The Honourable Mr. TUCKER: If the fees can be legally credited to the Fund, they can afterwards be legitimately disposed for the purposes for which the Fund was created.

HIS EXCELLENCY THE PRESIDENT: Very probably the Executive would deal with it, but still the Executive would be doing so without any legal authority. But how about the fees for stamping weights and measures? The resolution of Government is, that if the fees are small, they should be allowed to be thrown into the Police Fund, but I do not know whether that is a different fund from the Police Superannuation Fund.

The Honourable Mr. TUCKER: As these points have been raised, I think it would be better to refer the Bill back to the Select Committee, where the best mode of meeting the objections now taken can be more appropriately considered.

The Honourable Mr. SCOBLE moved that the Bill be referred back to the Select Committee.

Bill re-committed,

The Bill was then remitted back to the Select Committee, and the Committee were instructed to return their report on that day week.

The Honourable Mr. RAVENSCROFT moved the second reading of Bill No. 2 of 1872, a "Bill to secure the payment to Government of certain additional sums of money by the Corporation of the Justices of the Peace for the City of Bombay." One or two honourable members of the Select Committee, he said, had taken some objection

Mr. Ravenscroft moves the second reading of Bill No. 2 of 1872.

to the principle involved in the 6th section, and he thought it would be better for them to state their objections, and for him to answer them afterwards. At present he did not exactly know what the objections were.

The Honourable Colonel KENNEDY said he opposed the second reading of the Bill. He felt less reluctance in doing so, because the honourable Mover and the honourable gentlemen who had spoken on the Bill at the former meeting had all more or less objected to the principle of the Bill. The Bench of Justices had by a formal resolution decided not to accept the Bill clogged with the conditions which the Government of India wished to impose. A committee of the Justices had subsequently, and under pressure, agreed to accept it on those terms, at the same time throwing upon this Council the responsibility of enacting that the powers which the Bench had hitherto enjoyed should be withdrawn. He did not think that this Council should accept that responsibility, especially since he thought the committee had no power whatever to agree on behalf of the Justices that the loan should be accepted on those terms. If it were clear that the Bench desired its own humiliation there would be nothing more to say, but it certainly was not clear that they did so. The Honourable Mr. Ravenscroft had said that they had no alternative but to accept the loan except under these terms, but he saw that section 153 of the Municipal Act reads as follows:—

"It shall be lawful for the Justices, with the sanction of the Governor in Council, to borrow on mortgage, as hereinafter mentioned, such sums of money or any part of such sums as may be necessary for defraying any expenses already incurred, or thereafter to be incurred, in the execution of any works under this Act. Provided always that any money borrowed under the authority of this Act shall be borrowed only to defray the expenses of works of a permanent character,"

Then the Advocate General had given his opinion as follows :—

“The object of the loan which the Justices propose to raise on the security of the rates is stated in their resolution of the 12th instant to be in order to obtain a cash credit of not less than 15 lakhs of rupees to be applied to the immediate liquidation of the pressing pecuniary needs of the Municipality. It is not mentioned what is the nature of these pressing demands. If any of them arise out of expenditure which has been incurred in the execution of works of a permanent character in pursuance of the Municipal Act, and remains unpaid, I am of opinion that the Justices can legally contract such a loan as will suffice to satisfy these demands.”

Mr. Hope had stated that a sum exceeding 15 lakhs had been expended upon works of a permanent character, that is to say, the capital had received an advance from revenue, and revenue has now to be recouped. Now, if the 15 lakhs and upwards had been expended upon works of a permanent character, would not the Act enable the Bench to raise a loan, with the sanction of the local Government to pay the money? He thought that all that was to be done was to show that this money had really been expended upon capital account, and if the proper distinction between capital and revenue were held in view, he did not see why money should not be borrowed to recoup revenue expended upon capital account. But even though it could not be shown, as he believed it could, that the full sum of fifteen lakhs had been expended, he would prefer to allow the Bench to raise such sums as they were able to borrow under the existing Act, and to meet the remainder of their liabilities as best they could. Even if the full amount needed could not be obtained, it would be better for the Municipality to accept a small additional liability rather than accept the stringent conditions sought to be imposed upon it. For these reasons he opposed the second reading of the Bill.

The Honourable Mr. SCOBLE : I quite agree with the Honourable Colonel Kennedy in thinking that this Council should not take upon itself the responsibility of passing this Act in its present shape, and thereby placing the Corporation of the Justices of the Peace for the City of Bombay—without their consent so far as I have been able to ascertain, and against their desire so far as it has been expressed—under the provisions of the Local Public Works Loan Act of 1871. I do not stop, Sir, to go into the question whether or not it might be shown by the Municipal Commissioner that there has been an advance out of current revenue for the purpose of establishing permanent works greater than the sum which the Justices are now under the necessity of borrowing. I apprehend that this Council, which conferred upon the Corporation the borrowing powers which it enjoys under Act II. of 1865, might, if it thought fit, confer upon that Corporation the borrowing powers that would be necessary at the present moment to enable it to raise this loan; and therefore I do not see that the Corporation, still less do I see that this Council, is helpless in the matter. But my principal reason for opposing the introduction of this provision in the Act is that I cannot but consider it as a retrograde measure, entirely opposed to what we have been led to understand is the policy of the Government of India in regard to matters of this kind. Sir, I am not enamoured of the provisions in the Local Public Works Loan Act of 1871. That Act was passed after very little discussion, and probably it excited but little discussion simply because there was a clause introduced into it to the effect that nothing in it should apply to the Municipalities of Calcutta, Madras, or Bombay. Sir Richard Temple, in supporting the Bill, gave it to be understood how far its operations were intended to extend. Sir Richard

Temple, as appears from the published report of the proceedings of the Viceroy's Council, stated that under the old arrangement mofussil municipalities were prevented from borrowing, except at various rates, in the open market. "The present bill," he went on to say, "would give them the advantage of having the State for a creditor, and effecting loans at four and a half to five per cent., rates which, as the Council was aware, could not be elsewhere obtained. The Government of India was always happy to make such advances. The cash balances were high enough to make it easy and safe to do so. No risk of loss to the public would be incurred, but great relief would be afforded to municipalities." Now, Sir, I take it upon the statement of the Finance Minister of India that what this Bill was meant to do was to afford relief and not to put difficulties in the way—that small municipalities were to be benefited, and not large ones hampered; and I apprehend that by bringing the Municipality of Bombay under the provisions of this Act—an Act which requires the Government of India to make rules of the minutest character not only as to the raising of the money but as to its expenditure—it would be a great, if not an absolute bar to the introduction into Bombay of those great improvements for which the public have been clamouring for many years, and which the public—I cannot say expect, but hope, will be ere long brought into effect. We have had it brought to our notice that the water-supply of Bombay is insufficient. We have had it urged upon us that the dams at present forming the reservoir at Vehar, which at present furnishes our water-supply, may, as all dams of that character are liable to do, give way at any time; and that therefore, although at present there is no apprehension of immediate danger, we ought to have a fresh means of water-supply in the shape of supplements to the reservoirs already existing. I ask this Council whether, supposing the cash balances at the disposal of the Government of India were not high enough at the time the Municipality desired to raise a large sum for the execution of those works, it would be practicable to obtain from the Government of India the money which would be requisite to carry out those improvements. Difficulties might probably be raised on the ground of the inconvenience which it might cause to the Government of India, if the cash balances were not flourishing, to grant a large sum for such a purpose. But, as I said before, my great objection to this Bill is not so much the inconvenience that would arise, but the retrogression of policy which the acceptance of these conditions would indicate. It is not much more than fourteen months ago that there was issued from the Supreme Council a minute which revolutionised the administration of this country. I refer to that which is known usually as the decentralisation minute. What Sir, I ask, is the condition which is here imposed upon us but a return to that very policy of centralisation which, not more than fourteen months ago, the Government of India, acting under the instructions of the Government of England, said was a policy which could no longer be carried out either conveniently or advantageously? I have in my hand a despatch which was sent by the Duke of Argyll at the time upon this question. The despatch is dated the 23rd of February 1871, and in the fourth paragraph I find the following:—"You also consider that the Supreme Government is not in a position to deal satisfactorily with local requirements, and does not possess the knowledge necessary for the full and successful development of local resources." Consider the present Bill in the light of this statement. It will make the Municipality of Bombay, when it wishes to borrow money for local purposes, go to the Government of India—a Government which, according to its own admission, is not in a position to deal satisfactorily with local requirements. Later on in the despatch, I find the

following :—“ I am fully sensible of the great importance of extending the power and responsibility of the several Governments in regard to departments which can be considered as local, and of the anxious deliberation which you have given to this subject.” I say that to deprive the Government of Bombay of the control which it at present possesses over the borrowing powers of the Municipality is, instead of extending the powers and responsibility of this Government, to limit these powers in an unnecessary manner. For these reasons I cannot consent to vote for the second reading of this Bill so long as this obnoxious clause forms a part of the measure.

The Honourable the ADVOCATE GENERAL: Sir,—My honourable friend Mr. Scoble has addressed you upon the second reading of this measure, but notwithstanding what has fallen from him, I see no reason why this Bill should not be read a second time. The objection taken is that the Government of India, after being applied to for a 15 lakh loan, which is the second loan for a similar amount which has been applied for within a short time, has made it a term of its consent that the borrowing powers now conferred upon the Justices by Act II. of 1865 should be repealed, and that henceforth when money is required for the purposes of the Municipality, the Corporation must take the necessary steps for the purpose under the Local Public Works Loan Act which was passed last year. The loan which the Corporation had been compelled to make an application to Government for in the present instance, was not for any of the purposes stated in their special Acts; but, as far as the greater portion of the money was concerned, it was to meet certain debts which had been incurred for current expenditure. It is true that a portion of it, about three lakhs and a fraction, as I gather from my honourable friend Colonel Kennedy, has been paid for public works.

The Honourable Colonel KENNEDY: About fifteen lakhs, according to Mr. Hope's statement.

The Honourable the ADVOCATE GENERAL: The contention is that the whole amount should be considered as borrowed for permanent works, because, in making up the accounts it would go to capital account. I think there is a great difference between a debt which has been incurred in respect of permanent works, and money which may properly enough, as a matter of account, be put to capital account. In my opinion, in respect of every debt that has not been incurred for permanent works, the Justices have no power, under either of their Acts, to borrow, and it is only a portion of the 15 lakh loan that can be properly said to be debt incurred for permanent works. All I can say in answer to my honourable friend is that if the whole of the 15 lakh loan is money required to pay for debts incurred for permanent works, there is no reason why the Justices should not, under their existing borrowing powers with the sanction of the local Government, raise the money without applying to the Supreme Government. Why did they not take that course? When the Municipality did not take the course of borrowing under their old powers, I can only suppose that the fifteen lakhs did not belong to that class of debt; and I must take it that at least about twelve lakhs of this fifteen is required for purposes for which the Justices have no borrowing powers. It must be remembered that this is not the first time that the Municipality have come to the Government of India to borrow money outside their Act. I do not say whether it is their misfortune or their fault that they have been unable to keep out of debt, but if they were obliged to incur debt they were not careful to see that that

debt should have been incurred for such works as they were authorised to borrow money for. That being the state of the facts as I understand them, my honourable friend Mr. Scoble endeavours to get over the difficulty by saying it is quite competent to this Council to enlarge the borrowing powers of the Justices so as to enable them to contract loans for any purpose whatever. It may be so, but I certainly for one should most strenuously oppose any measure brought in here to enlarge the borrowing powers of the Justices for any purpose except for works of a permanent character. They have already considerable powers conferred upon them—a power which corresponds to the powers conferred upon several corporations in England; but nothing would be more dangerous than to give general borrowing powers to this Corporation wholly irrespective of the purposes to which it would apply the money. Anything of the sort would be most absurd. I presume that if such an application were made to this Council on behalf of the Justices it would not meet with success. There is another point from which this restriction may be looked at. After all it is not a question which affects the Bench of Justices so much as it affects the local Government. The Justices have no unrestricted borrowing powers. It is not as if, because they are about to execute works of a permanent character, they could go into the market and borrow upon a mere resolution of their own. They must come to the local Government, and in effect the terms on which the Supreme Government have agreed to grant this loan are a restriction upon the power of our local Government, and is a matter that appears to me much more for the consideration of the local Government than for the consideration of the Justices. My honourable friend said that those terms were terms which were imposed without the consent of the Justices. As far as I can gather from their proceedings, the question of the loan was put before them, and certainly they have not negatived the borrowing of the money upon those terms. They may consider them hard—and I must say it would have been more generous for the Government of India to have left the power of borrowing as it is, and to have relied upon our local Government to act as a sufficient check upon any improper exercise of those borrowing powers. My recollection of the last resolution on the subject by the Bench is that they left the matter to the local Government to make the best bargain they could for the Justices. My impression therefore is that the Justices themselves are very much to blame for the necessity arising that they should go to the Government of India at all in the matter. I therefore think that from the nature of the transaction, and looking at the circumstances under which this money has been applied for; the Justices can hardly blame any one except themselves that this second check is sought to be put upon them by the Supreme Government, for this is the second time that an application has been made for an extraordinary loan.

HIS EXCELLENCY THE PRESIDENT: I would only add a few words to what has been said. It appears to me that we must look upon this matter from a very practical pounds, shillings, and pence point of view. About six weeks ago Mr. Hope urged upon me that immediate action should be taken, because he represented that there were large debts due to contractors and others on which heavy interest had to be paid, and he represented that it was absolutely necessary that the money should be obtained at the shortest possible date in order to clear away the debts and provide a working balance. Now practically what is recommended by the Honourable Colonel Kennedy and the Honourable Mr. Scoble is that we should on our own authority pass a special Act, which would then have to go to the Government of India for the assent of the Governor General. I think they must see the

probability, from the correspondence which has been placed before them, there would be of the Act being negatived by the Government of India, and the Municipality being thus left in the same embarrassed position as now; and when all this has been done, which would probably occupy some weeks, the only practicable course left would be that we should pass a bill exactly similar to that now before the Council. If that were done, the Municipality would probably not receive for two or three months the money which the Municipal Commissioner represented to be necessary to have at once. The money is wanted, and is wanted immediately, and this is the only means of obtaining it. I must say I feel very strongly the force of many of the remarks that have been made by the speakers who have preceded me, but I hope the Council will now pass this Bill and give the Municipality at once the money of which they are in so much need. My honourable friend the Advocate General thinks this is a matter which rather concerns the dignity and position of the local Government than of the Municipality. I refrain, because I do not think this is the proper place to do so, from making any remarks upon the attitude which, I grieve to say, has been taken up by the Government of India with reference to the local Government. This is not the only instance in which that attitude has been taken up, especially with reference to financial questions, but I forbear from expressing what I think upon this subject lest I should appear to be as wanting in respect to the Supreme Government, as they have failed in respect (and I use that word advisedly) to us. These circumstances will probably have to be considered by the highest authority, and, looking to the wide scope of the inquiry entrusted to the Committee that sat during the last Session, may possibly attract the attention of Parliament. I therefore think it best not to refer to considerations regarding the action of the Supreme Government, indicating as my honourable friend the Advocate General has pointed out, a desire to place restrictions upon the local Government which neither the circumstances of the case nor the public interests require. I would only point out therefore to my honourable friend Colonel Kennedy, that I think he is in error in supposing that the borrowing powers of the Municipality under the present Act could be had recourse to in order to relieve the Municipality from its present state of embarrassment. Obviously in the first place there is a portion of the expenditure which even the greatest ingenuity could not class as being upon works of a permanent character. I will take for instance the Panwell Brickworks. In order to their efficient working a lakh and a half have been expended upon them, portions of that upon machinery, puddling mills, and various things of that kind, which obviously were never contemplated by the Legislature at the time it was proposed to give the Municipality the power of borrowing for works of a permanent character. There are other items of a similar character; and I think the opinion of the Honourable the Advocate General—and I hope he will not think it presumptuous for me to say so—is clearly correct, that when expenditure is once made from current income, they cannot have recourse to the power given by the Municipal Act to borrow money for works of a permanent character to recoup it. The honourable gentleman referred to some words in the clause saying that they might borrow for expenditure already incurred. That I apprehend clearly means expenditure already incurred, but which has not been paid. When once you have paid for the works, even though they be of a permanent character, it appears to me perfectly clear that it is not competent for the Municipality, even with the consent of the local Government, to borrow to defray the expense. I would also point out that part of the proposal of Mr. Hope proceeds upon the footing that it will

place a cash balance of $2\frac{1}{2}$ lakhs in the hands of the Commissioner to enable him to go on and not exhaust his funds. Clearly that could not be said to be for permanent works. I will conclude these observations by saying that I think the Council will do best to proceed at once to the consideration of this Bill in detail, and thus relieve the Municipality from its difficulties.

The Honourable the ADVOCATE GENERAL wished to make a few remarks on the memorandum of the Municipal Commissioner, No. 6029 of 1871, which had been placed in his hands by the Honourable Colonel Kennedy. In that memorandum Mr. Hope stated that works of a permanent character had been executed to the extent of considerably over 15 lakhs of rupees, and then detailed the expenditure, but still Mr. Hope did not say that a debt of 15 lakhs of rupees was due in respect of these works. He understood from Mr. Hope's memorandum that 15 lakhs had been paid in some way or other for permanent works. He certainly demurred to the conclusion of Mr. Hope that, because works of a permanent character had been constructed to the extent of 15 lakhs of rupees, therefore the Municipality might borrow to that extent, whether the works had been paid for or not. The important point was whether any of the debt incurred upon permanent works was still subsisting unpaid when the application was made for the loan. And then, as to the other document which his honourable friend had handed to him—the letter of the Committee of the Justices of the Peace to the Honourable Mr. Ravenscroft, Acting Chief Secretary to Government,—he observed that that Committee said they accepted on behalf of the Bench the offer of the loan by Government on the terms of Act III. of 1870. It was true that at the end of the letter the Committee drew attention to the fact that the borrowing powers of the Municipality were controlled by the local Government, and they submitted there were no grounds for putting the Bombay Municipality on a footing different from Calcutta and Madras. He agreed that there were no such grounds, and that it would have been more generous for the Imperial Government to have allowed Bombay to remain on the same footing as those municipalities; but he would observe that that submission did not at all affect their acceptance of the offer of the Government of India. In other words, it quite bore out his understanding of the Committee's letter,—viz., that they did accept the terms offered by the Government of India, though they considered them to be rather hard. But that these terms were accepted without the consent of the Justices the document shown to him by his honourable friend Colonel Kennedy did not prove.

The Honourable Colonel KENNEDY said he would like to make a few remarks in explanation. His point was as between capital and revenue—that was to say, that permanent works had been constructed out of current revenue, and therefore the money which ought to have been devoted to current purposes was applied to works of a permanent character. He wanted to show that current revenue had a right to be recouped for advances made. He still held to his opinion that the Committee of the Justices had no authority from the Bench to accept the loan, but on the contrary that they accepted it after a resolution had been passed absolutely declining it.

Bill read a second time and considered in detail.

The Bill was then read a second time, and the Council proceeded to consider it in detail,

No alteration was made in Section 1.

Respecting Section 2—

The Honourable Mr. SCOBLE said this Section provided that for the repayment of the loan the Municipal Commissioner should pay monthly into Her Majesty's Treasury a sum of Rs. 9,840. He would ask how that sum had been calculated. He must confess that he had not calculated it himself, but he had been informed that there was a difference between the calculation made by Mr. Hope and the amount mentioned in the Bill, and that the sum of Rs. 9,840, paid monthly, would be something more than simple interest upon the loan and the repayment of principal. He certainly understood that the Government of India wanted no more than simple interest upon the amount advanced.

The Honourable Mr. RAVENSCROFT said the instructions of the Government of India had been that this Bill should be drawn up in exact conformity with the previous Bill, and accordingly the interest in this case had been computed in the same way as it was in Act III. of 1870. The plan was that the interest to be paid during each year was added to the principal, and interest was allowed to the Municipality upon each payment as it was made monthly. If Rs. 9,840 were paid monthly, the debt would be cleared off in nineteen years and seven months, and this was as near as the Accountant General could bring it.

The Honourable Mr. SCOBLE then formally moved that in line 15 of the second section the sum of Rs. 9,375 be substituted for Rs. 9,840.

The Honourable Colonel KENNEDY: I should be happy to support the honourable Mr. Scoble, but unfortunately his calculation is quite as incorrect as the other. I hold in my hand a calculation, which I have proved to be correct, and the figures brought out by it are Rs. 9,766. As instalments are paid monthly into the Treasury interest is allowed monthly by Government to the Municipality. The peculiarity of the Bill is that interest is to run annually, and that instalments shall be paid monthly, so that when one month's instalment is paid we allow interest upon that to the Municipality.

HIS EXCELLENCY THE PRESIDENT asked by whom the calculation had been made.

The Honourable Colonel KENNEDY answered that he had had it calculated two or three times in his office.

The Honourable Mr. MUNGULDASS NATHOOBHAY said that in the Select Committee there was a good deal of discussion on this subject, and it was said that as the Municipality did not pay the first year's instalment with the full amount of interest, they should pay compound interest on the balance which would remain unpaid. For the sake of the Bombay Municipality he would have wished that the Government of India might not charge compound interest, but as he was told this could not be arranged, there was no other alternative but to agree to the larger sum mentioned in the Bill, and supposing this Council were to reduce the amount of the monthly instalment, he feared the Government of India might refuse to sanction the Bill, and the consequence would be that the Municipality might have to wait some months more before they could obtain the pecuniary relief which the Municipality required. He would therefore not take the risk of delay for the sake of a few thousand rupees, as the Corporation is now obliged to pay interest to the creditors at exorbitant rates.

HIS EXCELLENCY THE PRESIDENT said it seemed to him that the obtaining of the money was such an immediate necessity that the Council needed scarcely to delay over the calculations. If the lesser amount were to be paid, it might happen that twenty years

hence, when the last monthly instalment came to be paid, Government might tell the Municipality that it had still something to pay, and the question could then be adjusted by competent authorities. At the present moment it appeared to him that it did not matter much whether the smaller or the lesser sum were paid in. It was clear that the loan and interest were to be paid annually, and sooner or later the loan, with interest at 5 per cent., would have to be paid.

HIS EXCELLENCY THE PRESIDENT then asked the Honourable Mr. Scoble whether he would press his motion.

The Honourable Mr. MUNGULDASS NATHOORHOY said the difference between the calculation was so small that he did not think there should be any division.

The Honourable Mr. SCOBLE said that after what had fallen from His Excellency the President and the Honourable Colonel Kennedy, he did not think it worth while to press his motion.

It was then agreed that the section should stand part of the Bill without alteration.

Sections 3, 4, and 5 having been passed without alteration,

The Honourable the ADVOCATE GENERAL said in reference to Section 6, that he noticed that the saving clause was limited to loans upon the mortgage of rates and taxes, whereas the existing loans had been borrowed not only upon the security of rates and taxes under Act II. of 1865, but also of market fees, under Act IV. of 1867. He was of opinion therefore that the saving clause should be extended to mortgages made under both of the Acts, and he would move that the words "of rates and taxes" be omitted, and the words "or loan" substituted.

The substitution moved by the Honourable the Advocate General was agreed to, and the clause as amended stood part of the Bill.

The Honourable Mr. TUCKER said that the Bill contained no provision which secured the immediate repayment of the two lakhs of rupees which had already been advanced by Government, or the replacement of the sums which had been diverted from the Sinking Fund; and from the recent proceedings of the Bench of Justices it seemed desirable that these payments should be made obligatory in a manner that would admit of no future dispute. The existing Municipal Acts expressly require the setting apart of the Sinking Fund, but in the present position of affairs some effectual guarantee of the appropriation of the moneys advanced to the replacement of the amount which should have been at the credit of this Fund appeared to be necessary.

HIS EXCELLENCY THE PRESIDENT said the point to which the Honourable Mr. Tucker has drawn attention is this:—This Bill places 15 lakhs at the disposal of the Municipality, but contains no provision whatever as to their application for any particular purpose. The Municipality have to redeem certain Government notes that have been pledged with the Bank of Bombay, and they have to repay the loan of two lakhs which was advanced by the Government out of the balance belonging to the Government of India, and there is no provision at all in this Bill that the 15 lakhs shall be applied to these or any other purposes. The Municipality, in their resolution, have spoken of loans which were advanced out of the cash balances as a matter to be adjusted hereafter between the Government and the

Municipality, but I do not think it likely we shall receive the assent of the Government of India to this Bill unless it is distinctly provided that the loan of two lakhs is to be repaid immediately out of the money which will be advanced under this new Act. It is quite true, as my honourable friend suggested, that that might be inserted in the new Municipal Act, but I do not think the Government of India would be satisfied with that. I think we should make provision that the Government of India be repaid out of this 15 lakhs.

The Honourable Mr. TUCKER: The only way to do that is to give notice of a new Section before the third reading of the Bill.

The Honourable the ADVOCATE GENERAL mentioned that this Bill had been framed upon the model of Act III. of 1870, according to the express direction of the Government of India, and in that Act there was no appropriation clause.

The Honourable Mr. TUCKER: But the Supreme Government could not object to our making more secure the repayment of the money they have advanced.

The Honourable Mr. RAVENSCROFT thought any difficulty might be avoided by directing the Accountant General to pay the Municipality 13 instead of 15 lakhs.

The Honourable Colonel KENNEDY said that would not do, because the Supreme Government had agreed to advance 15 lakhs.

The Honourable Mr. TUCKER then gave notice that he would propose a clause which would secure to the Government of India the payment of the two lakh loan, and make compulsory the appropriations he had mentioned.

His EXCELLENCY THE PRESIDENT then adjourned the Council.

JOHN NUGENT,

Acting Under-Secretary to Government.

Bombay, 8th February 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations under the provisions of "the Indian Councils' Act, 1861."

The Council met at Bombay, on Tuesday, the 20th February 1872, at noon.

P R E S E N T :

The Right Honourable SIR W. R. S. V. FITZ GERALD, G.C.S.I., Governor of Bombay, *presiding*.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B,
The Honourable S. MANSFIELD, C.S.I.

The Honourable H. P. ST. G. TUCKER.

The Honourable the ADVOCATE GENERAL.

The Honourable MUNGULDASS NATHOOBHOY, C.S.I.

The Honourable A. D. SASSOON, C.S.I.

The Honourable BYRAMJEE JEJEEBHOY.

The Honourable VENAYEKRAO APPASAHEB of Koorundwar.

The Honourable Colonel M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.

The Honourable A. R. SCOBLE.

The Honourable E. W. RAVENSCROFT.

Before proceeding with the business, HIS EXCELLENCY THE PRESIDENT said:—

H.E. the President's remarks on Lord Mayo's Assassination.

The adjournment of the meeting last Tuesday will make it necessary to suspend the Standing Orders with regard to some of the matters that will come before us to-day. It was my first impulse, when the melancholy information was received on Monday, to take the earliest opportunity of myself expressing, and giving the other members of the Council the opportunity of expressing, the deep feelings of sorrow and regret with which these tidings had been received among us. But in truth I could not trust myself to express what I felt; the blow was far too recent and too heavy for me to trust myself to express either my own feelings or those which I am sure are shared in by every member of the Council. And even now, after a week has elapsed, whatever I say—the warmest tribute of private friendship—is as nothing before the universal testimony which is borne by every class of the community to the worth of the deceased nobleman,—the voice of sorrow is weak and passionless in the presence of the grief which has darkened every corner of the land. I will not attempt to give utterance as to my own feelings, and the sentiments entertained by the Council in regard to the irreparable loss we have sustained; but the long official intercourse I have had with Lord Mayo requires me to say that I am certain that the Queen and the country never had a more upright and more devoted servant. He was remarkable at once for the independence of his own opinions, and the care and consideration with which he weighed the opinions of others. He spared no pains or labour to satisfy himself where his duty lay; when he ascertained that, without looking to the right or to the left, he was prompt and fearless in taking the path that duty pointed. The ways of

Providence are often inscrutable to our limited view, and we are perplexed when we thus see a noble spirit, devoted to the service of his country, thus suddenly struck down by the hand of an assassin. We must bow our heads in silence, being sure that, while his friends will long lament him, among every class of people his memory will be long preserved as one who ever devoted himself to the interests of the people whom his Sovereign had committed to his charge.

After a short pause, the Honourable Mr. TUCKER presented to the Council the Paper presented to the second Report of the Select Committee on Bill No. 1 of 1872, Council. a "Bill to amend Act XIII. of 1856." The Select Committee, he said, had added a section to the Bill under which poundage fees levied under the provisions of Section 28 of Act XLVIII. of 1860 are directed to be paid to the Bombay City Police Fund, and had also provided for the transfer of all the moneys and securities at the credit of the existing fund to the fund to be created by this Bill. With the view of effecting this object a few words had been added to Section I.

It was agreed that the report should lie on the table.

The Honourable Mr. TUCKER observed that as a Standing Order in Council provided that the Report of the Select Committee should be before the Council seven days before the consideration of a Bill be proceeded with, he submitted for the consideration of His Excellency the President that the Standing Orders be now suspended, to allow the Bill to be read a third time and passed that day.

The Standing Orders suspended in order that Bill No. 1 of 1872 be read a third time and passed.

HIS EXCELLENCY THE PRESIDENT directed that the Standing Orders be suspended. Bill No. 1 of 1872 considered in detail. The Council then proceeded to consider Bill No. 1 of 1872 in detail.

On the motion of the Honourable Mr. TUCKER, the words in the seventh, eighth, ninth, and tenth lines of section one, "any payments or investments of money which shall have been made or ordered to be made in accordance with the said sections and," were ordered to form part of the section, and the section as amended stood part of the Bill.

In section three the words "paid and" were inserted in the tenth line between the words "shall be" and "transferred."

The Bill read a third time and passed. The Honourable Mr. TUCKER moved that the Bill be read a third time.

The Bill was then read a third time and passed.

Bills and Orders of the day.

The Honourable Mr. RAVENSCROFT moved that Bill No. 2 of 1872, a "Bill to secure the payment to Government of certain additional sums of money by the Corporation of the Justices of the Peace for the City of Bombay" be read a third time.

Mr. Ravenscroft moves the third reading of Bill No. 2 of 1872.

The Honourable Mr. TUCKER: On the last occasion that this Bill came before the Council, I gave notice that I would propose an additional section to it, the object of which at first was to render certain and inevitable the immediate payment of three of the princi-

Mr. Tucker proposes a new Section.

pal liabilities for the discharge of which the loan has been granted. It has been remarked that there was scarcely any necessity for the first three clauses, as it would naturally be the duty of the Municipal Commissioner and of the Controller and of the Worshipful Bench of Justices to see that these particular sums were paid. But considering what has taken place in the recent discussions between Government and the Bench, and the remarks which from time to time have been made at the meetings of the Justices, it appears to me that it is not desirable that there should be any room for doubt upon the point, and that it is expedient that the Legislature should distinctly provide for the appropriation of these moneys in a manner that will admit of no evasion or delay. I desire to say nothing which shall at all aggravate the feeling of hostility which of late has been exhibited by that august and important body the Bench of Justices towards the Executive Government of this Presidency ; but I feel it my duty to remark that on one particular occasion not long ago, a majority at a somewhat limited meeting evinced a desire to repudiate, and in fact did repudiate, a distinct obligation. I do not think I am using too strong a term when I select the word repudiation to characterise their proceeding, because when two persons have agreed to devote a certain amount of money to a particular object, and one of these persons, without assigning any reason, or giving in exchange any equivalent consideration, suddenly withdraws his contribution, the act amounts to the repudiation of a just liability. This is what a majority of the Justices at a particular meeting did with respect to the contribution promised by the Bench to the carrying out of the Contagious Diseases Act, on the faith of which certain expenditure had been made by Government and certain liabilities incurred. Individual members of the Corporation sought to justify the action of the majority, by asserting that they were following the example of Government in withdrawing its contribution to the Municipal Fund on account of the Police. There was, however, really no true analogy between the conduct of Government and the behaviour of the Bench in these two distinct matters. In exchange for the Police contribution of one lakh of rupees, the Government relieved the City of Bombay and the rate-payers, whom the Bench are supposed to represent, from taxation by which an addition of three and a half lakhs of rupees might have been added to the Provincial Exchequer. They therefore gave to the city a great deal more than they took away, while the Bench simply withheld what they had promised to pay, and gave nothing in exchange. As such proceedings have been tolerated and approved by a small section of the Justices who were sufficient to command a majority at a meeting, it is necessary that the Legislature should take effective measures to secure the proper appropriation of the sums which the Government of India have advanced. These observations which I have made refer more particularly to the three first clauses of the additional section which I wish to add to the Bill. The fourth clause, which refers to the replacement of the moneys which should have been set apart for the Drainage Fund under section 8, Act II. of 1865, was simply added by me to elicit an expression of opinion from the Council as to the necessity of making good the amount which should have been contributed and retained for expenditure on drainage works, but which has not been so paid or retained. In the correspondence that has taken place between the Government and the Justices, we have expressed our opinion that the diversion of these funds from their legitimate object and the non-compliance with the provisions of section 8 of

Act II. of 1865 might be condoned, and that the sums which should have been appropriated, and which were not appropriated, need not be replaced. We expressed this opinion in a letter to the Justices, and in reply the Worshipful Bench by a vote signified their concurrence in our views. The decision of this important matter does not rest, however, with the Executive Government, but depends on the verdict of this Council, and it was for the purpose of obtaining a declaration of the opinion of this Council that I added the 4th clause of the new section to the preceding ones. I personally am of opinion that the non-compliance with the law which has taken place may be condoned and indemnity given for the past, and that the Corporation may be relieved from the obligation of contributing a reserve fund for drainage in the past; and if a majority of the Council are of that opinion I shall readily withdraw this clause, and support any amendment which may be proposed which will carry out the views of the Executive Government and the Bench. It has, however, been suggested to me that the alteration of section 8 of the old Municipal Act should be left to the new legislative measure which is about to be introduced in supersession of the statutes by which Municipal affairs are now regulated, and if it be the opinion of the Council that the consideration of the propriety of maintaining and replacing the amount due to the Drainage Reserve Fund be deferred till the introduction of the new Municipal Bill, I shall not object to that course. All that I wish is that the Council should pronounce a decision on the matter. I conclude, Sir, by moving the addition to the Bill of the section of which I have given notice.

HIS EXCELLENCY THE PRESIDENT: It is moved by the Honourable Mr. Tucker that the following section be placed between sections 5 and 6 of the Bill as it at present stands:—

“It shall be the duty of the Municipal Commissioner to discharge out of the moneys which shall be advanced to the said Justices under this Act the following liabilities of the said Justices, at the times hereafter specified:—

- “1. The amount due for principal and interest on account of the sum of two lakhs advanced to the said Justices by the Government of Bombay on the 3rd November 1871.
- “2. The amount due for principal and interest in respect of a cash credit advance made to the said Justices by the New Bank of Bombay (Limited) on the security of certain Government promissory notes belonging to the Sinking Fund created under section 257 of Act II. of 1865, for the repayment of moneys borrowed under the provisions of the said Act, or of Act IV. of 1867.
- “3. All sums due for principal and interest to the said Sinking Fund at the time of the passing of this Act which sums should have been set apart under the provisions of section 257 of Act II. of 1865, but which have not hitherto been so set apart.
- “4. The amount due for arrears of principal and interest to the Drainage Fund in respect of the annual payment directed to be reserved by section 8 of Act II. of 1865.

“The first of the liabilities above enumerated shall be discharged by the Municipal Commissioner at the time when he shall receive the moneys payable to the said Justices under the provisions of this Act, and the remainder shall be discharged by the said Municipal Commissioner within one month from the same date. The Municipal Commissioner shall report to Government through the Accountant General the due payment and discharge of the aforesaid liabilities at times above specified, and in any case of any default being made in discharging any of the above liabilities as aforesaid, the Chief Secretary to Government or other officer acting in that capacity is hereby empowered to, and shall, put in force for the purpose of securing the due discharge of the said liabilities the provisions of section 3 of this Act.”

One point I wish to bring to the notice of the Council. Honourable members are aware that an application was made at the desire of the Bench for a loan from the Government of India to enable the Justices to carry out a proposal that had been made to them for the improvement of the water-supply of the city, by the construction of certain works known by the Justices as the Toolsee reservoir scheme. A reply has been received from the Government of India sanctioning the advance of 4 lakhs, with this intimation—that this sum may be advanced either under the powers of this Act, or may be advanced as a loan under the Act for the Municipal loans passed by the Government of India last year. It has proved impossible, owing to the provisions of the Municipal Act, that the opinion of the Bench of Justices should be obtained to decide whether that loan should be advanced under this Bill or under the provisions of the Bill I have alluded to. Therefore, I am inclined to think that it would be well if a short clause were added to this Bill to the effect that whereas certain works in connection with the Toolsee scheme were proposed by the Bench of Justices, and that the Government of India have intimated that they are willing to advance a sum of 4 lakhs of rupees for that purpose, it be enacted that such loan, if granted, shall be subject to all the provisions and limitations of this Act. If that clause be added, it would be necessary to alter the first few words of the clause which the Honourable Mr. Tucker has now moved. Supposing the Council were of opinion that it is desirable to make provision now in case the Bench of Justices decide that they prefer this loan given to them under this Bill instead of under the provisions of the Bill passed by the Governor General in September last, the clause would require some alteration.

The Honourable Colonel KENNEDY asked whether, in the event of the clause which His Excellency had indicated being added, the money for the Toolsee scheme would be available at once, or whether they would have to wait for the publication of the rules to be made under the Public Works Loan Act.

HIS EXCELLENCY THE PRESIDENT was unable to say. To him it was difficult to understand how a loan could be made subject to the conditions of a certain Act when those conditions had not only not been published, but had not even been settled. It certainly occurred to him that it would be impossible to arrange for the payment of the loan under the Public Works Loan Act till the conditions to be made under that Act were published. Of course that would be a point for the consideration of the Justices when they met on Monday.

The Honourable Mr. RAVENSCROFT here read the telegram from the Government of India mentioning the conditions on which the loan should be granted.

The Honourable Colonel KENNEDY : Then if this new section be added to the Bill the money will apparently be available at once.

The Honourable Mr. RAVENSCROFT : Yes, in the same way as the fifteen lakhs are available.

HIS EXCELLENCY THE PRESIDENT said he only suggested to the Honourable Mr. Tucker that it might be advisable to add something to the Bill which would bring that advance under the operation of this Act if the Bench of Justices, after full consideration, decided to take it under this Act instead of under the Act of the Government of India. The point had been brought before him by the Municipal Commissioner, who was anxious that some such provision should be added to the Bill, and he only now suggested it for the consideration of the Council.

The Honourable Mr. TUCKER thought it would be better to get the opinion of the Justices first.

HIS EXCELLENCY THE PRESIDENT : It would be perfectly possible to pass a short Act placing the loan under the provisions of this Act, and stating the instalments by which it should be paid off.

The Honourable Colonel KENNEDY thought it would be advisable to introduce such a section.

The Honourable Sir JAMSETJEE JEJEEBHOY was of opinion that the loan should be taken under this Bill.

HIS EXCELLENCY THE PRESIDENT : I understand the Honourable the Advocate General to say that he could without much difficulty devise a section without mentioning the amount of the instalments.

The Honourable the ADVOCATE GENERAL said it could be done if it were thought desirable.

HIS EXCELLENCY THE PRESIDENT : I should think the proper way would be to say that any loan granted shall be subject to the same rules and conditions as the 15 lakh loan, and then to say that it shall be the duty of the Accountant General to calculate in the same proportion what the instalments shall be, and in the next place to give power to the Governor in Council to declare what the instalments shall be.

The Honourable Mr. RAVENSCROFT : I think, with reference to the fourth clause, that there is some objection to entering it in the Bill, for we need not go into the question of condoning that debt just now, and I think it would be advisable to hold it over till the general Bill is under consideration. If we add these four lakhs to the other liabilities of the 15 lakhs, the Justices will not be left with any surplus. With the exception of this fourth clause I would support the new section, and as regards the fourth clause I would suggest that it be omitted.

HIS EXCELLENCY THE PRESIDENT then read the following sections, which had been drawn up by the Honourable the Advocate General, and which His Excellency thought would meet the difficulty :—

The Advocate General proposes two new sections.

- (1). Whereas the Government of India has signified its willingness to grant a further loan of four lakhs of rupees to the Corporation of the Justices of the Peace for the City of Bombay for the purpose of carrying out certain works for the improvement of the water-supply of the City of Bombay by the construction of a reservoir at Toolsee, it is hereby enacted, that in case such loan of four lakhs of rupees shall be granted the same shall be secured and repayable in the same manner and within the same period, and shall be subject to the same rights and remedies as are hereinbefore provided with regard to the said loan of fifteen lakhs of rupees.
- (2). It shall be lawful for the Governor in Council, before such loan of four lakhs of rupees is advanced, to fix the amount of the monthly instalments by which such loan shall be liquidated, and the times at which the same shall be paid, and it shall be the duty of the Municipal Commissioner to pay out of the municipal fund the instalments so fixed, and at the respective times appointed for payment of the same.

The Honourable Mr. TUCKER asked if such a clause could be introduced without previous notice. According to his recollection of the Standing Orders, it was necessary that notice should be given of such clauses.

HIS EXCELLENCY THE PRESIDENT said he would suspend the Orders in this case.

The Council then proceeded to consider the section proposed by the Honourable Mr. Tucker.

On the motion of the Honourable Mr. TUCKER, the introduction to the clauses in the section was altered so as to read thus :—

“ It shall be the duty of the Municipal Commissioner to discharge out of the sum of fifteen lakhs mentioned in the first section of this Act the following liabilities of the said Justices at the times hereafter specified.”

The Honourable Mr. TUCKER then intimated that as it appeared to be the opinion of the Council that the fourth clause should not be inserted, he would withdraw it.

Mr. Tucker withdraws the 4th clause of his new section.

The Honourable Mr. SCOBLE said he was extremely glad for several reasons that the Honourable Mr. Tucker had agreed to omit the fourth clause of his proposed Section. In the first place, he was glad of it because if the debt to the Drainage Fund were to be made repayable out of the 15 lakhs, a loan of 15 lakhs would be insufficient for the purposes for which it was intended to be applied. The calculation of 15 lakhs did not include repayment of that debt, and in order to pay that it would be necessary that the loan should be increased from 15 lakhs to Rs. 19,76,000, according to a statement made by the Municipal Commissioner. He was also glad that the Honourable Mr. Tucker had not pressed the fourth clause, because the question whether or not this Council had the power to condone the non-payment by the Justices of this money, was a question which would require more consideration than he for one should be able to give to it on such short notice, and he thought the time for the discussion of that point would be when the general Municipal Bill came on for consideration. Though he

regretted that there should be any necessity for an appropriation section, there could be no doubt whatever that the sums mentioned in the first three clauses ought to be paid out of the amount advanced under this Act. The fourth clause having been omitted, the section was now, he thought, unobjectionable.

It was then agreed that the section proposed by the Honourable Mr. Tucker should be added to the Bill as Section six, the fourth clause being omitted.

Mr. Tucker's new section agreed to.

The Honourable the ADVOCATE GENERAL moved the introduction of the Sections which had just been drawn up by him, and read by His Excellency the President. He pointed out that the sections were merely permissive, and would not bind the Justices to accept the money under this Act, nor bind the Government of India to give the money under this Act.

It was agreed that the first of the sections proposed by the Honourable the Advocate General should stand part of the Bill as Section seven.

The first section proposed by the Advocate General agreed to.

The Honourable Mr. SCOBLE said that as he understood, the whole of the four lakhs would not be required at once for the Toolsee water scheme, and if that were so it might be advisable to introduce into the second section proposed by the Honourable the Advocate General some words which should only make the instalment payable proportionate to the sum actually advanced, because if only two lakhs were to be advanced this year, and the remainder not for several months, it would be manifestly unjust that instalments for the full amount should be paid at once. He would therefore suggest the introduction of some words by which the Government of Bombay should make rules fixing the instalment in relation to the sums advanced.

The Honourable the ADVOCATE GENERAL said that to meet the suggestion made by his honourable friend he would propose that after the words "four lakhs of rupees" there should be inserted the words "or any part thereof;" and that after the words "by which such loan," there should be inserted the words "or such part thereof as may be advanced."

The second section proposed by the Advocate General amended and carried.

It was then agreed that the clause as amended should stand part of the Bill as Section eight. The clause as amended stood as follows:—

"It shall be lawful for the Governor in Council before such loan of four lakhs of rupees, or any part thereof is advanced, to fix the amount of the monthly instalments by which such loan, or such part thereof as may be advanced shall be liquidated, and the times at which the same shall commence to be paid, and it shall be the duty of the Municipal Commissioner to pay out of the municipal fund the instalments so fixed, and at the respective times appointed for the payment of the same."

The words "other than the loans made or that may be made under the provisions of this Act" were inserted after the word "Justices" in line 14 of Section IX.

The Bill read a third time and passed. The Bill was then read a third time without further alteration, and the preamble and title having been agreed to, the Bill was passed.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under-Secretary to Government.

Bombay Castle, 20th February 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations under the provisions of "the Indian Councils' Act; 1861."

The Council met at Bombay on Wednesday, 27th March 1872, at noon.

P R E S E N T :

The Right Honourable SIR W. R. S. V. FITZ GERALD, G.C.S.I., Governor of Bombay, *presiding* ;
 His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B. ;
 The Honourable S. MANSFIELD, C.S.I. ;
 The Honourable H. P. ST. G. TUCKER ;
 The Honourable the ADVOCATE GENERAL ;
 The Honourable A. D. SASSOON, C.S.I. ;
 The Honourable BYRAMJEE JEJEEBHOY ;
 The Honourable VENAYEKRAO APPA SAHEB of Koorundwar ;
 The Honourable Colonel M. K. KENNEDY ;
 The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I. ; and
 The Honourable E. W. RAVENSCROFT.

The Honourable Mr. TUCKER, in moving the first reading of the Bill No. 3 of 1872,

Mr. Tucker moves the first reading of the Bombay Municipal Bill. "A Bill to provide for the management of the Municipal affairs of the City of Bombay, and to make better provision for the conservancy and improvement of the City and for the levying of rates, taxes, and other income therein," said:—

SIR,—The task which has fallen to my lot to-day is one which I would willingly have avoided had the matter been left to my own choice ; but through a combination of circumstances the duty has been assigned to me, and I will only express my regret that it has not devolved upon one who has had a better training in public speaking, or who is more capable of giving a lucid exposition of a large measure of this description, than I am. I therefore beg beforehand the lenient consideration of the Council for any shortcomings of which I may be guilty. The circumstances under which the present Municipal constitution originated in 1865 are well known to all here present. The Municipal Government which existed at that time was found to be, in the words of the Honourable Mr. Cassels, a complete failure, and it was resolved to initiate a new system by which a certain amount of self-government would be given to the citizens of Bombay. The new measure was very carefully considered by Sir Bartle Frere's Government, and I regret that at this time there should be no one but the Honourable the Advocate General in this Council who took a part in the debates on it. The chief object of the Act of 1865 was to establish a strong and efficient administration for the purpose of carrying out sanitary improvements, and for reducing the death-rate of the city, which was shown at that time to have advanced to a very unsatisfactory figure. For this purpose a very elaborate code was devised, which has since been in operation, modified from time to time by different Acts, introducing amendments which

experience had shown to be necessary. In the matter of sanitary improvement I think there can be no doubt that great progress has been made and much good effected; but it was shown last year that the financial defects that marked the old system of Municipal administration still continued in the new, notwithstanding the control that was attempted to be exercised by the Bench of Justices and the Government. When the Act of 1865 was introduced there was a deficit, as Mr. Cassels supposed, of 14 lakhs of rupees, but really, as has since been proved, of a considerably larger amount, and similar large deficits have recurred periodically, and the Municipality has been obliged on two occasions to raise large loans of 15 lakhs to meet its current expenditure. It was obvious that such a state of affairs could not be allowed to continue, and at the request of the Bench of Justices last year a Committee was appointed to inquire into the financial condition of the Municipality, and the result of the report of that Committee, which showed that the Municipal expenditure had largely exceeded its income, led to our reconsidering again the whole system of self-government, and indicated the necessity of grafting upon the old law such improvements and alterations as were necessary to strengthen the part which was weak, and to limit and restrain where too much latitude was allowed under the old Act. I am not prepared to say that the failure of the scheme of 1865 was solely attributable to defects in the law. There were defects, certainly, which we have now tried to remedy, which contributed to that result, but I am quite willing to admit—and I may say I speak personally, and not on behalf of Government—that for part of the failure Government was responsible, partly in consequence of what I may term an unfortunate selection of executive officers by the Government, and partly for not having seen with sufficient clearness the state of affairs at an earlier date. As I said before, the object of Mr. Cassels, in 1865, and of the gentlemen who supported him in this Council, was to create a strong Executive Commissioner, who would be able to provide promptly for the needs of the city, and would not be trammelled either by colleagues or any other authoritative interference except to a limited extent. It was intended that in financial matters there should be control, and a special officer was appointed for that purpose. If that Controller really had controlled, it is possible we might have been spared a great deal of what has happened, but unfortunately for the city and the Government, and for all concerned in this matter, the Controller did not control, but became subordinate where he should have been superior; and, as I said before, Government must bear the responsibility of the selection of such a Controller. Latterly no doubt the Bench of Justices have made a strong effort to control the Municipal Commissioner; but for a long time, either from want of experience, or want of persistence in their efforts, or from certain inherent defects in the constitution of the Corporation, they were unable to effect their object. I have made these remarks because I conceive my own views on this matter have been incorrectly represented. I consider that there were three powers or authorities united in the administration of Municipal affairs under the existing law, and that all are more or less to blame for the imperfect manner in which that law has been carried out. But there were also some defects in the law itself which prevented or impeded that efficient action on the part of the Justices which might have been anticipated. One defect was the undefined and uncertain number of members of which the Corporation consisted. There were between 300 and 400 Justices, and at any meeting it was quite uncertain what number might be brought forward either on one side

or on the other. It was therefore impossible that there should be any recognised system of opposition, or any of that systematic organization by which assemblies at home maintain regular and consistent action, and this was certainly a defect in the scheme as it emanated from the Council of 1865. We purpose now to remedy that defect first by limiting the number of those who are to constitute the Corporation. It seems to have been an accident originally that the Bench of Justices were selected as representatives of the citizens of Bombay. They were a body which contained a fair proportion of the most enlightened and intelligent residents of Bombay, the men best fitted generally to take a share in the government of the city, and being at hand they were taken as the readiest and most efficient body available. It has been found that they have been too large a body, and too variable in number, for practical purposes, or to be an efficient instrument of control, and we therefore now propose to take a limited number of them, of whom half will be selected by Government, and half will be elected by the Justices themselves. We have thus in fact turned the Bench of Justices into an electoral college. I may here mention that it is proposed to enlarge the Bench by the addition of more Trustees, who will be selected from classes who are not now represented; and we think that in their enlarged capacity the Bench will be a good body from which to elect a certain number of persons to be trusted with a portion of the government of this city. It is necessary however before a man is appointed a Justice he should have certain qualifications, and it is supposed that it will be beneficial to introduce a class of rate-payers who would not be eligible for Justices. It is proposed therefore to add sixteen rate-payers, of whom eight will be elected, and eight will be appointed by Government. Now, Sir, there seems to be an earnest desire on the part of a section of the public—I won't say a large section but an influential section—for an extension of the elective principle for the government of the city; but this is a matter which before it can be widely adopted requires the most careful consideration. It must not be forgotten that the systems of election and popular representation which obtain in England have been the growth of centuries, and that the point which has been reached in Great Britain has been only attained after much conflict and much self-sacrifice, and I for one think that it is impossible in this country, situated as we are, to adopt in their integrity English institutions. For myself I may say I am not averse to the introduction of self-government among the natives of India, and personally I would be glad to see self-government extended; but I think this must be done not by sudden jumps or leaps in the dark, but by gradual progress, by well-considered concessions which may be progressively enlarged and increased as the persons or classes to whom they have been granted show themselves fit for the boons given to them. It is only in this way that I think self-government can be introduced in India, where the people have been accustomed for centuries to Oriental despotism. I am therefore not opposed to self-government, but I am opposed to its inconsiderate extension. Every step in advance should be carefully considered before it is made, and time taken to see the effect of it before a further step is taken, and it is in this spirit that this bill has been framed. We have conceded a limited power of election to certain rate-payers, and have confided it to a class who are likely to use it and to exercise it well. These are the class who own houses and land in Bombay. They form a large class, which not only contains wealthy natives who have invested their savings in house-property, but also a number of people in a smaller way of living, who, following out the idea of the Hindoo family, have

invested their small capital in a family house, in which they live with their families. Most of this class are more or less intelligent. They constitute a class who are engaged in clerical and other industrial and commercial pursuits to a large extent, and it may be supposed that they will introduce an element which will be advantageous in the Corporation. Another of the difficulties of the last scheme was that there was no definite head to the Bench of Justices, and that there was no means of carrying out a great many of the measures which they thought necessary. For this object we have made an inner assembly or Town Council, whom we propose to charge mainly with the control of the finances. This Council is to keep the accounts and regulate the moneys which are to be paid over to the executive officers to carry out the works which they are required to perform, and we propose to give it such powers as we think will enable it to prevent any expenditure which they have not sanctioned. They will have the charge of the municipal fund, and they will only dispense it according to the rules and laws which are made for their guidance. We propose, by way of making a small incentive to work, and to secure regular attendance, to give them a small gratuity or *honorarium* for their attendance. It is considered that there should be a weekly meeting, but there is nothing to prevent more than a weekly meeting if the interests of the Municipality require it, and it is proposed that for this work each Town Councillor, if not an Executive Officer of the Municipality, should be paid. We hope by this way to get a regular supervision by skilled men who will act under a sense of responsibility. I may say also that, as an additional check upon the persons who will be entrusted with these powers, it is provided that each member of the Corporation shall go out after two years, so that either Government or the Bench of Justices who nominate them, or the rate-payers who elect a certain limited number, will be able to change their nominees if they find they do not constantly attend and give their attention to the affairs of the Corporation, which alone can ensure success to any great undertaking. The Municipal Commissioner, the executive officer, will be left with complete executive power within the limits assigned by the Budget and such other limitations as are in this Act. The only manner in which he will be controlled is that he will not be able to spend money on any scheme unless it has previously been approved and sanctioned, and unless a vote for it has been assigned by the Budget. Of the outer assembly of the Corporation, I may say their duties will be limited to fixing the rates in every year, and also to voting the Budget. They will also possess general powers of inquiry, which they will be able to exercise through the Town Council. There will therefore be now a double supervision, both by the Town Council and by this outer body, who will supervise the Council as well as the Executive to a certain extent, and above all there will be the Government, so that it is to be hoped that with this arrangement in future there will be no such improvident or extravagant expenditure as has hitherto been incurred. I do not know that it is necessary I should go into any further details of the various alterations made in the Act. I may, however, say, as far as the executive parts of the Act are concerned, that the Government has not acted entirely upon its own experience, but has consulted persons who are extremely competent to give an opinion. We have considered the recommendations of the Committee appointed by the Bench in 1870 on sanitary matters, of which Dr. Lumsdaine was President; then there was a Commission at Poona last year, of which the late Commissioner was a member; and we have yet more recently had the

benefit of the investigations of General Marriott's Committee, in which the present Municipal Commissioner, General Marriott, and Mr. Scoble, have made suggestions for the improvement of the executive part of the administration, with the object of making the process of collection more simple and efficient, and have recommended certain alterations which they have considered necessary for the public health and comfort of the city. We have not adopted all the suggestions made by these Committees where we thought they would be harassing to the people, or were rather in advance of the actual state of things in Bombay; but we have endeavoured to insert in the bill such alterations as we thought desirable and expedient. There are many minor alterations, and it would take up a very long time if I were to go through them in detail, and I do not think it necessary to do so, especially as the bill will be submitted to a Select Committee. I would say that I do not claim to be the author of the measure to which I stand sponsor. It has been the work of several hands, and the product of more than one head. It is a compromise of certain extreme opinions, and is intended to be one step on that progressive march of improvement on which I hope all matters connected with Municipal government of the city are now proceeding. It is not to be supposed that the elective principle now introduced to a very limited extent will stop here and be not extended hereafter, but it is considered better that the rate of advance should be limited than that any rash and inconsiderate step should be taken which might afterwards prove mischievous and lead to retrogression. With these few words, Sir, I introduce Bill No. III. of 1872, and I would express the hope that in the shape it will ultimately leave this Council it will really prove an useful and wise measure for the improvement of this city. I beg to move that the bill be now read for the first time.

The Honourable APPA SAHEB OF KOORUNDWAR said that he wished to extend the number of rate-payers to one-half, and also to limit the number of Justices appointed by Government out of the Bench of Justices to one-third.

The Honourable the ADVOCATE GENERAL—This is the most important Bill the Legislative Council has had before it for a long time, and I wish to make a few observations upon certain matters referred to by my honourable friend who moved that it be read a first time. I would first remark that no reason has been shown why this Council should be compelled to undergo the laborious process of considering a bill amalgamating the Acts relating to the municipal affairs of this city. The greater portion of this bill, indeed I may say about 200 of its sections, if not more, relate to matters to be found in the four Acts passed between 1865 and 1870. I may mention that the Act of 1865 was itself an amalgamation bill, into which were put all the previous sections relating to conservancy to be found in the prior Acts. That bill was introduced into the Council in August 1864. In the same month it was referred to a Select Committee, who only brought up their report in the beginning of the year 1865; in the latter part of the month of January the bill was read a second time and considered in Council for about six weeks, and finally passed, I think, on the 11th March 1865. Altogether it was an affair which took the Council about six months to pass. I am aware that two committees have sat since upon the bill—Dr. Lumsdaine's and General Marriott's. The amendments that were proposed appear to me to have been of a slight character, and might have been easily introduced into the measure—

without imposing upon the Council the very onerous duty of considering all the legislation that has previously taken place in this Council with reference to municipal affairs. No necessity appears to me to be shown for a bill of such enormous dimensions being submitted to Council, and I may observe that if amalgamation has been an object, certainly condensation has not. Although it would seem possible to reduce these several Acts into some succinct form, no attempt has been made to do so ; on the contrary we have all the old sections served up again, together with certain amendments, and the bill has been drawn out to the great length of 298 sections. I suppose it is now too late to ask the Council to divide the bill into two parts, but if it is not, it certainly would appear to me to be advisable that we should do so, and first consider that portion which relates to the municipal constitution, and the reformation of which was the real reason for setting the Legislature in motion in the first instance. With regard to the important part of the bill—namely, that which relates to the municipal constitution—I must confess I feel much disappointment at the scheme which is here proposed for the sanction of the Legislature. I object to it upon two grounds. It appears to me to give a very small share of representation to the persons who are most interested in seeing that the municipal funds are well administered—that is, to those who pay rates and taxes. In the second place, it seems to give an enormous, excessive, and unnecessary amount of control to Government. It is admitted by my honourable friend Mr. Tucker that there is a considerable desire among an influential section of the community for the introduction of the elective principle. My honourable friend, by framing such a bill as this, also admits that some concession must be made to that wish, and he accordingly has introduced the principle, but to such an exceedingly limited extent that I am unable to perceive that the bill can be said to embody a fair experiment. If it is worth while to recognise the principle at all, if some concession must be made to the feeling out of doors on the subject, I think the concession should be sufficiently large to enable one, after the measure has been in operation for a year or two, to pronounce upon the result. But what do we find here? We find that the Municipal Corporation is to consist of eighty members, of whom sixteen—only sixteen—are to be other than Justices of the Peace. The Justices of the Peace are, as you are aware, the nominees of Government, and of the sixteen others, which will form only one-fifth of the entire Corporation, the framers of this bill are unable to concede more than eight as the number to be elected by the rate-payers. It therefore appears that only a tenth of the large number forming the Corporation are to be elected by the rate-payers—out of every ten men entitled to vote one only will be the representative of the rate-payers. But the smallness of the concession does not end there, for, instead of allowing these men to be elected by the rate-payers generally, or even by rate-payers paying a certain amount of taxes, the constituency is restricted to those who pay owner's house-rate. Thus the large body of rate-payers who pay lighting rates, water rates, police rates, the halalcore cess, and wheel taxes is left out. Furthermore the voters are limited to owners who pay not less than fifty rupees. As I am informed, this will limit the constituency to about 3,000. I do not give these figures as the precise figures, but I may say that the bill certainly reduces those who are to benefit by the new principle to a very small portion of the house-owners in Bombay. The picture which my honourable friend Mr. Tucker presented to us of the Hindoo who invests a small portion of his means in purchasing a house

has little or no bearing upon the point, because the greater portion of those people will be excluded from voting by this restrictive qualification of fifty rupees. Moreover, the constituency is confined to a class of persons who are already exceedingly well represented in the present Bench of Justices. What is wanted is that those who are not owners, but are only rate-payers, should be able to make their voice heard in the question of the administration of the local funds. It should be also observed that this limitation of the constituency will exclude, I may say, nearly every European gentleman in Bombay, of whom I believe very few become owners of house property here. Then we have introduced to us a new feature—viz., the appointment of a Town Council. One would feel more confidence in the working of the Act if we found provision had been made there for a considerable number of the elected rate-payers. But what do we find? We find that out of this Town Council, which is to consist of twelve members, six are to be nominated by Government.

The Honourable Mr. TUCKER pointed out that they were to be nominated from the Corporation.

The Honourable the ADVOCATE GENERAL said he might have made a mistake, but at any rate Government nominated six of the Town Council, and out of the entire twelve two only were necessarily to be persons who had been elected by the rate-payers.

HIS EXCELLENCY THE PRESIDENT thought his honourable friend Mr. White had misquoted. Mr. White had said that two only were to be rate-payers, but the words of the Act were—“Two of the members of the said Town Council so to be nominated by Government, and two of the members so to be elected by the Corporation, shall be rate-payers appointed under section VII. of this Act.”

The Honourable the ADVOCATE GENERAL said this was precisely what he had said, and continued—Two only out of the twelve must necessarily belong to those elected by the rate-payers. I think it might have been observed that I used the word “necessarily.” Therefore, we have a Corporation out of which eight only out of a body of eighty are to be elected by rate-payers, and a Town Council out of which two only are necessarily to be so elected. That is what it comes to. My honourable friend intimated that this was the introduction of a very important principle, and that therefore we must be very cautious how we act. Well, I must admire the extreme caution with which my honourable friend has introduced the principle into this measure. I think any possible fear or danger that might be apprehended would be laid at rest at once by a consideration of what the duties are which are to be thrown upon this Corporation and Town Council. These duties are extremely limited. Take the Town Council, in which, I think, there should be the largest amount of the elective principle. The duty of the Town Council is to secure the due administration of the municipal funds, as stated in the 22nd section, and by other sections they are made to act as a check upon the expenditure of money by the Municipal Commissioner. I should like to know what body of men are so likely to form an efficient check upon expenditure as those who have to find the money, and what fear can there be in introducing into this Town Council a much larger number of this class of men than has been done? I can see no danger if the whole of the Town Council were elected by the rate-payers. Then turn to the Corporation itself. Their duties are to watch the due administration of the funds, to pass the Budget, and fix the amount

of rates and taxes, although I may be permitted to mention that their power with regard to these matters is confined within the strictest limits. They can impose no new taxes—they cannot go outside the schedules—they must find enough money for the Commissioner, and, as he is not their officer, and has express powers conferred upon him by the Act, so long as he keeps within his money grant and spends the money as directed by the Act, there is nothing for them to do. What harm could be done by a liberal introduction of the principle of election by rate-payers I am unable to see. I believe that the principle is not new in India in connection with Municipalities. In some Acts relating to the North-West Provinces and the Punjab, the principle has already been recognised by the Supreme Government at Calcutta of allowing Municipalities to be governed by members a considerable portion of whom are elected by the community itself, and I understand that in some cases this principle is carried out to the extent of two-thirds of the whole. My honourable friend Mr. Tucker said that this was a tentative measure, and that we must be careful how we give to any class this new power unless we are certain they will use it well. I think that my honourable friend deceives himself if he thinks that anything in the way of experience will be gained as to the working of representative institutions in this country by this bill. It introduces such an extremely small number of elected members that there will be no chance for the experiment to be fairly tried. It is impossible to say that these eight will not be completely smothered by the larger number of men who are nominated or elected upon different principles. With regard to the other question about Governmental control, I am at a loss to understand why such pains should have been taken to introduce such elaborate sections to provide the Government with powers of control, when already they possess under the old Acts most ample control by reason of their appointing the executive officers of the Municipality, and by reason that hardly anything could be done by the Justices out of their immediate path without the sanction of Government. Here, however, we have such complicated provisions for control that I would put it to my honourable friend if it would not be better for Government at once to take all the municipal affairs of this city entirely into its own hand. It appears to me Government might just as well do that, and I do not know whether I would not be as ready to support a measure which had that object in view as one like what is now before us. Government secures to itself, in the first place, the nomination of the whole Bench of Justices, and then it secures to itself the nomination of thirty-two members of the new Corporation; then it secures to itself the nomination of eight of the rate-payers who are to be members of the Corporation but who are not to be Justices; then in the matter of the Town Council it appoints six of the members, including the chairman. By-laws for the regulation of the business of the Corporation are to be made by Government, so that the Corporation is not even to be allowed to make its own rules for the conduct of its own proceedings. Then Government provides not only for audit by the Corporation auditors, but also provides for a further examination of accounts by Government auditors.

HIS EXCELLENCY THE PRESIDENT asked the Honourable the Advocate-General to be kind enough to look at section CCLX., where he would find that not Government but the Commissioner has to make the by-laws.

The Honourable the ADVOCATE-GENERAL said he did not refer at all to the section quoted by His Excellency the President, but to section XX., wherein it was laid down that “the

Governor in Council shall, within two months from the passing of this Act, frame by-laws for the regulation of the conduct of business at the meetings of the said Corporation." He continued—Thus, Government do not allow the Corporation the power usually conferred upon public bodies—the power of making their own rules for the conduct of public business. By section XXXIV., in addition to audit by auditors appointed by the Corporation, a further audit is to be performed by Government auditors, who are, however, to be paid out of the Municipal funds. By sections XLII. and XLIII., Government secures to itself general powers to make everybody do his duty, instead of confiding that matter to Her Majesty's Courts. Thus in section XLII. it is provided that "upon complaint made to the Governor in Council that the Municipal Corporation, or Town Council, or Municipal Commissioner, appointed by and under the provisions of this Act, has made default in carrying out and enforcing the provisions of this or any other Act for the time being in force for the Municipal administration of the city of Bombay, the said Governor in Council, if satisfied after due inquiry that the alleged default has been committed, shall make an order intimating a time for the performance of its duty by the authority implicated in the matter of such complaint; and if such duty is not performed within the time limited in the order, the said Governor in Council shall appoint some person to perform the same, and shall by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed to perform the same, and amounting to a sum specified in the order, together with the cost of the proceedings, shall be paid by the authority in default." I think this is a very extraordinary and unnecessary power to confer upon Government. In addition to this, however, Government has the power of appointing all the Municipal Officers—the Commissioner, the Executive Engineer, the Health Officer, and the Municipal Accountant General. I should have thought that with so much power conferred upon them by reason of having these appointments, Government could have afforded to be much more liberal in the admission of elected rate-payers into the Corporation. I can hardly fancy that if this measure passes into law in its present form we can expect any useful result or any change for the better. It no doubt is a measure which to some extent divides certain work between the Town Council and the Corporation, and also imposes upon them a certain responsibility; but, excepting for the purpose of dividing responsibility, it appears to me that Government might just as well have kept to itself the whole of the work connected with the Corporation, and directed its own officers in the Accountant General's Department to check the Municipal Commissioner and see that he did not exceed the amount set apart for him to spend. On the whole, it appears to me that this bill comprises the minimum of representation with the maximum of Governmental control. You may call it a homœopathic dose of the popular elective principle and an overwhelming dose of Governmental supervision. Furthermore, the scheme which this bill sanctions is a very complicated and highly artificial one, and as a necessary consequence there will be increased cost thrown upon the Municipality. We find, for instance, that the Town Council are to be paid. My honourable friend called the sum thus to be paid a small gratuity, but as I make it out, it will cost the Municipality Rs. 1,500 a month—in other words, the rate-payers will have to pay Rs. 1,500 a month because the Municipal Accountant appointed by Government may not be a sufficient check, or the auditors appointed by the Corporation may not be a sufficient check,

or even the Government auditors may not be a sufficient check. These are the observations I have to make upon this measure. The bill being an amalgamation bill, there are a good many of its sections which are transcribed from the old Acts, and are unobjectionable. I wish that the part referring to the municipal constitution had been separated from the rest of the bill; if it had I might have taken a vote upon it. However, I can only hope that ample time will be allowed to the Council, and the Committee to whom this bill may be referred, to consider its propositions. The sections are very numerous, and many of them are calculated to provoke a good deal of criticism.

The bill read a first time.

The bill was then read a first time.

The Honourable Mr. TUCKER, in moving "that this Bill be referred to a Select Committee," said:—I would wish to make a few observations regarding what has fallen from my honourable friend the Advocate General. His first objection to this bill is that in making alterations in the municipal constitution we have also taken the opportunity to consolidate and amend the Acts which formerly existed. This was done, Sir, at the urgent request—

Mr. Tucker moves that the bill be referred to a Select Committee.

HIS EXCELLENCY THE PRESIDENT, interrupting the Honourable Mr. Tucker, pointed out that the motion before the Council was simply that the bill be referred to a Select Committee.

The Honourable Mr. TUCKER—But am I not at liberty to make any observations?

HIS EXCELLENCY THE PRESIDENT—I do not wish to prevent the honourable gentleman from making any observations if there is a motion before the Council on which the observations can properly be made, but the principle of the bill comes on for discussion at the second reading. The question now before the Council at this meeting is whether this bill be introduced and whether it be read a first time. The discussion of the principle on which certain clauses are founded more properly comes on at the second reading. I do not wish to interrupt the honourable gentleman, but I may say that I am going to reserve the observations I have to make till the second reading. Still I do not desire to shut out the honourable gentleman, and he may make any observations he thinks fit.

The Honourable Mr. TUCKER—I do not think the remarks of the Honourable the Advocate General should go forth as if they were not susceptible of being answered. I therefore supposed myself to be in order in making certain observations in reply—

HIS EXCELLENCY THE PRESIDENT—No; I do not mean to say you have no right to make the observations. You have a perfect right to make any observations you think fit.

The Honourable Mr. TUCKER—But I understand your Excellency to say—

HIS EXCELLENCY THE PRESIDENT—I only mention how I am going to do about my own observations.

The Honourable Mr. TUCKER—Then I will follow your Excellency's example, and reserve my observations till the second reading comes on.

The Honourable Mr. TUCKER then moved that the Bill be referred to a Select Committee consisting of—

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. RAVENSCROFT.

The Honourable Mr. BYRAMJEE JEJEEBHOY.

The Honourable Mr. MUNGULDASS NATHOOBHOY, and The Mover.

The Honourable the ADVOCATE GENERAL objected to being appointed a member of the Committee, on the ground that he could not spare the time which would be necessary to attend the meetings of the Committee, but at the request of His Excellency the President he consented to serve.

After some further conversation, the Bill was referred to a Select Committee, composed as follows:—

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. RAVENSCROFT.

The Honourable Colonel KENNEDY.

The Honourable Mr. BYRAMJEE JEJEEBHOY.

The Honourable Mr. MUNGULDASS NATHOOBHOY; and The Mover.

The Committee was instructed to present its report on 24th April, and it was ordered that the report should be translated into the Marathi and Guzerati languages.

His Excellency the President then adjourned the Council.

By order of His Excellency the Right Honourable the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Bombay Castle, 27th March 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of "The INDIAN Councils' Act, 1861."

The Council met at Puna on Saturday, the 27th July 1872, at 11 o'clock.

P R E S E N T :

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

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the Acting ADVOCATE GENERAL.

The Honourable MUNGULDASS NUTHOOBHAY, C.S.I.

The Honourable BYRAMJEE JEJEEBHAY.

The Honourable Colonel M. K. KENNEDY.

The Honourable Sir JAMSETJEE JEJEEBHAY, Bart., C.S.I.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

Affirmation of Office, &c., taken by the Additional Members of the Council

The Honourable C. J. MAYHEW, the Acting Advocate General, and the Honourable J. A. Forbes took the usual affirmation of office and declaration of allegiance to Her Majesty.

Papers presented to the Council. The following papers were presented to the Council :—

- 1.—Letter from the Secretary to the Government of India, No. 274, dated 3rd June 1872, returns, with the assent of His Excellency the Governor-General signified thereon, the authentic copy of the "Bill to amend Act XIII. of 1856."
- 2.—Letter from the Secretary to the Government of India, No. 296, dated 14th June 1872, returns, with the assent of His Excellency the Governor-General signified thereon, the authentic copy of the "Bill to secure the payment to Government of certain additional sums of money by the Corporation of the Justices of the Peace for the City of Bombay."
3. Letter from the Secretary to the Government of India, No. 70, dated 21st June 1872, states that His Excellency the Governor-General has no objection to the introduction of the Bombay Municipal Bill into the Council of His Excellency the Governor of Bombay for making Laws and Regulations.

His Excellency the PRESIDENT intimated that the first business on the list was the second reading of Bill No. 7 of 1870—a "Bill for the regulation of Burial-grounds and Burning-grounds in the territories subject to the Government of Bombay, within the limits of the City of Bombay"; but as considerable discussion was likely to arise upon that subject, it might be more convenient for the Council if they would permit the Honourable Mr. Tucker, on the part of the Government, to give a general idea of alterations that it was proposed to make on the Bombay Municipal Bill.

The Honourable Mr. TUCKER—Sir, I beg to move that the Council do allow an extension of time to the Select Committee appointed to take into

Mr. Tucker moves for an extension of time for the presentation of the Report of the Select Committee on the Bombay Municipal Bill No. 3 of 1872.

consideration the Bombay Municipal Bill for the purpose of enabling the Committee to complete its report. This Committee was appointed at the end of last March, and at once proceeded to take into consideration the clauses of this somewhat voluminous measure. Owing to the inability of the late Advocate-General, the Honourable Mr. White, to attend more than twice a week, and owing also to differences of opinion entertained by the Members of the Committee, our progress, I am sorry to say, was but slow, so that up to May, when we held our last sitting in Committee, we had only settled some 60 sections of a Bill that contains 293 sections. Since this Bill was laid before the Committee—since, in fact, our last meeting of Council—there have been great changes in the *personnel* of the Executive Government of this Presidency. Not only has there been a new head to the Government appointed, but one of the Civil Members of the Executive Council has also been changed, and during the interval which has elapsed since the first discussion on the Bill a great many representations have been made by different sections of the community protesting against the restricted amount of popular representation which was proposed to be accorded by the Bill. The Executive Government, under these circumstances, have again reconsidered the subject, and have come to the conclusion that they will make wider concessions than have been already offered. What they propose to do I shall state briefly, and the alterations which are designed will be considered and reduced into form by the Select Committee. We propose that the number of the Corporation, fixed at eighty by the Bill as it now stands, should be reduced to 64 persons—of whom one-half, or thirty-two, shall be elected by the rate-payers; one quarter, or sixteen, elected by the present Bench of Justices, the number of whom will be increased; and the remaining sixteen nominated by Government. It is also proposed that of the Town Council, which will still consist of twelve members, eight shall be elected by the members of the Corporation, leaving only the Chairman and three other Town Councillors to be appointed by Government. It will be seen that by this new arrangement the representatives of the rate-payers will nominate half the members of the Corporation, and will also exercise a most potential influence in the election of two-thirds of the Town Council. It appears to me that the opponents of the measure who demurred to "the infinitesimal dose of popular representation," which was conceded by the Bill in its original form, ought now to be satisfied with so wide an extension of the basis upon which both the Council and Corporation are to be constituted, and that they will now have but little ground for complaint on that head. I may state that it had been settled in the Select Committee that all the members of the Corporation were to be rate-payers or persons who annually contributed Rs. 50 to Municipal rates and taxes generally; but since this point was decided on, I have received a letter addressed to me as Chairman of the Committee by Mr. Hope, the late Acting Municipal Commissioner, who, although desirous of seeing a wider extension of the elective principle, and opposed to the electors being confined to the class of persons who contributed to the house-rate alone, pointed out that it would not be expedient to include contributions to the water-rate, halalcore-cess, or wheel-tax in the payments which would go to form the qualification of either elector or representative; but that it would be better to declare the house-rate, the police and lighting rates, and what is termed the supplementary rate, to be the taxes, contributions to which should exclusively

regulate the qualification. As Mr. Hope's opinion on this point is supported by good reasons and entitled to consideration, the Select Committee will be again asked to consider whether it will be advisable to include in the qualification contributions to rates and taxes of every kind, or only to a certain specified number of such rates and taxes. On that point, the Government will endorse the conclusion at which the Committee shall arrive after a fair discussion of the question. A further concession that the Government is willing to make is to allow the Health Officer and the Executive Engineer to be appointed by the Corporation, subject to the approval of Government. The Controllership is, as you are aware, an office virtually done away with by the present Bill, which assigns his functions to the Town Council and their Secretary, who is to be appointed by the Council itself. I am not sure whether this direction regarding the appointment of Secretary to the Town Council is at present in the Bill, but if it is not Government will be prepared to give their sanction to the delegation of this appointment to the Town Council, though this nomination will also, of course, be subject to the approval of Government. The appointment to the office of Municipal Commissioner alone will be reserved to Government, and with regard to the others, the Corporation and Town Council will nominate, subject to the approval of Government. Of course, there will require to be a provision in the Bill to the effect that if the appointment to any of these offices be not made within a certain time, Government will make the appointment itself. Regarding the time to be allowed before the right to nominate shall lapse to Government, that can best be determined by the Select Committee. These are the most important changes which the Executive Government are prepared to assent to, and I mention them now, though it may not be strictly regular to do so, on account of the peculiar circumstances in which I find myself placed, and also because the statement at this moment of the intentions of Government may tend to allay public anxiety on the subject, while it will become known to those who have made urgent representations to Government for a more wide extension of the elective principle that we are prepared to make considerable concessions in that direction. I may say for myself personally that some of these changes go further than, it appears to me, is altogether prudent at the present time; but as it is undeniable that there is on the part of a large section of the community, both European and Native, a strong demand for a form of constitution based on the principle of representation, I have felt myself compelled, in deference to public opinion, and also to the views of others who are as competent to judge of these matters as I am, to waive my own particular sentiments on the points on which there will now be changes. I will now, Sir, move that the Select Committee be allowed six weeks' additional time to bring in their report; and I also move that the Honourable Mr. Rogers, the Honourable the Acting Advocate-General, and the Honourable Mr. Forbes, be added to the Committee.

Mr. Tucker moves that Mr. Rogers, the Acting Advocate General, and Mr. Forbes be added to the Select Committee.

Six weeks may appear to some persons a long time, but I mention this term so as to prevent the necessity for any further applications for extension. I trust that, if the members of this Council who reside in Bombay are able to attend regularly at the meetings of the Committee, the report will be finished in a shorter space. Speaking for myself and the other official members of the Committee, I may say that we shall do everything in our power to expedite the passing of a measure the completion of which is looked forward to with so much interest by a large portion of the public.

The Honourable the ACTING ADVOCATE-GENERAL congratulated the public upon the fact that they were likely to receive under the Bill a more liberal scheme of popular representation than was at first contemplated by Government. It would be out of place for him on the present occasion to express any views on the matter beyond mere congratulations, but he thought that the sentiments expressed by the Honourable Mr. Tucker would give great satisfaction ; and he was sure every detail would meet with the closest consideration on the part of the new members of the Select Committee, of whom he had the honour to be one.

The Honourable Mr. FORBES—I also have very great pleasure in congratulating the community that Government are likely to bring forward a Bill of more liberal principles than those which were at first contained in the new Municipal Act. I think, however, that on the present occasion I ought to point out that the rate-payers of Bombay have already suffered very considerable hardship owing to the delay which has occurred in introducing a new Municipal Bill ; and I am rather disposed to fear that by the same Bill being sent to the Select Committee for six weeks more, and also considering the alterations made upon it, a very considerably enhanced delay will be the result. I can hardly imagine this very bulky Bill, which is an amalgamation of eight or nine others, can be disposed of in so short a time as six weeks, mentioned by the Honourable Mr. Tucker. I would have been, I confess, more pleased had I heard that the present Bill was to be withdrawn altogether, that some short and concise amendments upon Act II. of 1865 had been proposed, or that a short new Bill had been introduced to meet the most emergent requirements of the City in consequence of the condition into which its municipal affairs have now fallen. When I say that the rate-payers have suffered considerable hardship from the delay that has already taken place, I do not think I am exceeding very moderate language. It is of course known to all the gentlemen here present that it is about twelve months ago that the Government of Bombay promised to introduce a new Municipal Bill, and that in the letter which they wrote they stated it would be done with all possible despatch. Although some of the delays may have been absolutely unavoidable, because of the necessity to enter into very intricate and difficult investigations before the actual position of the Municipality could be ascertained, still I think some greater speed might reasonably have been expected. We have seen a Bill passed through this Council during the last year in twenty-one days, and here have twelve months been spent over this Municipal Bill, and yet we have not got it into shape ! The Bombay public may be sufferers to a serious extent by this delay. They are still open to the same municipal mis-government which brought on the crisis which forced the Justices of the Peace to appeal to Government for a new Act. In saying this, I do not wish to be misunderstood. I believe that the Bombay public have the utmost confidence in the two gentlemen who have lately filled the acting appointment of Municipal Commissioner ; but the old Act is still in force, and it is quite possible that mistakes of the past may be again repeated. The Municipality having during the past year made every possible effort to retrench and reduce their expenditure, but some of the items most complained of, and which press with most undue severity upon rate-payers, have not been removed, merely because they are still imposed upon the City by Act II. of 1865. If a short Bill had been introduced last season, as was to have been done, the town would have been saved much. In October last, I drew attention to this fact, and I showed how reductions could be made if Govern-

ment would only give assistance to the town, to the extent of four lakhs. Now, not one rupee of these have been accomplished owing to the delay in bringing in this new Act. I therefore very much fear that so long as the present Bill is before the Council further delay must follow. This Bill has been criticized in Council and out of Council—and very severely criticized, too—and I am sorry to say I have not heard an expression of opinion in Council that is very much in its favour. I may add, in conclusion, that the Honourable Mr. Tucker has done me the honour of proposing to put my name on the Select Committee, and although I accept the position, I fear the task will be one of a very onerous nature. I repeat that I think a more short and concise Bill would have been advisable.

The Honourable Mr. MUNGULDAS NUTHOORHOY—I may, your Excellency, express, on the part of the Native inhabitants of Bombay, the deep gratitude they will feel for the great and valuable concessions which your Excellency's Government are willing to make in the matter of extension of the principle of municipal election by the rate-payers. I have no doubt that these concessions will not be abused; on the contrary, they will be acted upon in a way which will reflect credit on Bombay; and I am sure the doubts or fears which the Honourable Mr. Tucker entertains will prove to be groundless. I agree with my Honourable friend and colleague Mr. Forbes that the delay which has taken place is to be regretted, but I do not think it would be of any use to spend time in commenting upon what has already passed. I do not think that a less period than six weeks would be sufficient to bring in a new Bill, and as so much time and trouble have been already taken in the matter, I would rather that the community of Bombay should wait for six weeks longer to enable the Select Committee to revise and settle the Bill. I think that if the members of the Select Committee could spare the time and sit from day to day, their report could be finished within the time mentioned by the Honourable Mr. Tucker; and I hope some such arrangement will be come to.

The Honourable Mr. TUCKER—With reference to the observations which have fallen from the Honourable Member on my left (the Honourable Mr. Forbes), it appears to me that the complaint of unnecessary delay which he has brought against Government has been answered by his own statement. He admits that Act II. of 1865 required alterations in many parts, and even goes so far as to say that in consequence of the non-amendment of this Act the rate-payers of the City of Bombay have been put to great hardship and losses. It was because the Government found that it could not by a short Act, as was at first contemplated, correct the defects which had been complained of in the old law, that it was resolved to revise and re-arrange the whole law relating to the Bombay Municipality; and a task of this nature necessarily required time for its accomplishment. The Honourable Member would appear to think that the Government of Bombay has no other duty but that of legislating for the City of Bombay. Many causes have contributed to make the progress of this measure through the Council a slow one, and in my opinion the complaint of the Honourable Member is without substantial foundation. The reason why the consideration of the Bill proceeded so slowly in the Select Committee was the inability of the late Advocate-General to attend more than two afternoons in a week at the meetings of the Select Committee. The numerous important questions involved in the Bill, and the diversity of opinion which prevails regarding many of them, as is plainly shown in the different representations which have reached Government on the subject, are alone a sufficient cause why it could not, and should not, have been hurried rapidly through the Council. I do not understand the Honourable gentleman to have brought forward any definite proposition in

opposition to my motion, and I do not think that the suggestion which he has thrown out, that the Bill should be withdrawn and a shorter measure prepared to effect the alterations in the law which are deemed to be necessary, would be likely to accelerate the final disposal of the subject. Personally I should have been glad if such a course had been determined on, as it would have relieved me from much labour, and I should have liked that other members should have some practical experience of the difficulties which are inseparable from the preparation of legislative measures of a comprehensive character, and which deal with complicated subjects. I do not, however, think that the public would be benefited by an abandonment of the present Bill and the substitution in its place of a more limited enactment to amend Act II. of 1865 and the other Municipal Acts. If the sittings of the Select Committee can be arranged so as to be continuous and uninterrupted, the presentation of the amended Bill to the Council need not be deferred beyond the six weeks now applied for, and may even perhaps be made at a shorter interval of time.

HIS EXCELLENCY the PRESIDENT—I think I may understand that the motion for extending to the Select Committee the additional time asked for by the Honourable Mr. Tucker does not meet with any opposition generally on the part of the members of Council. For my own part, although six weeks is the time named, I may express a hope that the Committee will find it practicable to bring up their report before that period has expired. The question which I understand to have been before the public so long, and the one to which controversy has been mainly directed, and upon which there have been such differences of opinion, is that of the constitution of the new Municipal government of Bombay. If the alterations now proposed in the Bill prove acceptable to the Council, of course it will be very satisfactory to the Government, and I may state that my own view was that, as it had been decided that popular representative institutions should be conceded to Bombay, the experiments should be fully and fairly tried. (Hear, hear.) If the Select Committee should find it really impracticable to deal with the whole Bill just now, I would suggest that they should deal fully and efficiently with the constitutional clauses. A Bill might then be passed containing those clauses and empowering the new Municipality to act under the existing law, of which the amendments might for a time be postponed.

Six weeks additional time granted to the Select Committee to prepare their report, and additional members appointed on the Committee

The Honourable Mr. TUCKER's motion was then agreed to.

The Honourable Mr. TUCKER begged to propose the second reading of the "Bill for the Regulation of Burial-grounds and Burning-grounds in the Territories subject to the Government of Bombay, without the limits of the City of Bombay." This Bill, he said, was originally introduced into the Council by my Honourable colleague Mr. Mansfield with the object of giving the Government power to suppress places used for sepulture to the injury of the general health of the community. Instances have come to light of cases which showed the necessity for such a Bill as this is. In one place, which was close to the margin of a tank, the water of which was used for drinking purposes, people used to bury their dead, and it was found that the water was kept in a state of constant pollution by the proximity of the decaying bodies. In some parts of the presidency people bury their dead within their own houses, and some within spaces surrounded by human habitations, where

Mr Tucker moves the second reading of the Bill for the Regulation of Burial-grounds and Burning-grounds in the Territories subject to the Government of Bombay, without the limits of the City of Bombay.

any such process of burial must be detrimental to the health of the community. After the Bill was introduced it was referred for report to a Select Committee, who made alterations which are referred to in their report, and which appear to me calculated to prevent any hardship or oppression to the community from the working of the Bill. Of course, we must all admit that the living public should not suffer by the way a number of people wish to dispose of their dead, and that all sections of the community must be placed under certain restrictions in this respect for the benefit of the general community.

Bill read a second time.

The Bill was read a second time.

The Bill considered in detail.

The Honourable Mr. TUCKER proposed that the Council do proceed to consider the clauses of the Bill in detail.

This was agreed to.

The Honourable Mr. ROGERS, alluding to the first part of the first section, thought it was inconsistent with the duties of a Revenue officer to carry out the duties proposed to be assigned to him, and suggested that a Magistrate should be substituted, because he had a general jurisdiction relating to all nuisances.

The Honourable the ACTING ADVOCATE-GENERAL preferred the use of the word "Collector," as he would be the party to set prosecutions in motion, the Magistrate carrying them out. A Magistrate could not be the party to prosecute and punish too.

After some discussion, the clause was altered to read thus : " The Collector of a District, or other Officer specially appointed by Government for the purposes of this Act, may, if he think fit, cause a survey and measurement to be made of any burial-ground burning-ground, or place for the exposure of the dead," &c.

Section 1 was passed as amended.

His Excellency the PRESIDENT, alluding to the following part of a sentence in Section 2, " the Collector or other Officer as aforesaid, who is hereby empowered at his discretion to grant such licences," asked whether it was meant to give the Collector absolute power in the matter without any appeal.

The Honourable Mr. TUCKER thought the words "at his discretion" should be struck out, and the words "subject to the general control of Government" placed after "licences."

The suggestion was approved of.

The Honourable the ACTING ADVOCATE-GENERAL suggested the substitution of "burial," in the second line, for "interment," so as to make the language of the Bill uniform. He also thought the word "wilfully" should be placed between "shall" and "bury," in the twentieth line, to make the phraseology of the Bill similar throughout.

The suggestions were approved of.

The Honourable Mr. MUNGULDASS NUTHOOBHOY drew attention to line 9, in section 2, and proposed that the word "new" should be placed before "burial."

The Honourable the ACTING ADVOCATE-GENERAL said that the introduction of this word was unnecessary.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—We only intended in the Select Committee that no old ground should be suppressed without proper and convenient ground being provided by the Collector. Under this section as it stands, supposing the people of Puna applied for a license for their burning or burial-ground, and the Collector refused to

grant it, what are the people to do with their dead? There is no compulsion to the Collector to register, and if he refuses to do so, the people have no power under this section to compel him to grant it. I beg, therefore, to propose that the word "new" should be inserted as I have indicated.

The Council then divided—

<i>Ayes—</i>	<i>Noes—</i>
The Honourable Mr MUNGULDASS NUTHOOBHOY.	His Excellency the COMMANDER-IN-CHIEF.
The Honourable Mr. BYRAMJEE JEJEEBHOY.	The Honourable Mr. TUCKER.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable Mr. ROGERS.
The Honourable J. A. FORBES	The Honourable the ACTING ADVOCATE-GENERAL.
	The Honourable Colonel KENNEDY.
	The Honourable Mr. RAVENSCROFT.

The amendment proposed by the Honourable Mr. MUNGULDASS NUTHOOBHOY was therefore lost.

Section two was then passed with the other amendments.

The Honourable the ACTING ADVOCATE-GENERAL suggested the use of the words "the dead" for "corpses," in lines eight and twenty-nine.

The Honourable Mr. ROGERS proposed that lines nine and ten should read "dangerous to the public health."

The Honourable Mr. MUNGULDASS NUTHOOBHOY drew attention to line 31, in section 3, and moved that between the words "above-mentioned" and "the," the words "situated within a convenient distance" should be inserted. Perhaps His Excellency might not be aware of the peculiar customs of the Hindoos in the matter of burying their dead. When a man died, his relations, whether they were rich or poor, must carry his body to its final resting-place, and until this is done these relations are not allowed to take any food, or even to drink water. If the burning or burying place were situated ten miles off, or even say six, it could easily be imagined how great the hardship would be that might be inflicted upon these people, and he apprehended that by the insertion of the provision he proposed great inconvenience would be avoided. He instanced what might happen in Púna if his suggestion were not agreed to. There were three places for burning the dead. If Government were to shut up one, they might probably refuse to open a new one, saying that there was another six miles away which could be used, although this would inflict great hardship upon the people who were accustomed to go to the ground that had been closed. It was neither politic nor advisable that the possibility of such a thing occurring should be allowed.

All the amendments were adopted, and Section three was passed as amended.

The Honourable Mr. ROGERS, alluding to line one of section four, said he saw no reason why a two months' notification should be given to the public, and suggested that action should be immediate.

The Honourable Mr. MUNGULDASS NUTHOOBHOY objected to the omission proposed on the ground that two months time was necessary, for in the case of Parsees it was requisite that their Towers of Silence should be consecrated and certain ceremonies performed before these places could be used for the disposal of the dead.

After some discussion Section four was passed in the following shape :—“ A copy of such notification, with a translation thereof in the Vernacular language of the district, shall be affixed conspicuously on some part of the ground, place, or building to which the notification relates, and whoever after the expiration of two months from the date of such notification being so affixed shall wilfully bury, burn, or expose, or cause, permit, or suffer to be buried, burned, or exposed, any corpse in, upon, within, or under the place, ground, church, or place of worship to which such notification relates, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

Section five was passed without alteration.

Section six was passed after the word “ Commissioner,” in the eleventh line, had been made “ Commissioners.”

Sections seven and eight were passed without alteration.

Section nine was altered to read as follows, and passed :—“ This Act shall not apply to the City of Bombay, nor shall it come into operation in any district or part of a district, or any town, unless and until it shall have been previously extended to the same by the Governor in Council by notification in the *Government Gazette*.”

On the suggestion of the Honourable the ACTING ADVOCATE-GENERAL—

The Honourable Mr. TUCKER moved the following additional Section to the Bill —
 Additional Section added to the Bill. “ All offences under this Act shall be tried by an Officer having the jurisdiction of a First Class Magistrate, and no prosecution shall be instituted for any offence under this Act except with the sanction of the Collector or other Officer specially appointed by Government for the purposes of this Act.”

This Section was adopted and made Section nine of the Bill; the former Section nine, commencing “ This Act,” becoming Section ten of the Bill.

The Preamble was altered to read as follows :—“ Whereas for the sake of the public health and order it is expedient to regulate the use of burial-grounds and burning-grounds and places for the exposure of the dead in the territories subject to the Government of Bombay ;
 Amendment of Preamble. It is enacted as follows.”

The title of the Bill was amended to be, “ A Bill for the Regulation of Burial-grounds and Burning-grounds and places for the exposure of the dead in the territories subject to the Government of Bombay, without the limits of the City of Bombay.”
 Amendment of title of the Bill.

Third reading postponed. The third reading of the Bill was postponed.

The Honourable Mr. TUCKER gave notice that it was his intention at the next meeting of Council to bring in a “ Bill for the regulation of Vaccination in the City of Bombay.”
 Leave given to Mr. Tucker to bring in Vaccination Bill.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,
 Acting Under-Secretary to Government.

Puna, 27th July 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of "The INDIAN Councils' Act 1861."

The Council met at Pána on Friday, the 9th August 1872, at mid-day.

P R E S E N T :

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

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYEN WASUDEVJEE.

The following gentlemen took the usual affirmation of office and declaration of allegiance to Her Majesty :—

Affirmation of Office, &c., taken
by Additional Members of Council.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable Colonel M. K. KENNEDY.

The Honourable J. A. FORBES.

The Honourable NARAYEN VASUDEVJEE.

The Honourable Mr. TUCKER, in moving the re-appointment on the Select Committee appointed to consider and report on the Bombay Municipal Bill (No. 3 of 1872) of the Honourable Colonel KENNEDY and the Honourable Messrs. MUNGULDASS NUTHOOBHOY and FORBES, stated that he did not propose the nomination on the Select Committee of any of the gentlemen now appointed for the first time to be Additional Members of the Council, as the Committee had already accomplished more than one-half of its work, and if any new members were added to the Committee it would probably be necessary to recommence the duty and go through the Bill again from the beginning.

Members re-appointed to Select
Committee on Bombay Municipal
Bill

The Motion was carried.

The Council then adjourned.

By order of His Excellency the Governor in Council,

J. NUGENT,

Acting Under-Secretary to Government.

Pána, 9th August 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCIL'S ACT, 1861."

The Council met at Puna on Wednesday, the 11th September 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCE, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NATHOORHOY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

✓ The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

Affirmation of office, &c., taken by Mr. Bythell.

The Honourable Mr. J. Kenworthy Bythell took the usual affirmation of office and declaration of allegiance to Her Majesty.

THE MUNICIPAL BILL—No. III. OF 1872.

Report of Select Committee on Bombay Municipal Bill presented to the Council.

The report of the Select Committee on the Bombay Municipal Bill was presented to the Council, which then proceeded to the bills and orders of the day.

The Honourable Mr. TUCKER, in presenting the report of the Select Committee on Bill

Mr. Tucker moves the second reading of the Bombay Municipal Bill.

No. 3 of 1872, said—I beg also to move the second reading of that bill. The points in which the Select Committee have amended the bill are very clearly set forth in the report which I have the honour to lay before the Council, so that I need not mention them in detail, but I may remark with some satisfaction that we have been able, by adhering very closely to the work allotted to us, to prepare the report within the period prescribed, and have proved that the time required for a thorough revision was not so great as was anticipated. I am also happy to be able to state that there has been a tolerable unanimity of opinion in the Select Committee as to the main principles involved in this important measure, although there have been some differences of opinion with respect to details. For instance, my learned friend the honourable the Acting Advocate General differs from the majority of the Committee on a few points; and the Honourable Mr. Munguldass objects to a great number of the sections approved of by the Select Committee; while my honourable friend on the left, Mr. Forbes, from the minute which he has attached to the report of the Committee, appears to be opposed not only to many of the details of the bill, but also to many parts of the entire scheme and the principles upon which it is based. I confess I was surprised when I read some portions of the minute of my honourable friend, because when I find him complaining of the marked distrust of the Corporation displayed by

Government in the bill and the extremely limited character of the powers conferred upon that body, I remember that he himself, in some of our proceedings here, voted with the majority of the Select Committee against the extension of some of the powers which we were disposed to assign to the Corporation. Of course I have no objection to the honourable member changing his opinion after drawing fresh inspiration from a visit to Bombay, but I think it right to point out that, in the discussions in the Committee-room at Púna, we had no indication that the objections of the honourable gentleman to the whole bill were as extensive and radical as from his minute they would appear to be. In the Committee we carefully considered every petition and representation which have been made to the executive Government or to this Council, and we have adopted every suggestion which appeared to us to be reasonable or to be likely to prove beneficial. Since the publication of the bill I have received many communications, and I have seen many statements in the public journals, which show that a great many portions of the bill are objected to by different sections of the community who hold conflicting opinions upon the various matters treated of in this measure, but I am glad to say that the objections are for the most part contradictory, and the statements made on one side are answered by the statements on the other, so that the conclusion I gather from the character of the opposition to this bill is that we have to a great extent hit upon that '*juste milieu*,' that '*ariston metron*' which the sages of antiquity have held to be the object that should be aimed at by prudent persons either in private or public affairs. I do not think it is necessary for me to go at any great length into the alterations which have been made in the bill and have given to it a more liberal character, yet there are one or two points upon which I should like to make some brief observations. The Honourable Mr. Forbes complains of the great distrust of the people shown in this measure by Government. I do not think that there is any real foundation for this charge. It is quite true that we have not given to the Corporation absolute or unlimited powers, but it would be opposed to the sound constitutional principles which ordinarily govern the proceedings of Englishmen, whether in the mother-country or in her colonies or dependencies, to confer unrestricted powers upon a body such as the Corporation created by this bill is intended to be. In this Council our authority is strictly limited, and there is no person or assembly in India or elsewhere in Her Majesty's dominions entrusted with any of the duties of Government with the exception of Parliament, consisting of King, Lords, and Commons, whose authority is absolute, or whose powers are not strictly limited. In creating, then, a new body for the government of the city of Bombay, the members of which will be untried and to a great extent inexperienced in the transaction of public affairs, though it may be desirable to entrust them with wide powers as we have done, it is necessary in the interest of the entire community to place a well-defined limitation on their authority and to reserve to the local Government of the Presidency the power to interfere in case of any neglect on the part of the Corporation or of the Town Council or the Municipal executive officers to discharge the duties which they are directed to perform, or of any attempt on the part of these assemblies or persons to transgress the bounds of the authority conveyed to them. The imposition of such restraints, when considered in the light of the concessions made, can in no way be properly characterized as the exhibition of a want of confidence in the people of Bombay. On the contrary, the omission of such restrictions and the non-reservation of such power of interference to the Government would lay this Council open to a charge of a want of ordinary prudence or foresight, and would on the

part of the executive Government amount to an entire disregard of the obligations it is under to the whole public of the Presidency. I feel assured that if the firm of which my honourable friend Mr. Forbes is a member were to establish an agency at Karáchi or any other port, though it might delegate considerable powers and leave a wide discretion to the said agent, it would not give to him absolute or unrestricted powers or divest itself of the power to interfere when it might be considered necessary to do so; and no want of confidence would be implied by this necessary limitation of the authority of the agent. In like manner the Government of Bombay, when receding from the direct municipal government of the city and conceding a large portion of its power to the new bodies which it is about to create, may justly and wisely reserve to itself the means of ultimately controlling the entity which it has brought into existence and preventing its becoming injurious to the Government or the community, whose interests the Government is bound to protect. By Sections 40 and 41, which have been somewhat irreverently designated in the Committee the "bludgeon clauses," but which might have properly been styled the "life-preserving sections of the bill," all that we do is to reserve certain powers to the executive Government to interfere if the Municipality or its officers do not do what they are bound by law to do. We have in the various clauses of the bill made a great many things lawful for the Corporation to do, and denoted other acts which it is their duty to do, but it is only with respect to the latter that we reserve to ourselves the power of direct interference in case of any omission or refusal of the Corporation or its officers to carry out the express directions of the law. It will be found on examination that there are not many matters included in the mandatory clauses, and we shall be prepared to listen to any suggestions for the more clear definition of the matters to which the operation of these clauses will be restricted. The next important point on which the objections of the opponents of the measure are very strong is the exemption of Government lands and buildings from taxation for the purposes of the Municipality. Since the sitting of the Select Committee, the executive Government have again considered this question and had decided to allow the Government buildings to be rated for the police and lighting rates, but not for the house rate, and to confine the exemption from all rates to lands only. However, my learned friend the Acting Advocate General entertains doubts of the power of the Council to make this concession or to pass any enactment which would subject the Crown property or the Crown revenues to taxation for municipal purposes. I believe there is no doubt that in England the Crown lands and buildings are exempt from local taxation, though there is a party there as here which would make them rateable to some of the local rates of the same character as our police and lighting rates. As these rates are imposed in return for certain services rendered, and as the Crown or State buildings have the benefit of these services, it would seem equitable that the Government should make a contribution to the Municipality in return for those services, and this is now done as an act of grace, though not required by law. The executive Government do not intend to withdraw this contribution which, I am told, is equivalent to the sum which would be levied for police and lighting rates if the Government buildings were placed on the same footing as the houses of private persons in this respect, and there would have been no difficulty on the part of Government in making the Government buildings assessable for police and lighting rates if we possessed the power to do this. But we are informed by the learned Advocate General, who will hereafter, I have no doubt, state his opinion on this point at length, that it would be an interference with the Queen's prerogative to impose a rate upon Crown buildings or the Crown revenues, and if this be so,

certainly any attempt to authorise the levy of such a rate by this bill would be nugatory, and any provision we might introduce for the purpose would be null and void. Under these circumstances we propose to leave the bill as it now stands, continuing the express exemption of Government lands and buildings from all rates, and we propose to continue our present contribution to municipal revenues on this account, and to leave the precise amount of that contribution to be settled hereafter by negotiations between the Corporation and the local and Supreme Governments in India and the Crown. There is still one minor point which I desire to notice. In Committee we raised the pecuniary qualification necessary for members of the Corporation from a payment of Rs. 50 per annum on account of municipal rates and taxes to a payment of Rs. 100 per annum on account of house, lighting, police, and the supplementary rates. I asked the Acting Municipal Commissioner to ascertain carefully in Bombay how this alteration would affect the number of persons eligible for election, and I have received a communication from him stating that if the qualification last fixed upon were retained it would exclude nearly all the professional classes of the presidency, including such worthy citizens as Dr. Blaney, Mr. Nowrozjee Furdoonjee, and others. I shall therefore propose that we revert to the old standard of Rs. 50. I think, Sir, I have now touched upon every point that requires present notice) and in conclusion I beg to move the second reading of Bill No. III. of 1872.

Mr. Tucker proposes the reduction of the pecuniary qualification necessary for members of the Corporation.

His Excellency the PRESIDENT said that before further discussion, a letter which had been received from the Ratepayers' Committee of Bombay might be now read to the Council.

Letter read from the Bombay Ratepayers' Committee.

Mr. Nugent (Acting Under-Secretary to Government, then read the letter referred to.

His Excellency the PRESIDENT observed that while the Government had every possible wish to give the ratepayers the opportunity of discussing the bill, yet he could see no sufficient reason for putting off the present consideration of it. The Council must now sit day after day until all the clauses had been discussed, and the ratepayers would have an opportunity during the discussion to express their views, if it were understood that any clause to which they might object would be re-considered; but to postpone the bill now for a month would only be hindering business, and he considered that the Council would be acting wisely if it were to go on with the consideration of the bill with the understanding he had alluded to.

The Honourable Mr. MUNGULDASS NATHOOBHOY: Sir,—Although much improvement has, I gratefully acknowledge, been effected in the constitutional portion of the bill, owing to the liberal concessions made by your Excellency's Government at the last sitting of the Council, yet I regret exceedingly to find that a majority of the Select Committee have declined to accede to my earnest recommendation to modify the other portions of the bill which are highly objectionable and which are calculated to produce an injurious effect in the practical operation of the bill and frustrate the object of the measure, which has been designed to improve the conduct and management of municipal affairs of the city of Bombay, and to remedy the disastrous consequences of past failure. (Sections 86, 87 & 89.) The provisions of the amended bill have a direct tendency to increase the burden of taxation, which is already so great as to be almost intolerable, and which your Excellency's predecessor condemned as "almost crushing." For example, the maximum limit of the police rate and

Mr. Munguldass Nathoobhoy's remarks on the Bill.

lighting rate fixed at 3 and 2 per cent. in the existing Act has been totally removed, and the Corporation is further empowered to levy an unlimited supplementary rate. Government having withdrawn their contribution of Rs. 1,00,000 a year for the police, the present police rate is not sufficient to meet the charges of the existing police establishment, and the deficiency during the current year has been met by a grant from the general funds of the Municipality. Under the bill, as now settled by the Select Committee, the Corporation have no authority to sanction such payment, and the consequence will be that they will have to increase the police rate even to maintain the existing establishment. If Government deem it necessary to increase the number and emoluments of the police force, the Corporation will be under the necessity of making a further proportionate augmentation in the police rate. If the expenditure of any year be in excess of the amount sanctioned in the budget, the Corporation will be compelled to make up the amount of excess by imposing a special supplementary rate. The amended bill abounds in provisions which are unjust, indefensible in principle, and highly oppressive. This I proceed to show by drawing your Excellency's attention to some of the sections and indicating the objections which I consider it my duty to take with the view of protecting the interests of the people. Sections 40 and 41 are calculated to subvert the independence of the Corporation, Town Council, and Municipal Commissioner, and to place them entirely at the mercy of Government. These sections authorise Government, on any complaint, to decide that the Corporation, the Town Council, or Municipal Commissioner have been guilty of default in carrying out the provisions of the Municipal Act. If these sections are retained and legalized, no independent gentlemen will, I am afraid, consent to join the Corporation or the Town Council, because in any case in which the Government might take a different view it is in their power to hold that default has been committed, and the Corporation might be condemned to pay heavy costs and penalty without any hearing and opportunity to defend themselves. I consider it my duty strongly to object to the proposal to invest Government with such arbitrary power, which strikes at the very root of self-government. If the Corporation or the Town Council, composed of gentlemen appointed by Government and elected by the ratepayers, is in any case guilty of default, it is always in the power of Government to have recourse to an obvious and proper remedy, viz., to apply to the High Court, an independent tribunal, which after hearing both parties might decide the issue, and no one can object to their decision. With regard to the Municipal Commissioner, Section 42 of the bill empowers Government to remove that officer at any time, so that if he be guilty of default Government can appoint another person to relieve that defaulter. Section 45 does not appear to me to be an improvement on the old Act, which provides for the appointment of a consultative officer of health on a minimum salary of Rs. 500 per mensem. I am of opinion that it would be advantageous to the interests of our Municipality to have a consultative officer to advise on all matters relating to the health of the town and to watch over and report on the working of the Health Department and the efficiency of the officers entrusted with executive duties. It is a sheer waste of money to employ a highly-paid, skilled medical and scientific gentleman to act as superintendent for the removal of nuisances and sweepings and the cleaning of drains—duties which ought to be left to the chief superintendent, who need not possess a knowledge of medical science or of sanitation. In my humble opinion it is not advisable to make it obligatory on the Corporation to employ a highly-paid executive officer of health, when public interests can be better promoted by engaging a consultative officer, who should

be independent and unconnected with the executive department, whose shortcoming or failure he would be in a position to point out much better than if he were the head or part and parcel of the department. This important question was fully discussed in the Council during the progress of the Municipal Bill of 1865, on which occasion it was held that the Municipality should have a consulting officer of health in preference to an executive officer. The following remarks were urged with great force by a distinguished member of the then Government, and now a member of the Supreme Government :—

“ The Honourable Mr. Ellis disapproved of the proposed amendment. He did not see the necessity for permanently attaching a medical officer to the Municipality. He knew that in saying this he should lay himself open to the taunt that he was behind the age, and that he failed to see the significance of a great sanitary movement, but at all events he was supported by the Select Committee, who had apparently given a very careful consideration to the subject of the 14th section, and he trusted, therefore, that the Council would not adopt Mr. Cassels' proposal. He must most strongly object to the municipal fund being saddled with an expense of nearly a quarter of a lakh of rupees annually for an entirely unnecessary purpose. He (Mr. Ellis) could not see what need there was for an officer of health to tell them that there were nuisances in Bombay that required to be removed. The nuisances which had to be remedied were patent to all, whether they were officers of health or not, and any member who might be travelling by train from Byculla to Dadur had only to look out from the window of his carriage and he would see pools of stagnant filth and every kind of slimy and disgusting abomination which required instant removal, and not a man of science to analyse their chemical constituents. Good practical men were what were wanted. Engineers as many as the Council pleased, and men of action to drain the city and free it from that stagnant filth. They would, however, be wasting the public money if they appointed a doctor with Rs. 2,000 per month to tell them what every man who had a nose and an eye must be well aware of. He begged the Council not to be led away by the consideration that they were furthering sanitary improvement, to enforce on the ratepayers of the city the support of a doctor who would tell them no more than was known already. He did not desire to depreciate the abilities and skill of medical men, but if the Municipality was in want of assistance and required a report in regard to any sanitary measures, a sufficient fee to one of the many very able medical men in the city would obtain his opinion and report, and he (Mr. Ellis) maintained that the opinion of such a medical man would be of far greater use than the opinion of an inferior man who might be appointed to an office. The bill, as it stood, gave the Governor in Council power to make the appointment, but it did not make such an appointment absolutely necessary. He held that even if such an officer were required at present there was no reason for making the office permanent. For these reasons he opposed the amendment.”—Page 27, Vol. 4 of 1865. Proceedings of the Bombay Council for making Laws and Regulations.

I cannot approve the proviso in Section 69, which empowers the Corporation at any time to raise the house rate from 5 to 10 per cent. If the Council enquire into the value of household property in Bombay, they will feel convinced that such property cannot bear so great a burden. It is therefore impolitic to legalize the increase of the house rate beyond $7\frac{1}{2}$ per cent., a rate beyond which the Bench have not ventured to sanction the levy even in times when the needs and exigencies of the Municipality were very pressing, nor

in exceptional times when such property fetched extravagant prices. The Honourable Mr. Ellis expressed himself on the subject as follows:—

“The Honourable Mr. Ellis begged to say a few words on the subject, as he had been previously appealed to by Mr. Munguldass. He (Mr. Ellis) consistently held the opinion throughout that it was quite useless to insert as a maximum of taxation on house property an amount which no one was prepared to impose. And it was proper that they should restrict themselves to that which would in an emergency be necessary. He was sure that no attempt to raise the full maximum of 10 per cent. upon house property would be made, for it would be met with such general dissatisfaction that it could not possibly be carried out, and he believed that there were very few persons who would propose it, although he knew there were those who thought it best to keep the sword hanging over the heads of the householders by retaining the maximum at 10 per cent. In accordance with the view he had expressed, he should support the amendment of the honourable member.”—Page 26 of Vol. 6 of 1867. Proceedings of the Bombay Council for making Laws and Regulations.

I am of opinion that the provision embodied in Section 76 is unjust and highly oppressive. It proposes to sanction the levy of the full amount of house-rate on a whole flat of houses or buildings, though the bulk of the flat be unoccupied. To illustrate this position I will give an example. Take the case of a flat of a building consisting of a dozen shops or godowns or habitable compartments, each of which is worth, say, Rs. 250 per annum. If only one of these shops, godowns, or compartments, is let and the rest are unoccupied, the landlord, who will recover rent Rs. 250 only, will, under Section 76, have to pay Rs. 180 for house rate on the annual rental of the whole flat, Rs. 3,000, even at the present rate of 6 per cent. In addition to this the unfortunate victim will have to pay, under Sections 86 and 87, Rs. 110, at the present rates for police and lighting rates for the unoccupied portions on a rental of Rs. 2,750. Thus, whilst the landlord will realize only Rs. 250 for rent, he will be subjected to the payment of rates to the amount of Rs. 290, that is Rs. 40 more than the whole of the rent he gets. This is not an imaginary case. I am prepared to specify actual cases of this description which occur in the city at the present moment.

The Honourable Mr. TUCKER—Your Excellency,—I beg to point out that the honourable gentleman is now going into minute details, which is not the right course to pursue at the second reading. It is only to the principles of the measure that he ought to speak now, and not to the details.

The Honourable Mr. MUNGULDASS NATHOOBHOY—With the greatest deference to the honourable gentleman who has just spoken, I would remark that the course which I am now taking has been pursued during all the years I have sat in Council, and I think that what I have said will be borne out by the reports of the Council.

The Honourable Mr. TUCKER—I personally have no objection to hear the Honourable Mr. Munguldass, but I would submit that he is not in order.

His Excellency the PRESIDENT—I was just going to say that I thought the honourable gentleman was going into details. This is undesirable, because almost every one of the objections now being taken by the honourable gentleman will come up again upon the consideration of clauses. I do not gather that because the honourable gentleman is now making these objections he intends to conclude with a motion to reject the bill.

The Honourable Mr. MUNGULDASS said this was not his intention.

His Excellency the PRESIDENT—Then I think it is unnecessary for the honourable gentleman to enter into details at this stage of the bill.

The Honourable Mr. MUNGULDASS said his intention was not to go into details for the sake of the details, but simply to indicate the objections he was prepared to take when clauses came on, so that honourable gentlemen might be prepared to answer them. This had been the practice in Council for the last seven years.

His Excellency the PRESIDENT said he did not wish to interfere with the honourable gentleman now, but he hoped he had nearly got to the end of his objections.

The Honourable Colonel KENNEDY said that the Honourable Mr. Munguldass's explanations were unnecessary, because, as he had already specified in his dissent, those sections which he took exception to, the Council had plenty notice of the line he intended to take.

His Excellency the PRESIDENT said he thought they had better allow the Honourable Mr. Munguldass to go on now.

The Honourable Mr. MUNGULDASS said he would follow His Excellency's wish if he desired him to stop.

His Excellency the PRESIDENT said the Honourable Mr. Munguldass might proceed.

The Honourable Mr. MUNGULDASS said he would curtail his remarks as much as possible, and continued—Section 77 and the proviso in Section 105, which exempt buildings and lands owned or occupied by Government from payment of house rate and occupiers' rates are highly objectionable. In Calcutta no such exemptions exist, although the Government contribute one-fourth of the expenses of the police. My objection is supported and strengthened by the testimony of the Committee, composed exclusively of Government officers, appointed by Government in January last to make suggestions for amending and consolidating the existing Municipal Acts. I beg to draw the Council's attention to the para. 18 of the said Committee's report on the subject in question. In reference to the Honourable the Advocate-General's remarks, that it is not legal to tax Government property even for occupiers' rates, I can at present only say that if it is so then there is no necessity to enact special sections to exempt Government property from the house and occupiers' rates to which I object. The majority of the Select Committee have failed to show any grounds in favour of such exemption. In my humble opinion it is not a dignified proceeding on the part of the Government to shirk their liability to contribute their share of the rates and taxes due by them in respect of the large and valuable property owned by the State in the metropolis of Western India. The majority of the Select Committee have even made matters worse. The bill as referred to them exempted only the Government buildings as the existing law does, but the section as amended by the majority of the Select Committee exempts even lands. With a view to relieve the poorest class of occupiers from the burden of municipal taxation which they are unable to pay, I will venture to propose that every owner and occupier of a house or hut assessed on gross rental of Rs. 20 and under per annum, should be totally exempted from the house rate and occupiers' rates. The proposed exemption will involve a trifling loss of revenue to the amount of Rs. 430, whilst two hundred of the poorest persons will be relieved, and the Municipality will be saved the trouble of making out and recovering more than 800 bills for such small sums as a few annas each. It may perhaps be said that the effect of several of my proposals will be to reduce the income of the Municipality. If the Council do not decline to assess the extensive and valuable property owned by Government in the city of Bom-

bay and to levy the small duty on cotton imported into and breaking bulk in the emporium of Western India, and to increase the tax on labour carts and hackeries, the revenue of the Municipality will, after giving just relief to the landlords and poor occupiers, be ample and sufficient for the conservancy and sanitary requirements of Bombay, and will, moreover, afford means for further improvement, sanitation, and embellishment of the city.

The Honourable Mr. FORBES—Your Excellency,—The more I have made myself familiar with the details of the bill, and the more I look at it, from a general point of view, the less I am satisfied with it, and although the Honourable Mr. Tucker has objected to my taking more objections to the bill a week or two after we have gone into details, yet, I believe, that if you were to wait another week or so until I could make myself still more familiar with the clauses, my opposition would be much stronger, and I feel that I do not need to apologise now for objecting to the bill both in principle and detail. I regret that it does not appear desirable to your Excellency to allow further time before proceeding with the second reading, and I hope I shall not be out of order in calling attention to an extract from a letter from the Government of India to the Government of Bombay, dated the 11th December 1861, which says that “the Governor General in Council is of opinion that the rules of the Legislative Council should provide ample time not only for the discussion of measures introduced but also for their publication, so that the public may have a full opportunity of submitting such representations to the Council regarding any pending measure as they may desire to make.” Sir Charles Wood, Secretary of State for India, in a despatch to the Government of India, dated the 9th August 1861, also expressed similar sentiments when he said that “no law except one arising out of some pressing contingency should be passed without full opportunity for mature deliberation and discussion, and the intervals of discussion should be such as to allow the members of Council adequate opportunity of reflection and inquiry.” I feel for my own part that I have not had adequate opportunity for reflection and inquiry regarding the full bearing of this bill. This bill is one of the greatest possible importance to Bombay, and the principles involved in it are such as may lead to great changes. I therefore think it should be proceeded with very cautiously, and only after opportunities for very full inquiry and reflection have been allowed. If we do not proceed with the bill at present in detail, we may be able to ascertain the views of some of those persons in Bombay who are likely to be most affected by the bill, and we shall also be able to obtain the views of the Bench of Justices, which, I suppose, of all bodies in the community, has the most ample knowledge of Municipal affairs, having had an experience of many years in dealing with them. The Justices have taken the very earliest opportunity which they possibly could to consider the bill, and I therefore regret a haste which will cause the bill to be discussed in detail without giving the Bench a chance of being heard. So far as I can see, after such careful study of the bill as the time would permit, I can look forward to nothing but total failure of the experiment of allowing the citizens of Bombay to manage their municipal affairs, and I hope that in my remarks I shall be able to show the members of Council that my reasons for thus foreboding are not groundless, and I hope also that we may by-and-by receive from the Government some assurance of their desire to deal with the question in a more liberal and what I may call large-hearted manner. I shall now speak of the bill regarding two of its aspects—that is its constitutional and its financial

aspect. I believe this bill cannot lead to any good result, because it is so framed that it cannot encourage public spirit—far from this, the bill will discourage the most intelligent and the most useful members of the Bombay community from taking any part in the municipal government of the town. I was very glad to hear that the large franchise qualification fixed by the Select Committee is to be altered, so that it is not the intention of Government to prevent the most intelligent part of the community from taking any part in the proceedings of the Corporation. But even with that correction I think these same persons will have very little inducement to become members of the Corporation or of the Town Council. Looking at the position of the Municipal Commissioner, we find he is perhaps a more independent officer under the new Act than he was under the old one. He is appointed by Government, and he is alone removeable by Government. Two-thirds of the Corporation are to be allowed to move Government for his removal, but Government is in no way bound to act upon their representations. The Municipal Commissioner will as heretofore be apt to consider himself rather a master of the Corporation than its servant, and the question is whether, after what we have seen of the working of such a system in Bombay, men of intelligence and public spirit will be disposed to accept virtually the position of servants of the Municipal Commissioner. I cannot see what influence the Corporation or Town Council could bring to bear upon the Commissioner if he happened to be an intractable or obstinate man, and though it may be that whether he is appointed by the Government or the Corporation is a comparatively minor matter, yet I hope such alterations will be made in this bill as will place him under the control of the Corporation and prevent him from being its master. The only functions which, under this bill, are reserved to the Town Council, are those of auditors of the Municipal Commissioner's accounts. As such, of course, the members may do good service, but is it to be expected that professional men, such as bankers, lawyers, or medical practitioners, or the principal householders of Bombay, men for the most part of great wealth and intelligence, and with plenty of occupation on their hands, will accept such a position as that of mere auditors? I must say that if there is such an expectation it will remain unrealised, and I therefore think that, so far as the constitutional part of the bill is concerned, it must be regarded as wrong in principle and unworkable in practice. I may also mention a matter which I think has very considerable bearing upon this part of the bill, and that is as regards the provision in Section 136, whereby the Corporation are authorised to contribute towards educational funds. Now, I think that if the promoters of this bill had based its principles upon a feeling of confidence in the Corporation and citizens, and had studied to render the position of the Corporation as honourable and responsible as possible, instead of reducing them to what I have already called in my dissent "mere cyphers," I think it would have had an influence which perhaps would have had more effect with regard to education, and education of the best sort, than if we had been expressly bound to contribute so many lakhs of rupees towards the support of school-masters and professors, &c. I think one of the greatest wants of the city of Bombay will be found to be that the people are not sufficiently aware of their own rights as citizens, or are so ignorant as to be unable to avail themselves of them. I think, therefore, that if the principle of the bill had been more liberal, the spirit infused into our citizens would have had the most excellent effect. I may illustrate my meaning by referring to a special case. A man has come to me more than once to complain of being called upon to pay so much for municipal taxes. He lives in a back street in Bombay, in his own house, and if he had to

walk along that street at night he found he had to splash through pools of mud and filth. Yet he had to contribute for lighting, although there were no lights in the street; and he had to pay for cleansing, although the street was in such a mess. I think if such a man could be told, "Well, the remedy lies in your own hands, because you are entitled to vote and you have but to urge your grievances upon the representative of the Corporation, and something will be done towards abating what you complain of"—I think that such a man would rise in his own estimation and be a better citizen and contribute more willingly towards the taxation required for the Municipality. With regard to the financial aspect of the bill, I think it is even more discouraging than the matters I have just alluded to. It is quite possible that if we are disposed to take a sanguine view of the future, we might consider that we shall no more be troubled with reckless or uncontrollable Municipal Commissioners, and that of course if the laws are administered by good men, and even if those laws might be bad, little harm after all would be likely to result. But I can see no escape from other dangers. We find that in clauses 136 and 137 the Municipal Corporation are bound to provide funds for objects which are so very numerous, and so very wide and extensive, that I shall not attempt to take up the time of the Council by enumerating them. I shall, however, allude to one single instance—the Lunatic Asylum—which is here referred to as an object which the Act authorises to be constructed out of municipal funds. Probably if Government did call upon the Corporation to build a lunatic asylum, the answer would be that under this clause it was only "authorised" to do so, and that this was not one of those points which, under Section 137, the Corporation was compelled to carry out. But seeing this object included in the same clause as that of the police, I think a very strong argument might be based upon it, that as the Corporation is bound to furnish funds for the police, evidently no distinction is to be drawn between that and the lunatic asylum. I find that if clause 137 is to be rigidly enforced, as it no doubt will be, under Section 41, there is actually no limit to the taxation and expense which are in store for Bombay. I have made some inquiries into the matter of the water supply, although not so fully as I might have done had more time been permitted for the consideration of the bill, and I have been told that another conduit pipe will certainly be required within a few years to supply water either from Vehar or some of the other reservoirs which have been constructed—that in fact, the present pipe which brings the water into Bombay has been laid for such a length of time, and was originally so defective, that it must necessarily be replaced, and whether it is replaced or not the water supply will not be sufficient unless a second pipe is added. Where the money is to come from for this I cannot imagine, because I think anyone acquainted with Bombay will at once give it as his opinion that the town is already overburdened with a taxation which is crushing, which is doing harm to the town—in fact, driving people out of the town—and which is also injuring trade. It seems to me quite impossible to attempt any further increase upon the municipal taxation. But this water supply question is only one of many. There is the drainage question, and that alone would probably require the town to incur a debt as large again as the debt it is now groaning under. I think these great works, which Government may compel the city to undertake at any time under clause 40, should be left to depend upon the discretion of the Corporation. I know it will be said that Government are not likely to inflict any injustice upon the town, but with every disposition to put some faith in Government I think we may instructively look back to what has happened before. The town is now saddled with a debt of £370,000, which I think may be said to be entirely due to the

action of Government in constructing the Vehar water works. I need hardly detail the history of these works, but this fact is well known, that their construction was so mis-managed and extravagantly conducted that the original estimates were quadrupled; and the Bombay Government itself, in writing to the Government of India upon the subject, had to avow that far more money had been spent upon the works than what was necessary. Sir Michael Westropp, who was Advocate General at the time, gave it as his opinion, I believe, that except by an express Act the town was in no way liable for this heavy debt, or for a large part of it. This debt had been ruthlessly imposed upon the town by Government, and the town had no voice in the management of the works while they were being carried on, and it was therefore only by the course taken by the Government that the debt had been contracted. I therefore think it would only be right if Government allowed the citizens to have more voice in such matters of great importance, especially as it is they who have to pay. My own views on the subject were formed some days ago, but I lately received a letter from a gentleman, who, I suppose, of all others in Bombay is most intimately acquainted with the class of persons upon whom the municipal taxes fall with most cruel effect. If I may be permitted I shall read to the Council a few lines from this letter. The writer says—"The great feature in the bill is the heavy amount of taxation that is to be put on at a period in our history when poverty abounds, labour is almost unremunerative, credit non-existent, and the city least able to bear the burden. There must be an exodus, and there will be. The labouring classes and the poorer shop-keepers are always more prepared for a fitting than similar people in Europe. That the city is new as regards complete and scientific municipal government; that it owns no property; that the people are essentially poor and cannot provide great works as quickly as in European cities; and that the burden of several generations is to be placed upon a single generation, are great facts which have either been imperfectly seen or lost sight of. It is not upon realized or invested capital that all the new taxation is to fall, but simply upon the trade and industry of the place. In the history of Municipalities was it ever known that a city was required to provide out of daily earnings in twenty years work that would place the city amongst the most forward in progress? The works may be carried out and the victory achieved, but at what risk? at what sacrifice? We miss the benignity of Government, nor can we discern its magnanimity; instead of these we see throughout the bill the power of fixed bayonets accompanied with the cry, 'Your money or your life.'"

The Honourable Mr. TUCKER—Might I ask who the writer is?

The Honourable Mr. FORBES—He is a well known citizen and a Justice of the Peace. I do not know that I should be at liberty to say more. I think, therefore, that if Government is going to look upon clause 137 as really to be enforced in all its rigour, it would have been well if some attempt had been made to provide the Municipality with more funds. Here in Bombay we find that all the property around the town is Government property. In England we find many corporations possessed of great property of their own, and the capacity of such corporations for undertaking large works cannot be applied to Bombay, which must have its municipal fund strengthened before it can carry out any new works. I sincerely hope that, looking further into this question, the Bombay Government will assist the Corporation on the earliest possible opportunity in applying to the Government of India for some relief from its present burdens. I have endeavoured to touch upon the constitutional and financial aspects of the bill, and seeing that under the constitutional clauses members of

the Corporation will be placed in such an unfavourable position as regards their powers, and seeing that the prospects of more taxation are so very alarming, I really cannot look forward with anything but serious foreboding to the effects of this bill should it be brought into force. I must confess that, so far as I can see at present, the town of Bombay was better off under the old bill, and if some modifications had been made upon that bill and some arrangements made, whereby the promised attempt at representative institutions would be brought into play, we should have been still better off. Before concluding I would mention that the illustration which the Honourable Mr. Tucker made use of with regard to the limited power granted to the Corporation was not very appropriate. He said if I were to send an agent to Karáchi I would take care to limit his powers, but in the case before us it should be borne in mind that it is not the property of the Government which is to be taxed—it is not the Government who are deputing some one to look after their property in this case—it is the property of the inhabitants of Bombay; and I may remark that I think it is universally acknowledged that every man is best able to look after his own affairs, and so should the Corporation of Bombay. If the Honourable Mr. Tucker's illustration is anything, it is an argument not for limiting the power of the Corporation but for strengthening it. I conclude these remarks by once more expressing my regret that there has not been more time given to look into the bill, and I must make this the excuse if there have been some important subjects which I have not been able to look into thoroughly.

The Honourable the ACTING ADVOCATE-GENERAL—Your Excellency,—I should not have

The remarks of the Acting Advocate-General on the question of the liability of Government property to be assessed for Municipal purposes.

troubled the Council with any remarks at this meeting if I had not been referred to in the speech made by the Honourable Mr. Tucker. If I had heard any observations from the other honourable members who have spoken, the tendency of which was to condemn the bill *in toto*, and if these remarks had been followed up by a substantial proposition to reject the second reading, I then should have gone at some length into a consideration of the different parts of the bill. But I think it would be more prudent to refrain from doing this on the present occasion—in the first place, because I do not wish to take up the time of the Council, and in the second, because the bill is about to be considered clause by clause in general committee, when I, as well as other honourable members of the Council, will have the fullest opportunities of expressing opinions upon the details. On one point, however, which the Honourable Mr. Tucker specially alluded to in connection with my name, I am glad to have this opportunity of expressing the opinion I have formed regarding it. It will be within the recollection of all the members of the Select Committee now present that, in the discussion which took place in Select Committee on the clause exempting or proposing to exempt Government lands and buildings from municipal taxation, I took little or no part; I expressly said that nothing that I had heard from any honourable gentleman then had induced me to come to the conclusion that the Crown property ought to be or could be taxed, and that until I knew how the law stood exactly on the point I declined to take an active part either in the discussions or on the voting one way or another upon the clause as it stands. Now, however, I have considered the matter somewhat fully. I have no doubt that every member of this honourable Council has in his possession this remarkably interesting little blue-book, which may be aptly called the Legislative Councillor's *Vade Mecum*. It contains the Indian Councils' Act, 1861, besides papers relating to the constitution and functions of the Council of His Excellency the Governor of Bombay for making laws and regulations. After a careful

perusal of this book to see the powers of the local and Governor General's Councils, I have come to the conclusion—and I will put before this meeting my reasons for so concluding—that it is not possible for this Council to take into consideration any clause or fraction of a clause which has for its object the taxing of the property of the Crown. When I first read the Act the point did not occur to me plainly until I formed my ideas into this groove—that it was one thing to tax the people of India, but quite another thing to tax the Crown property. Looking at the way in which the whole of India was transferred from the East India Company to Her Majesty, you will find from the Imperial Statute 21 and 22 Victoria, c. 106, that the whole of India was transferred and vested in the name of Her Majesty the Queen in trust for the purposes of the government of India. That being so, and the property being so vested, it was manifest that the framers of the Indian Councils' Act must have had prominently before them these two points—the taxation of the people of India and the taxation or charging of the revenues of India. If the honourable members of this Council will be good enough to look at Section 19 of the Indian Councils' Act, they will find that the Governor General with his Council has power to frame measures which shall affect “the public debt or public revenues of India, or by which any charge would be imposed upon such revenue,” and that under that section, unless his previous sanction has been given, no member of his Council has a right to introduce any measure by which any charge will be imposed upon the revenues *alias* the property of the Crown. Now, these words “public debt or public revenue” clearly refer to the income arising from the taxation of the people, and that income is the public revenue of India. The revenue, when it gets into Her Majesty's Treasury, is Crown property, and the words “by which any charge would be imposed on such revenues” seem to me clearly to refer to the taxation or charging of the Crown's property. As I read the Act, it seems to me that the Governor General alone in his executive capacity as the representative of the Crown—or the Governor General with the aid of his Council—can deal with any matter or measure which is intended to take money from the Treasury of the Crown. This view is greatly borne out by reference to the 43rd section of the Act. That section limits a local Council in its sphere of making laws and regulations. A local Council may, with the previous sanction of the Governor General, make laws affecting the taxation of the people, but no reference is made in this section to charging or taxing the public revenue; and the inference I draw, is, that the framers of the Act never intended that the Governor General should have power to delegate the consideration of any such question to any local Council. If that was not the intention, I cannot understand why the same words should not have been used in both sections. It seems to me that the powers of the local Councils are limited in this part of the 43rd section to the consideration of measures designed to lessen or increase the taxation of the people. I have not overlooked the intermediate Section 38, which relates to the revenues of a Presidency. It tends possibly to throw some doubt upon the view which I have expressed, but I think it may have a sufficient meaning by supposing it to refer to charges incidental to and connected with those very measures for the taxing of the people which the Governor General has power under this Section 43 to delegate to a local Council. After the best consideration I can give to the matter, I have come to the conclusion that this Council has no right to tax the Crown property in aid of the municipal revenues of Bombay. I can imagine a very good reason why there should be the marked distinction I have pointed out between Sections 19 and 43. A local Council may very often be able to assist the Governor General in devising measures of taxation

for the relief of the people, or for more equally adjusting the burdens of taxation. Local knowledge of the habits and customs of the people—their manufactures and commerce—may make a local Council a most valuable auxiliary for such purposes. But on a question of charging the Crown revenues, the Governor General as representative of the Crown for all India seems to be the functionary designed by the Act to deal with the Crown's property or to allow it to be dealt with. I do not understand, Sir, that the Governor General has given any permission to this Council to frame the Municipal Act so as to make the Crown property liable to municipal taxation, and the result therefore of my observations seems to me to be this—that even if this Council were unanimously of opinion that the Crown property ought to be taxed for the Corporation of Bombay we ought not to frame a measure for that purpose. I think we have not power to do so. I do not ask any member of this Council to attach any additional weight to the view I have expressed because I happen to be a lawyer. It is a question which every honourable member can form his opinion on as readily as I can. I trust, however, that the Honourable Mr. Munguldass will, on further consideration of the views I have expressed, abate somewhat of his zeal—which I do not say is unbecoming, but is certainly most intense—to bring the Crown property within the grasp of the municipal tax-gatherer, and that he will allow this bill to go up to the Governor General with the clause exempting Government buildings and lands as it now stands. In short, Sir, I think this question of the Crown's liability to contribute to municipal taxation should be allowed to stand in the same position as it stood before Act II. of 1865 was passed and as it stands up to the present time. The Government have in times past and up to the present time made contributions to the municipal purse as it thought fit, and the refusal of this Council to legislate upon the matter will not deprive the Corporation of its right to petition the Governor General on the subject, nor hinder the executive Government of this Presidency from recommending a compliance with the petition in such manner and to such extent as it thinks fit. But, Sir, independent of this objection to the power of this Council to legislate upon this matter, I shall be prepared to show, if necessary, when the time comes for debating upon this exemption clause, that under the English law the Crown's property is not liable to taxation upon the same footing as the subject's property, and I shall be able to show that in this very bill, as it stands, there is no common basis of ownership through which you could levy your municipal rates upon the Crown property in the same way as you can upon the citizen and the subject. The citizen is taxed because he is the beneficial owner of his property, and the rate is levied upon the beneficial value of that ownership. The Crown is in no sense whatever the beneficial owner of the Crown lands and buildings within the city of Bombay. The Government buildings which are occupied as public offices, and in which the various departments of the public service are carried on, produce no rental whatever, and such income as may be derived from buildings and lands not so occupied finds its way into the Imperial Treasury to be disbursed therefrom as much for the benefit of the citizens of Bombay as for the rest of the people of India. This bill contains no principle whatever upon which you could deal with both classes of property—the Crown's and the subject's—upon the same footing. I am ready however, to go further, and to meet the Honourable Mr. Munguldass on his own ground, of "justice and fairness." He says—"Look at all these fine buildings, which are useful as well as beautiful to Bombay. The policeman guards the doors and prevents the robber from entering. The gas-light lights them at night and the occupants use the well-kept roads. Why should not Government be taxed by the Municipality for all these benefits?"

My answer is, that the Crown at the present time does contribute—not directly, but indirectly—largely, if not sufficiently, towards those municipal rates about which such a clamour is raised. The servants of the Crown occupy and use those Government buildings, not for their beneficial occupation, but for State purposes. They draw Crown's salaries from the Crown's revenues, and they contribute to municipal taxation out of those incomes. It is a matter for the executive Government to determine whether these indirect contributions are sufficient. At all events it seems to me that in estimating the Government contribution to municipal taxation, the amount of public revenue disbursed to State servants within the city of Bombay is a matter for legitimate consideration. I will now pass on, Sir, to notice the remarks that have been made on what is called "the bludgeon clause." I believe I am the culprit who irreverently in Select Committee described a certain clause in the bill as the "bludgeon clause," and I feel therefore that I am bound to say a word or two upon that point. I objected certainly to the clause in the minute which I made upon the report of the Committee, but I by no means meant to carry my objections so far as my honourable friends Mr. Forbes and Mr. Munguldass have done. I think it is quite right that there should be such a clause in this bill, but the question is, to what objects shall it be limited. I think that a good deal of misconception exists in the mind of the honourable member on my right (Mr. Forbes) as to the practical effect of this clause. He ignores the difference in the words "authorised" and "directed." He also made some remarks which seem to me to show a want of recollection of what took place in the Select Committee. When clause 136 was under discussion a reference was made to the Bombay Act IV. of 1870, under which the Municipality of Bombay were empowered to spend money for educational and other purposes, and the object of the Select Committee in enumerating all the subjects specified in this clause was simply to render as far as possible any future legislation upon the application of municipal funds unnecessary. It was designed simply as an enabling clause, and the bludgeon clause was not intended to apply to it. If the honourable gentleman, after carefully scrutinising the clause, still insists that the present term "authorised" is imperative and not discretionary, then I hope he will favour us in Committee with some form of expression which to our minds shall carry out his meaning more clearly. The only public objects which are at present aimed at in this "bludgeon clause" are those mentioned in Section 137. With reference to these I have not yet come round to the opinion of the majority of the members of the Committee, and I shall be glad to have further discussion upon them. I have no doubt that there ought to be an imperative power in matters relating to the cleansing and draining of the city, and there is a precedent for this in the Acts of this Council. I allude to the Mofussil Act II. of 1862. Express power is there given to the Government to enforce sanitary arrangements. At present I can find no precedent for extending the summary power to such matters as lighting and maintaining the streets, or securing a water supply. Seeing that for the most part the city is well lighted, that the roads are in good order, and that no disposition has been shown on the part of the Municipality to let the roads fall into great disrepair, it may be considered doubtful whether the summary power should extend to that matter. I think there is only one other point, Sir, that I feel called upon to touch. I am surprised—and I hope the Honourable Mr. Forbes will not take umbrage at any remarks I may make on this subject—that he should assert that the bill is wrong in principle, does not give sufficient powers to the Corporation, and will be unworkable in practice. I think these are very large words of condemnation, but I cannot think that the honourable mem-

ber really means them. I have a vivid recollection of what took place in the Select Committee, when I found myself in a minority of one on one of the most momentous questions that arise under this bill—that is, the question of town dues. The view I took upon that question in Select Committee was that the Corporation alone should have power to select the articles for taxation, Government having no veto in the matter whatever, excepting putting a limit upon the duties to be fixed. My reason was this, that the Corporation, consisting of sixty-four members, the bulk of whom must of necessity be traders, would certainly be the most likely to know what articles of commerce would yield duties with the least burden upon the trade of the town. Looking round the Council this moment I cannot see more than four gentlemen who can be said to be in any way connected with trade in Bombay, and in the Select Committee, the only gentlemen who could give a practical opinion on the subject were the honourable members Mr. Forbes and Mr. Munguldass. But the opinions of these two honourable members alone can scarcely be of the same value as that of the sixty-four members of the Corporation, and this was why I said, “Strike out *in toto* this schedule of articles that should be taxed, and insert a schedule of articles that shall not be taxed.” This would give to the Corporation a considerable, and in my opinion a very just, power of considering the ways and means for providing for municipal expenditure. Year by year they could take a survey of the trade of the town and impose duties according to the exigencies of the Municipality. The Honourable Mr. Forbes, however, voted against my proposition, and I think it is somewhat remarkable that the minute which he afterwards wrote contained an expression of opinion that the bill cramped and limited the Corporation in all its efforts. The course which I proposed would, if adopted, have given it more liberty and power, and yet he voted against it. I have some hope that in the course of the deliberations of the general Committee propositions will be put forward which will enable us to consider whether further liberal amendments cannot be made in the constitution. The bill as it stands, I venture to say, is a remarkably liberal one as an experiment, and an improvement which will, I think, be productive of healthy municipal government. I would conclude my remarks by expressing the gratification I feel that no one has moved an amendment to prevent the second reading of this bill.

The Honourable Mr. FORBES wished to make a personal explanation with regard to his action in Select Committee regarding the town dues. He thought the Honourable the Advocate-General had entirely misunderstood the grounds upon which he (Mr. Forbes) had objected to his proposal. His view upon the town dues was that they were extremely objectionable in any case, and were perhaps the worst tax that could be imposed, because they restricted trade and could not but do so. If there were any means of throwing out these town dues altogether he should have been most anxious to vote on such a proposal; but Mr. Mayhew's wish that the Corporation should have a schedule of articles put before them upon which they were not to put taxes, would, if carried, have resulted, he believed, in a great increase in town dues, because the bulk of the ratepayers were owners of houses, and it would consequently be their endeavour to transfer the burden of the taxation from the owners and occupiers of houses to merchants and trade. He would certainly object to the town dues becoming more burdensome than they were now.

The Honourable Mr. MUNGULDASS also wanted to make a personal explanation, because he was afraid that the Honourable the Advocate-General had misunderstood him regarding

his remarks upon the taxation of Government property. He was certainly surprised to hear, for the first time, that the Legislative Council of His Excellency had no power to levy taxes upon Government property.

His Excellency the PRESIDENT said this was renewal of argument upon the general principle and was not a personal explanation.

The Honourable Mr. MUNGULDASS said he merely wished to point out that if the Council had no right to tax Government property the matter need not have been mentioned in the bill.

The Honourable Mr. RAVENSCROFT—It is not necessary, after the lucid speech of the Honourable the Advocate-General, to support the principle of the bill, which is not opposed, as a whole, by those who object to some of its details. There is, however, one portion of what my hon'ble friend said which I can corroborate. This relates to the power of the local Council to tax the property of the Crown. I have no doubt that the Government of India are clearly of opinion that this Council possesses no such power; and my reason for thinking this is, that when the bill was published, a communication was received from the Government of India asking whether any clause of the new bill would affect, in a pecuniary point of view, imperial revenues. To this an answer was returned in the negative; and I have no doubt that if any other answer had been given, the Government of India would have pointed out that we were exceeding our powers. I merely mention this to support the view which my hon'ble friend the Advocate General has taken relative to the law; and there can be no doubt that any municipal taxation of Crown property is completely *ultra vires*. In order however to prevent any litigation, it was deemed expedient to insert a distinct exemption into the bill.

The Honourable Mr. J. K. BYTHELL—I feel a little diffidence, your Excellency, in venturing to express an opinion regarding the general principle of this bill, because I have not, I confess, given the time and consideration to the subject that have been bestowed upon it by other honourable members of the Council. I cannot, however, refrain from stating that I do to some extent agree with the remarks that have been made by the Honourable Mr. Forbes, and disagree with some of the opinions expressed by the hon'ble gentleman who proposed the second reading of the bill. The illustration made use of by the Honourable Mr. Tucker appeared to me somewhat unfortunate for his argument. As I understood him he argued that the bill would place the Corporation in the same position as that in which the Hon'ble Mr. Forbes would place a business agent whom he might send to Karachi or any other place. I am sure, however, that no merchant when sending an agent to open a branch-house would ever dream of appointing at the same time another man to the same place with full powers to carry out all the purposes for which the branch was established. If he did adopt such an extraordinary course he might soon expect to hear that affairs there were in a state of confusion, and that the two men were doing little else but quarrel. The merchant would of course retain complete controlling power over his agent, and I think that Government ought in the same way to take care to have the power to control the Corporation and Town Council in all important matters. But if, after the Corporation and Town Council have been constituted, a Municipal Commissioner is to be appointed and given the sole power to carry out all the purposes of the Act, I cannot understand how any good management can be expected. We ought, I think, to endeavour to ascertain in what respect Act II. of 1865 was a failure, in order that we

may know the cause of the deplorable mismanagement and extravagance that characterized the administration of Bombay municipal affairs until within a very recent period. It cannot be denied that divided responsibility and the excessive amount of power that was placed in the hands of the executive officer were the main sources of Bombay's misfortunes. Now, how far would this new Act, if made law in its present state, go towards remedying the evils inherent in the old Act? Since the papers were placed in my hands I have gone through every section of the bill with great care, anxious, if possible, to avoid doing anything to hinder the progress of a bill which must have necessitated the expenditure of a great amount of time and labour in its compilation; but the result of my study of it is that I cannot believe in the efforts of a Corporation constituted as proposed in this bill being attended with any success. What would the Corporation and the Town Council have to do? The bill proposes to give them financial control, but as regards real power over the administration of the business of the Municipality they would be as mere puppets in the hands of a clever, unscrupulous, and ambitious Municipal Commissioner. Such a man would soon find that the Act gave the Town Council a mere semblance of authority, because against one section professing to give the Council power of control he could place half a dozen expressly stating that the sole power and responsibility were vested in him by Government. Just as the power and control over municipal affairs which the framers of the old Act II. of 1865 argued would be placed by it in the hands of the Justices proved in practice a delusion, so in the carrying out of the provisions of this new bill, I believe it would be found that the old abuses would in time creep in, though doubtless in a modified form. I cannot imagine how divided authority in the management of any great concern, whether public or private, can be in any respect successful. With two controlling powers pulling often in different directions, misunderstandings, disputes, and continued wrangling can but be the result. The Town Council and the Commissioner, instead of working cordially together for the good of the community, would be continually wasting their time in squabbling as to where the powers of the one ended and the other began. If the Corporation and Town Council are not fit to be entrusted with the executive power to carry out the provisions of the Act with the Commissioner as their servant responsible only to them (they being responsible in their turn to Government), they are fit to be entrusted with no power in the matter whatever. No good can possibly result from having a Town Council nominally with power to control in everything but really a mere cypher in the hands of the Commissioner. He could easily invent a hundred different modes of thwarting their efforts to control him if the extraordinary power proposed by this bill, as it now stands, were vested in him. An ambitious man would (following the example of one of our late Commissioners) place himself in antagonism with the Council from the first, and if he did so, what but mismanagement could be expected? The system of divided authority has been allowed a fair trial and has proved a most lamentable failure. The increased elective power that will be placed in the hands of the citizens if the recommendations of the Select Committee be adopted, I look upon as of no value to the city, because what good object can be effected by allowing the citizens to elect a corporation when that elected body is not to be trusted with any executive power? It is my firm belief that there are only two courses open if the past extravagance and maladministration are to be avoided in the future. I do not see how there can be any middle course. Either the Corporation should be entrusted with full executive power and be directly responsible to Government, or the Municipal management should be undertaken

by Government as a special department with the Municipal Commissioner directly responsible to Government alone, just as the head of any department is. Without direct controlling power in everything, to be administered either by the Corporation or by Government, there will not be economy, and there will be misgovernment. If the Corporation were allowed a trial they could not easily fail more signally than the administration under Act II. of 1865 has done, and they probably would be much more successful. Is not the experiment worth trying? What great harm could result? Government would of course have the power to step in and interfere at any moment, and could if the Corporation proved wholly incompetent—which I do not think it would—at once deprive it of all power and control. I hope it will not be considered presumptuous in so young a member of the Council to express himself so strongly. I have only done so because, after a very careful perusal of the bill, I feel convinced that sooner or later it will prove, like its predecessor of 1865, a complete failure. As nearly all the members of the Council are evidently intending to vote for the second reading of the bill I shall not vote against it, but I shall support any amendments that may be introduced with a view to giving more power to the Town Council and less to the Commissioner.

But although I have spoken with some diffidence regarding the general principle of the bill, I have no hesitation in opposing, to the best of my ability, the attempt to establish transit dues in Bombay. It is true that the Select Committee only recommend a tax on one article—cotton—at present; but to admit that transit duties are a legitimate source of revenue in Bombay would be to inaugurate a policy fraught with danger to the commerce of the place. I see this question has been more than once under discussion before in this honourable Council. An honourable gentleman who is still a member of the Council first introduced the subject of Town Dues in 1866 during the administration of Sir Bartle Frere; but the opposition headed by the then President was so strong that the matter fell into abeyance until there was a change in the government. On the re-introduction of the bill by the same honourable gentleman in 1868, the new President of the Council, Sir Seymour FitzGerald, also led a strong opposition, but as the Municipality was then in most urgent need of money, and as the neglect and mismanagement that existed in the conduct of its affairs had not then come to light, a bill permitting the levy of Town or Octroi Duties was passed by this Council. Sir Seymour FitzGerald gave, however, his consent only very reluctantly to the bill, and he steadfastly refused to agree to a transit duty on cotton, for cogent and weighty reasons which he stated at length to the Council. Lord Napier of Magdala also expressed his very strong disapproval of the bill—Act IV. of 1869—and only withdrew his opposition on the same ground as that stated by Sir Seymour FitzGerald, viz., the imperative necessity for more money being raised by some mode or other. This is now, therefore, the third time that an attempt has been made to impose transit duties on the trade of Bombay. The attempt failed first in 1866 under Sir Bartle Frere's administration, again in 1869 under that of Sir Seymour FitzGerald, and it will, I believe, for the third time, be unsuccessful under your Excellency's Government. One cannot however help complimenting the advocates of the measure on their indomitable perseverance. Every time there is a change in the members of the Government and of this Council the proposal is renewed. Some extraordinary arguments have been brought forward in support of the proposal to levy town and transit duties. The honourable gentleman who introduced the Town Duties Bill argued that house property paid 18 per cent., made up in this way—house tax, 6 per cent.;

police rate, 3 per cent.; lighting rate, 1 per cent.; water rate, 5 per cent.; halalcore cess, 3 per cent. The only tax paid by the owner of a house is, however, the 6 per cent. house tax. Police and lighting rates are paid by tenants, and I maintain that water rate and halalcore cess should not be regarded as taxes at all. Eight out of the total of eighteen per cent. go for water and halalcores, and those rates are merely payments in return for services rendered, and cannot be called taxes in the true sense of the term. On Malabar Hill, at the present time, each occupier has to employ and pay his own private halalcore. If the Municipality were now to commence doing the work there, and if in consequence occupiers had to pay the halalcores through the Municipality instead of paying them direct, as they do at present, could it be said that a new tax of 3 per cent. had been imposed on Malabar Hill house property? Such an argument could not be sustained for a moment. And in the same way with regard to the Vehar water. The tax is not compulsory. Any man who does not wish to have the pipes laid on into his house can take the water from a dipping well without payment. An occupier who has his own well in his compound and requires no other source of supply pays nothing towards the cost of the Vehar water. On the other hand, if any person who has not a well in his house, or who, in addition to his well, wants to use Vehar water, prefers paying the Municipality for laying down a pipe instead of paying a bheestee to carry water from a dipping well, he has his wish complied with, and the assessed rate for the supply of Vehar water is in an ordinary-sized house less than the wages that would have to be paid to a bheestee for carrying water from a dipping well. It cannot, therefore, be fairly argued that house property pays either water or halalcore tax. The landlord pays only his house rate, the tenant his police and lighting rates—that is the full extent of the taxes on house property, and only one-half falls on the owner. It was, I see, also argued that town dues to the extent of threepence per package were levied in Liverpool, twopence of which went to the Dock Trust, and one penny to the Liverpool Corporation. It was correct to state that a tax of one penny is levied by the Corporation; but the then President of this Council, Sir Seymour Fitz Gerald, explained that the Corporation were allowed only to levy that tax because they had many years ago purchased from Lord Sefton the right to do so. So great was the hindrance caused, however, to trade by the tax, and so desirable was it deemed to get it abolished, that a Parliamentary Committee was appointed specially to consider the question. This Committee lamented its inability to interfere, and stated that as the right to collect the tax was a private one, there was no course left but either to continue to pay it or to buy up the right. But how the honourable gentleman who introduced Act IV. of 1869 could designate the Liverpool Dock Dues as Town Dues I am at a loss to understand. A very large sum of money is now paid daily in Bombay in lighterage, charges for landing and shipping cargo. If at some future time wet docks or piers should be constructed which would enable a ship to load or discharge without the assistance of lighters, and if in return for the services rendered the proprietors of the docks or piers charged a small fee per package, could that fee be rightly termed a town due? If it could, then Liverpool dock dues *are* town dues; but on the same principle the money now paid in hire of lighters is also a town due, and the honourable gentleman instead of going all the way to Liverpool might have found an example so near home as in the Bombay harbour. It was, moreover, argued that cotton paid nothing to the Municipality, although so much had been done in Bombay for its accommodation by the Municipality. The answer to this fallacious statement is not difficult. Bombay

without her great transit trade would be nothing but a fishing village, and cotton is the one great article in which she trades. Without that transit trade, what value would be put on the now enormously valuable house property, and from whence would the Municipality receive the large income now realized by taxation? The inflated prices paid for house property during the mania of 1864-65 cannot now of course be obtained; but it is an undisputed fact that the present value is much greater, that the rents now paid are much higher, than during any period before the great development took place in the cotton trade of Western India. Any one looking at the accommodation we receive at this present moment in Bombay, in return for the enormous rents we pay, must admit that there is some very powerful influence at work thus to induce men to pay fabulous sums for the occupation of uncomfortable and inconvenient houses built on a narrow strip of barren rock. Owners of property, even in their own interest, ought to resist instead of encouraging the imposition of any transit duty. Their one great aim ought to be to increase the trade of the place by removing every impediment by affording every possible facility. It is almost like repeating a mere truism to say that every ton of goods passing through Bombay and employing merchants and their clerks, muddams, coolies, carts, boats, and ships, and also indirectly bankers and Government officials, must as a matter of course increase the income of the city and benefit both houseowner and the municipal revenue. If Bombay had inexhaustible coal or metal mines like Cardiff or Newcastle, one could perhaps understand property owners being careless about fostering the transit trade; but when she has only that trade to depend on for her existence as a first-class port, their advocacy of transit dues is incomprehensible. To impose these vexatious restrictions would be the most suicidal policy she could possibly adopt. Bombay merchants are now struggling hard to draw a share of the rich trade of the Central Provinces and the North-West from Calcutta to Bombay, and if property owners were alive to their own interests they would assist the endeavour by every means in their power, rather than try to stifle the movement by imposing transit duties. Bombay is so accustomed to the sight of a vast fleet of merchant ships lying in her harbour, that she is apt to overlook the prosperity and the riches thus brought to her shores. Positively some people talk as though the Bombay owners of property were conferring a great benefit on shipowners and merchants by thus providing miserable house and warehouse accommodation at a very high rental. These gentlemen should, however, remember what struggles are made and inducements afforded by owners of property in infant ports in order to induce ships and merchants to open up a trade. Or to give a more forcible example still, see what efforts are made by ports which are losing their trade in order to regain it. Bristol formerly charged exorbitant dock and town dues, and only opened her eyes to her folly when she saw her valuable trade departing to other ports. Then, however, she roused herself, and now although she has spent great sums of money in improving the accommodation, dock dues there are just one-third of what they were formerly on imports, and no charge whatever is made on exports. In consequence of this liberality the trade of Bristol is now increasing, but it was seriously injured by her previous illiberality and shortsightedness.

I have, however, been only speaking from a Bombay point of view, whereas there are other interests to be considered also. What will the country generally, and what will the Government of India, say to the proposal to levy transit dues on cotton? The Government of India, knowing how difficult a matter it must be for India to compete with America in cotton cultivation, and how valuable the trade in cotton is to the country, have care-

fully refrained from imposing any tax upon it, and have made it their special care to foster it. Even in the hour of their greatest need, when they had to incur the odium of levying an income tax of $3\frac{1}{2}$ per cent., the Government of India did not propose to lay any burden on cotton. Seeds, oil, grain, spices, indigo, lac, are all saddled with an export duty, but cotton nevertheless remains free. What, then, will be said by the country when Bombay for municipal purposes attempts to tax the one article that has at all cost been hitherto exempted? It is pleaded that the tax is too small to be felt, but if we admit the principle, if we allow the thin end of the wedge to be inserted, some new requirements will before long lead to the suggestion that just a little increase would do no harm. It will be said that eight annas a candy will be only $\frac{1}{65}$ th of a penny per pound, just as it is now said that four annas will only be a tax of $\frac{1}{130}$ th. But what ground is there for assuming that two annas per bale will be an imperceptible burden? Why, that is just double the amount of the bunder fee now levied on cotton in return for accommodation that has cost more than two millions sterling! Four annas per candy are equal to a little over seventeen pence per ton. Reference has been made to Liverpool in favour of these dues, but the comparison is unfortunate, for I find that the Liverpool Dock Trust charge on cotton only twenty-two pence per ton, and the charge includes dock dues, landing, weighing, furnishing copy of weights, surveying for damage, giving certificates of damage, housing and piling in the warehouses. Compare those services in return for the "imperceptible sum" of $22d.$ per ton with what Bombay purposes to give in return for the municipal tax of $17d.$ per ton. We are so accustomed in Bombay to look upon a few rupees or annas here or there as a matter of no importance, that we are in danger of overlooking the cheapness with which work is done in countries that India has to compete with. If an extra expenditure of $\frac{1}{130}$ th of a penny per pound were considered such a trifle in England, should we see that country importing cotton from India, America, and other countries, and in spite of the expense of transit, in spite of protective duties and other difficulties, sending the cotton back in a manufactured state to the same countries, and competing successfully with local, specially fostered manufacture? I repeat—Bombay must see what is done in other places for $17d.$ per ton before she says the sum is a mere bagatelle. Let us refer again to Bristol. The rates at the docks which proved prohibitory varied from one shilling to three shillings only. The rates that have succeeded in attracting business to Bristol once more vary from four pence to one shilling per ton on imports—a striking proof of what difference a few pence per ton may make in the trade of a port. America is rapidly regaining her old position in the cotton trade. Low quality Indian cotton has been lying in great quantities for months past all over Europe unsaleable almost at any price. By multiplying the small taxes here and there, by mulcting cotton in transit for this little thing and that, we shall undoubtedly hasten the time when the ryot will find that cotton does not pay and refuse to grow it. It is the fashion to run down cotton nowadays in Bombay, to blame it for all the misery that followed the wild speculation in 1864-65, but Bombay will rue the day that sees her cotton trade begin to decrease. I was in hopes that the Municipality under better management would have made economy take the place of increased taxation, but if we must have more money raised, put the tax on house property, or increase the tax on ghee and sugar (articles used almost exclusively by the wealthy classes), put it on anything in fact rather than on the transit trade, which is the very life-blood of the place. If a merchant has to pay a little more for his house or his food or to his servants, he does not take that into account

when calculating the possible profit on a prospective transaction; but impose a tax of 2 annas per bale on cotton, and every merchant will include the tax in his tables of calculation, and will to that extent reduce the amount he would otherwise be prepared to pay to the ryot or the dealer for the produce. Therefore, a direct tax on cotton will directly and inevitably help to increase the accumulating disadvantages under which India labours in competing with America and to bring about the time when the cultivator will find that he cannot make a living out of cotton. I do not mean to argue that Bombay, with her wonderful natural advantages, would under any circumstances fail to have a large transit trade; but I maintain that it is in the power of the citizens to assist in largely increasing the trade by continually striving to relieve it from every burden—and, on the other hand, they can, if they choose, easily cause a decrease in their commerce by injudiciously hampering and burdening it. The latter course would, however, be like killing the goose that laid golden eggs, and I hope that the property owner will never be allowed to carry out such unwise policy. I do not think that the Corporation should—as suggested by the Honourable the Advocate-General—have the power of fixing the articles on which town dues shall be levied. The list should be carefully prepared by this Council. And I shall move in due course, as an amendment to schedule B, that cotton be left out of the list.

The Honourable Mr. NARAYAN VASUDEVJEE—Your Excellency,—I did not wish to speak on this occasion, but I rise to controvert the statement that the house owners of Bombay wish to remove all the burden of taxation from themselves to the shoulders of the people. Out of 21,000 houses in Bombay, the owners of 18,500 houses have to pay the entire taxes imposed upon their house property. At present the municipal income is about 30 lakhs of rupees, and of this the house owners of the city have to contribute 20 lakhs. The Honourable Mr. Bythell has just stated that the whole taxation in the shape of occupiers' rates upon property falls upon occupiers, but this is not so. By the report which General Marriott's Committee presented to this Council in February last, it is pointed out that 19,718 owners pay all occupiers' rates as well as their own; and there are only 472 single tenants, who pay occupiers' rates. In this bill there is a section, already introduced, which will impose upon the owners of chawls and ranges of buildings the obligation of paying all the rates for their tenants, the consequence will be that when this municipal bill is passed only 472 tenants will be left in all Bombay who shall be required to pay occupiers' rates. Now, under the present system, we have been issuing distress warrants every year, and the number has increased in the following proportions:—In 1870 we issued altogether 2,149 warrants; in 1871, 8,513; and during the last seven months, that is, from the 1st of January to the 31st of July, we have issued 9,299. I therefore put it to your Excellency whether any fiscal system which involves the issue of so large a number of distress warrants can be a just and equitable one for the city. I submit that the whole bulk of the taxation has been imposed upon one class of property, and what this bill ought to endeavour to do is to remove the inequality of the present fiscal system of Bombay, if it is the wish of this Council to allay the feelings of discontent engendered by it. I am certainly not in favour of any transit dues being imposed, but I do not see why recourse should not be had to indirect taxation to improve the resources of the Municipality. With any amount of supervision which the Corporation or the Town Council may exercise over the municipal finances of the city of Bombay, there is one notable fact, it is positively impossible to

reduce the expenditure of the city below 30 lakhs of rupees per annum. What this Council therefore ought to endeavour to do when recasting the fiscal system is, as I have said, to remove the present inequality of taxation. Several honourable members have pointed out the objectionable clauses in this bill, and the Honourable Mr. Forbes, as well as the Honourable Mr. Munguldass, have, I believe, already stated that this bill has satisfied nobody, and I am not surprised at it, because half measures never can be satisfactory. The house-owning interest of the place believe that the tendency of the bill is to enhance the present direct taxation upon house property; the merchants think that it is the intention of the Legislature to impose transit dues upon cotton: the ratepayers, or rather some of the gentlemen who have been conspicuous in asking for representation, think that the representation clauses in this bill will not give them the powers to the extent they have been seeking for years past; and the majority of the people belonging to the old school are of opinion that Bombay is not fitted for representation yet. When the Council proceeds to consider the various clauses, I will then endeavour to submit, for the consideration of your Excellency, amendments which may help to give some satisfaction to the community.

The Honourable Mr. TUCKER—It is satisfactory to see, Sir, from the discussion which has taken place to-day, that no one is prepared to propose the rejection of the bill in its integrity, and that, judging from what has fallen from the honourable members who have spoken, there are in truth no serious objections to the general principles which underlie this measure. There are, undoubtedly, considerable differences of opinion with respect to matters of detail, but these were to be expected in a measure which deals with or affects so many interests, and it is our desire that these points should be freely discussed when we proceed to the consideration of the sections of the bill in detail. At the same time, the greater part of the objections which have been made on one side are met by those advanced on the other, and their tendency is to show, as I have said before, that Government have succeeded in maintaining a just middle course between the conflicting opinions entertained by the various sections of the community with reference to this bill. The honourable members who have expressed adverse opinions to the bill, though following distinct lines of attack and holding irreconcilable views on many points, unite in complaining of the mistrust exhibited by Government to a new and untried body which has not yet come into existence. But on examination of the speeches of the gentlemen who profess so much confidence in the representatives of the ratepayers, it may be observed that each side would strictly restrict the action of the Corporation in the direction which is opposed to the interests which they more particularly represent. For instance, neither the Honourable Mr. Forbes nor the honourable member who has taken his seat to-day (Mr. Bythell) are disposed to give the Corporation any latitude of action with respect to Town Duties; and, on the other hand, the Honourable Mr. Munguldass and other members, who represent the house-owning interest, wish to restrain within very small limits the power of the Corporation to increase the house rates and police and lighting rates. Neither section of the opposition, therefore, appears prepared to place that unlimited confidence in the Corporation in matters affecting their own particular interests which they blame Government for withholding in matters which affect the welfare of the entire community. The honourable member, Mr. Forbes, has admitted that he has not completed his study of the bill or made himself master of all its details. This will account for his extraordinary statement that

Mr. Tucker's reply on the discussion.

no real power has been given to the Town Council and that the Municipal Commissioner will remain, as in the opinion of the honourable gentleman he is now, rather the master than the servant of the Corporation. I trust that the honourable gentleman will continue diligently to extend his examination of this bill, for if he do so he will find that the Town Council have been invested with large powers of control over the acts of the Municipal Commissioner, and that they possess what is generally deemed in all constitutional bodies the greatest power of all, namely, the *power of the purse*—in fact the same power which is possessed by the Treasury at home over other departments of the administration. Not only has the power vested in the Controller by Act II. of 1865 been transferred to the Town Council to be created by the present bill, but with respect to contracts beyond a limited sum and to various other matters the confirmation of the Town Council is necessary to his acts, while with respect to others it enjoys a power of revision—not only must he confine his expenditure within the limits of the Budget, which may be altered by the Corporation at the recommendation of the Town Council, but he cannot draw a single anna from the municipal fund without the concurrence of a certain number of the Town Council. This Town Council has the opportunity of knowing every item of his expenditure from day to day, and can immediately put a stop to any extravagance or unauthorized outlay by refusing to sign cheques on the bank in which the municipal funds are lodged. I would put it then to the Council whether a board of direction which possesses these extensive powers has been correctly described by the hon'ble member as a board of auditors, and whether there is any foundation for the statement of the hon'ble member that the Municipal Commissioner will not be more under control if this bill pass into law than he was under the former Act. Even in the existing state of the law, the emancipation of the Municipal Commissioner from control, was the fault of the officer selected to be Controller and not of the law, and if the Town Council created by this bill consist of public-spirited and intelligent citizens, which I hope it may do, but which the hon'ble gentlemen seems inclined to doubt, they will find no want of power to control municipal expenditure or to exercise effective supervision over the acts of the Municipal Commissioner in every department. In fact, men like the present Commissioner, who are acquainted with the practical working of municipal affairs, consider that we have too much fettered the action of the Commissioner on many points, and I am inclined to think that if we have erred at all it has been in that direction, and not in according to him too much independence, as the Honourable Mr. Forbes has suggested. With regard to the reservation of powers to Government to compel the Corporation, the Town Council, or the Executive Municipal officers to do those acts necessary for the public health and safety which the law has declared it to be their duty to do, I have little to add to what I said in my opening speech. Recent experience in England and in other parts of Europe has shown that it is necessary that there should be some agency by which this object can be effected, and in the position that we hold in India it appears to me that this reserved power can be more promptly, beneficially, and effectually exercised by the local Executive Government than by any judicial tribunal. If the Council are of opinion that the matters to which the exercise of this power is to be restricted should be more clearly expressed and defined than they now are in the 40th or 41st sections of the bill, I shall offer no objection, but I shall strongly oppose the omission of those sections, as I consider that they are essential to the successful working of the experiment we are making. In England at the present moment there is a strong feeling in favour of giving the Central Government powers to overcome the

inertness and obstructiveness exhibited by Corporations and other Boards entrusted with local administration to carry out those beneficial sanitary measures which are desirable in the interest of the whole community; and knowing the tendencies of municipal corporations and local government bodies elsewhere, it would be most improvident and unwise of us not to provide against similar contingencies in the new self-governing body which we are about to call into existence. If this latent power be reserved it will probably never be necessary to use it, as its mere existence will probably prevent any omissions on the part of the assemblies and persons concerned or any attempts to step beyond the limits of the authority entrusted to them. In creating a new body for the Government of the city we should be careful to avoid the mistake of the modern Prometheus Frankenstein and not create a monster which may subsequently turn against and defy its creator. As we shall be able, when considering these clauses in detail, to enter more fully into the discussion of them, I will not say more on the subject now, but I may state that though my honourable opponents have found fault with my comparison of the action of Government in the creation of this new Corporation and the action of a mercantile firm appointing an agent at a distant spot, it appears to me that the same reason exists for a reservation of a power of interference to the principal in one case as there does in the other. By this bill we are virtually delegating a portion of the administrative authority which we have hitherto exercised in the city of Bombay to other agencies, and in doing so we are bound to see that we reserve such ultimate authority as will prevent these agencies acting in a different way than we intended. The Honourable Mr. Forbes has referred to the case of an occupant of a back street who pays taxes but gets neither water, light, or a good road in front of his house from the existing Corporation of Justices. To grievances of this description the much-abused bludgeon clauses will to a certain extent provide a remedy, and on that ground, if on no other, should receive the support of the honourable member and of all who feel an interest in the well-being of the poor. I now pass to the question of the duty on cotton, which has been added to the schedule of Town Duties, and which has called forth a strong expression of condemnation from both the honourable members who represent the European mercantile community in this Council. Now there is one objection or another to every description of tax which the ingenuity of man can devise, and we are all aware of the impolicy of subjecting any trade to burdens which are likely to check its expansion and development. I am ready to concede also, that in the present critical state of the Indian cotton trade, in consequence of its inability to compete with the United States of America in the supply of this article to England, it would be inexpedient to impose any duty which was likely to impede or retard the growth of the trade or to aid the influences now at work to effect its contraction. From the peculiar circumstances in which the trade in this staple article of produce is now placed, it would seem that the infinitesimally small duty which it is proposed to impose by this bill would have no appreciable effect on the price of the article at Liverpool, as the price there depends mainly on the extent of the American supply and not on the cost of the production and distribution of the commodity in India. It appears to me, then, that the objections which ordinarily apply to transit duties fail in this particular case, and the services rendered to the cotton trade by the improvements which have been of late years effected in the city of Bombay afford an ample justification for giving to the revenues of the city of Bombay the benefit of the imposition of this insignificant impost. There can be no doubt that a portion of the fees paid at Liverpool under the designation of

dock and town dues are in the nature of a contribution to the general revenues of that city, and there seems no reason why the principal cotton port of India should receive no contribution from its chief article of trade. The municipal revenues must be increased, and it would not be right to increase the pressure of taxation on those interests on which it is now too heavy. It is equitable to place any new tax which it may be necessary to impose on other classes than those on whom the burden now falls. I see therefore no objection to the addition of this trifling duty to the schedule. No recognized authority on Political Economy has been cited to show that a small transit duty levied in return for services rendered, and confined within limits which do not check the growth of the trade, is opposed to the principles of that science. There can be no doubt that the cotton brought to Bombay is protected from theft and fire by the Police and Fire Engine Department, paid from the municipal fund, and that the circulation and distribution of this article of commerce is facilitated by the improvement that has been made in the roads and lighting of the city. The transit by land or sea has also been expedited and cheapened by the construction of the guaranteed railways and by the suppression of robbery and piracy. A contribution by the trade to the principal city of Western India is therefore equitable and, in my opinion, legitimate. I may remark that all direct inland transit duties in this presidency have been done away with under the orders of the Government of India, and that besides Bombay there are now only dues of a most limited character taken at Karáchi, Gogo, Kárwár, Compta, which are collected by the Municipalities of those towns in return for the services rendered to the trade there. At Súrat, Broach, and Ahmadabad, there is a toll on carts carrying cotton which is higher there than the tolls on carts carrying other commodities. When we come to the discussion of that part of the bill which refers to Town Duties I shall be prepared to show the exact amount of the duties taken at the different places I have named, and as this matter will come up before us again it is not necessary to enter into further particulars now. I do not agree with the Chamber of Commerce that there is any legal objection to our adding this duty to the other Town Duties mentioned in the bill. I shall be glad to hear all the objections that can be urged against the measure before it is finally carried. I have expressed my personal view on the subject, and have no wish to dogmatize. I conclude by again proposing that the bill as it stands be read a second time.

The Honourable Mr. BYTHELL—Your Excellency, may I be allowed to say a word by way of explanation. I merely wish to say that I think the Honourable Mr. Tucker has misunderstood me in saying that I should wish to see all power taken out of the hands of Government as regards interference. I said that Government should have the fullest possible powers to step in, if necessary, at any moment, but that the purposes of the Act should be carried out by the Corporation, and that the Municipal Commissioner should be the servant of the Corporation acting under their orders and not have independent powers. This was a very different thing from proposing that Government should resign all their power in favour of the Corporation.

His Excellency the PRESIDENT—It is not my wish to stifle discussion upon this bill, but I cannot agree with my honourable friend on my right, the Honourable Mr. Forbes, that we should postpone for a time the consideration of this measure, because to follow that suggestion would be nothing more nor less than to let the whole session pass without any substantial progress being made upon a scheme which we know the Bombay public are looking for anxiously. I cannot see any good reason for postponing the discussion, be-

cause I believe that no man in Bombay who will be likely to take an active part in inquiring into the measure has not already formed his opinion upon it, and those who wish to object must have ample opportunities of doing so before we can get to the end of the clauses; but should we get on much faster than I, for one can anticipate, then we can leave the bill open for a short time, in order that opinions upon it may be received, and that, if certain suggestions are considered to be really desirable, we may go back upon the clauses and make the alteration. I have always been alarmed at what is called the "bludgeon clause," and if it is to remain, I think it will be necessary to settle very carefully the matters upon which Government shall interfere. I also think that some such alteration as this might be made. If the Corporation fail to do their duty, the Government should go before the High Court, and satisfy the Judges that what they wish to recover from the Municipality is right; but procedure to levy rates should be made dependent upon an order of the High Court. This bludgeon clause as it stands might be the means of increasing those powers of the Commissioner which are already looked upon with apprehension. It is said he is restrained by the Budget, but I have no great faith in that, as I can quite conceive circumstances in which it might be desirable not to go to the full extent of the Budget, and if the Municipality felt it their duty to say such and such a work should not be gone on with, even though it were in the Budget, the Commissioner might not be compelled to follow out their wishes.

The Honourable Mr. TUCKER—In that case they might refuse to sign the cheques.

His Excellency the PRESIDENT—Still, the expenditure is in the Budget, which he may insist upon carrying out. I think the remedy would lie in what I have suggested—going to the High Court for an order after it has been proved that the claim of Government upon the Municipality is right and proper. Another important question is whether he is to be appointed by Government or the Town Council. If he is to be appointed by Government, it seems to me that this would be so much more power to Government to work under the "bludgeon clause," because the words which you use regarding him are that he shall have the "entire executive power." Regarding the Government contribution to the Municipality it has been stated very clearly, I think, by the Queen's Advocate, that taxes cannot be imposed upon the property of Government, and that we must fall back upon a contribution to aid the municipal expenses. The different points, however, will be brought out in the course of the discussion of clauses, and if it is the Council's wish we will go on with the second reading of the bill.

The Honourable Mr. TUCKER—Sir,—Personally I agree with the Honourable Mr. Forbes that there should now be some delay before we proceed to the consideration of this bill in detail. Ever since I have sat in this Council, I have always held that the public should be allowed full opportunity to express their views on the principles or details of any measure under the consideration of the Council. As we know that some representations are in course of preparation, we might, I think, adjourn for ten days to allow of these representations being made.

The Honourable Colonel KENNEDY—If this were a new bill that course might be very proper, but practically it is not a new bill, having been substantially before the public since April last. I cannot see to what good object further delay would tend—in fact, I consider that more delay would only give rise to further objections and impede business. There are three or four parties expressing interest in this bill—there are some in favour of

the principle of representation, some against it, some with one view and some another. These will all have objections to make, and if we go on listening to this sort of thing month after month, I cannot see how we shall possibly get to an end at all. Therefore, as this bill is merely a concession upon the previous one, and is in all its main provisions the same, I think we should have no more delay in proceeding with it. As His Excellency has just said, we should be wasting a whole session by further delay.

The Honourable Mr. TUCKER remarked that if an adjournment were made till Saturday week, there would be no reason for not finishing the bill before the Council left Puna.

Colonel Kennedy moves that the Bombay Municipal Bill be considered in detail.

The Honourable Colonel KENNEDY moved that the bill be now considered in detail.

The Honourable Mr. BYTHELL mentioned that the members of the Bench of Justices had been very anxious to hold a meeting a week before, so that their opinions might have been given to the Council on the day that was fixed for its meeting, but it had been found that legally a meeting of the Bench could not be held sooner than on Monday, and unless the Council were now to grant a short delay the opinions of a large number of citizens could not be obtained upon the bill in time to be of any use.

The Honourable Mr. FORBES proposed that the discussion of the bill be postponed until Saturday week.

The Honourable Mr. ROGERS asked His Excellency the President if it would be in the Council's power to go back upon clauses after they had been once considered and passed.

His Excellency the PRESIDENT said he had had great experience of this work during the last twenty years, and he had never heard of any objection being taken to this course.

The Honourable Mr. TUCKER thought if this mode of procedure were adopted, the discussion would be interminable like Penelope's web. The course suggested was opposed to the ordinary practice of this Council.

The Honourable Colonel KENNEDY said that there were then sitting at the Council men who were excellent representatives of the Bombay public, and he thought the bill might be gone on with at once.

His Excellency the PRESIDENT—Already there is great divergence of opinion, and I do not see what advantage delay would result in.

The Honourable Mr. TUCKER—The decision rests with your Excellency as to whether or not we shall proceed.

His Excellency the PRESIDENT—Then I am in favour of going on now.

Bill read a second time and considered in detail.

The bill was then read a second time, and the consideration of clauses was commenced.

His Excellency the PRESIDENT moved the postponement of consideration of the preamble and the first three sections.

Agreed to.

The Honourable Mr. TUCKER moved that in line 18 of Section four, "fifty" be substituted for "one hundred."

The Honourable Mr. FORBES—I should suggest that the figure be reduced to twenty-five. There are persons who pay a small amount of taxation, yet it is desirable to have them in the Corporation.

The Honourable Mr. TUCKER's motion was agreed to.

The Honourable Mr. NARAYAN VASUDEVJEE drew attention to line 20, and said he wished the words "supplementary rate" to be omitted, because he considered it was inadvisable at that early stage of the bill to make reference to a supplementary rate.

The Honourable Mr. TUCKER thought the section had better be left alone on the understanding that it should be reconsidered if the supplementary rate were rejected. Under the practice which had always obtained in this Council, it was competent to go back to any section if that section was affected by any subsequent alteration in another section.

The Honourable Mr. BYTHELL objected to the qualification for members of the Corporation being limited to a payment of not less than fifty rupees for house rate and police and lighting rate, because this might exclude many bachelors who shared bungalows which were taken in one person's name, or lived in clubs or on the premises of their employers. He thought the wheel tax ought also to be made a qualification, and he considered that if this were not agreed to at least one-third of the whole European community would be excluded.

The Honourable Mr. TUCKER said the point had not been overlooked, but that as the wheel tax fluctuated from quarter to quarter there would be difficulty in ascertaining the precise amount of contribution during the year. This caused the Select Committee not to include this tax in the qualification. The addition of it also would render persons of the class of cab drivers or buggywallahs eligible for election.

The Honourable Mr. BYTHELL proposed that after the words "lighting rates," "and the tax on carriages and animals" should be added.

The Council divided on the Hon'ble Mr. Bythell's amendment:—

Ayes.—2

The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

Noes.—8

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the Acting ADVOCATE-GENERAL.
The Honourable MUNGULDASS NATHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.

The amendment was therefore lost.

The Honourable Mr. TUCKER moved that in line 6 of Section five after "December in" and down to "and sixteen," the following words should be added, "the year 1872, and thereafter eight shall be so nominated in the last ten days of the month of December in each subsequent year." Also that in the last line after "in" the following words should be added, "the year 1872, and thereafter eight shall be elected between the same dates in each subsequent year," and that "each year" should be omitted.

The alterations were adopted, and Section five stood part of the bill.

His Excellency the PRESIDENT observed that in line 11 of Section six the word "taxes" should be deleted, because there were no taxes specified in Section four.

The alteration was agreed to, and the section stood part of the bill.

His Excellency the PRESIDENT observed that in Section 7 there were no provisions for striking a voter off the list should he be found to have been put on there by mistake or wrong means.

The Honourable the ADVOCATE-GENERAL moved the insertion of the following sentence between "notice" and "any" in the seventeenth line:—"The said Commissioner shall be at liberty at any time to revise the said list for the purpose of removing therefrom the name of any person not duly qualified and erroneously entered therein."

His Excellency the PRESIDENT remarked that it should be open to any person qualified to vote at any election held under this Act to object to any person whose name may have been improperly placed on the list.

The Honourable Mr. TUCKER suggested that this might give a stimulus to certain rate-payers to make complaints.

His Excellency the PRESIDENT said he observed that the Commissioner had full power to act, and the section might be accepted with the Honourable the Advocate General's amendment.

Section seven, as amended, stood part of the bill.

HIS Excellency the PRESIDENT asked, with reference to Section eight, if it would be desirable to have a general election yearly.

The Honourable Mr. TUCKER believed that annual elections would give the ratepayers a better check upon their representatives, while a year would be sufficient to show what any one of the elected was capable of doing.

Section eight stood part of the bill.

His Excellency the PRESIDENT, referring to Section nine, asked if it was really intended that a man was never to get into the Corporation if he had been once in prison for six months?

The Honourable Mr. MUNGULDASS said it had been pointed out to him that in the Mofussil a man for losing his temper and whipping any one was liable to imprisonment. In such cases, this section might work very harshly.

The Honourable the Acting ADVOCATE-GENERAL said he would be sorry to see this section stand as it did, because it looked like a very inconsiderate piece of legislation. It showed great want of faith in the taste of the people of Bombay, who would never, it might be supposed, seek to be represented by a man who had distinguished himself in the custody of the jailor either for a long or a short period. Few men even who had passed under the criminal law would have the hardihood to go among the other members of the Corporation, and it would be an extraordinary thing if, supposing such a man did get into the Corporation, he were not cold-shouldered by the other members in a way that would make him refrain from taking his seat among them. It would be time enough to insert such a section when any thing occurred that was likely to shock the Corporation, and it at the same time felt powerless to check the scandal. He had spoken to several people in Bombay about this section and they had said they never saw such a

section in a bill in their life. He thought the good sense of the Corporation might safely be trusted to, and he begged to move that the words "or convicted of any offence punishable with a longer period of imprisonment than six months," should be deleted.

The Honourable Colonel KENNEDY said the real point had been scarcely touched. The section appeared to him to allude to a man who was convicted during the term of his appointment, not before he was elected.

The Honourable Mr. TUCKER said the Honourable the Advocate-General had not used convincing arguments in this particular matter, and while he had admitted that it would be disgraceful to admit a criminal into the Corporation, yet he objected to a rule which would keep him out. It was known that the opinions of persons in this country as to imprisonment were rather different from opinions on the same subject in Europe, because in the eyes of many persons imprisonment carried little degradation with it. He thought that no good reason for expunging this part of the section had been shown.

The Honourable Mr. MUNGALDASS said he should vote for the amendment, because looking to the law of the country, which rendered a man liable to two years' imprisonment simply for defamation, he considered the section as it stood might work harshly at times.

The Honourable Mr. BYTHELL supported the amendment of the Honourable the Acting Advocate-General, and mentioned the case of a man at Tanna who was lately fined Rs. 500 and sentenced to six months' imprisonment simply for shooting a pariah dog. This was an instance of the exceeding smallness of the offence for which a man might be punished.

The Honourable Mr. TUCKER said that the punishment in the case mentioned by the Honourable Mr. Bythell was, he believed, only three months.

The Honourable Mr. BYTHELL remarked that he was speaking from memory and possibly the punishment was only three months. If the man had however shot two dogs he might have been sentenced to six months' imprisonment.

The Honourable Mr. TUCKER said he would uphold the section as it stood.

The Council divided on the Honourable the Advocate-General's amendment:—

Ayes—6.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable the Acting ADVOCATE-GENERAL.
The Honourable MUNGULDASS NATHOOBHOY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—4.

The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.

—Carried.

His Excellency the PRESIDENT proposed that after "consecutively" in the thirteenth line these words should be added "nor shall any person continue to be a member of the said Corporation who shall be sentenced to imprisonment for six months; or longer;" also that in line sixteen "forthwith" should be placed between "be" and "nominated."

The Council divided on His Excellency the President's amendment:—

Ayes—8.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
 The Honourable H. P. ST. G. TUCKER.
 The Honourable A. ROGERS.
 The Honourable MUNGULDASS NATHOOBHOY.
 The Honourable Colonel M. K. KENNEDY.
 The Honourable E. W. RAVENSCROFT.
 The Honourable NARAYAN VASUDEVJEE.
 The Honourable J. K. BYTHELL.

Noes—2.

The Honourable the Acting ADVOCATE-GENERAL.
 The Honourable J. A. FORBES.

—*Carried.*

The Honourable Mr. TUCKER moved, that at the end of Section ten the following words should be added, "in case of the death, resignation, or disqualification, of the chairman elected by the Corporation, it shall be lawful for the Town Council to convene a meeting of the Corporation for the purpose of electing a chairman for the residue of the term for which the chairman so dead, resigned, or disqualified, was originally elected."

The amendment was agreed to, and Section ten stands part of the Bill.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,
 Acting Under-Secretary to Government.

Pina, 11th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "THE INDIAN COUNCIL'S ACT, 1861."

The Council met at Púna on Thursday, the 12th September 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail.

The Council proceeded with the consideration of the Bombay Municipal Bill in detail.

Section eleven was agreed to and stands part of the Bill.

The Honourable Mr. TUCKER proposed the following addition to Section twelve :—“ In case of the absence from the city of Bombay of the Chairman appointed by the Corporation, the power of calling meetings of the Corporation shall be vested in the Town Council.” The necessity for this addition had been exemplified some time ago, when a gentleman who was Chairman of the Justices, went home without resigning his office, and there was no power left to convene a meeting of Justices to elect a new Chairman.

The amendment was agreed to, and Section twelve as amended stands part of the Bill.

His Excellency the PRESIDENT moved that lines one and two of Section thirteen should read, “ Except at the meeting to be held under the provisions of Section 35,” &c.

The amendment was agreed to, and Section thirteen as amended stands part of the Bill.

The Honourable Mr. NARAYAN thought that the number fixed for the formation of a quorum mentioned in Section fourteen was too great. Several times during recent meetings of the Bench of Justices proceedings had had to be postponed for want of a quorum of twenty-five, and he now moved that the word “ twenty ” in line five of Section fourteen be omitted, and the word “ fifteen ” substituted; also that the word “ thirty ” in line seven of the same section be omitted and the word “ twenty ” inserted in its stead.

The Honourable Mr. TUCKER said that it was to be hoped that the check that would be put upon members of the Corporation by the electors would make that body much more regular in attendance in future than the Justices had been, and he could not see any good reason for reducing the numbers stated in the section. It was desirable that as full an assembly as possible should be obtained at the quarterly and special general meetings.

The Honourable the ACTING ADVOCATE-GENERAL agreed with the Honourable Mr. TUCKER.

The Honourable Mr. RAVENSCROFT said the present number had been fixed upon only after very careful consideration, and he did not think it should be altered

The Honourable Mr. NARAYAN withdrew his motion.

His Excellency the PRESIDENT, referring to the end of the section, asked if it was really meant that the business left unfinished at a meeting should be finished by an adjourned meeting, quorum or no quorum present?

The Honourable Mr. TUCKER replied affirmatively, because he said the members of the Corporation would have due notice and every opportunity of being present if they choose.

Sections fourteen to sixteen were agreed to, and stand part of the Bill.

The Honourable Mr. TUCKER moved that in Section seventeen, line seven should read—
“manner as shall be provided in the rules to be framed under Section eighteen of this Act.”

The amendment was agreed to, and Section seventeen as amended stands part of the Bill.

The Honourable Mr. MUNGULDASS moved that the words “Governor in Council” in line first of Section eighteen, be omitted and the word “Corporation” be inserted in its stead. He considered that if the Legislative Council were about to invest the Corporation with certain large powers the members of the Corporation might be allowed to frame their own rules. The Honourable Mr. Forbes had pointed out the want of trust which Government displayed towards the new body, and this section, as it stood, supported the honourable gentleman’s views.

The Honourable Mr. TUCKER said the Honourable Mr. Munguldass was claiming for the Corporation a power which had not been granted to the Legislative Council of Bombay. The new Corporation would be an untried body, and might be composed of a large number of members who had no experience of the rules necessary for the regulation of discussions in public assemblies. It would have no traditions or past practice to refer to as a guide, and it would certainly seem desirable that rules should be framed for it in the first instance by Government, which might afterwards be modified by the Corporation with the approval of Government. Experience had shown that the rules which were supposed to govern the debates of the Bench of Justices were constantly fluctuating,—an illustration of which was that at one time the reading of written speeches was permitted, while at another it was prohibited. If the framing and altering of the rules were left entirely to the discretion of the Corporation the existing unsatisfactory and oscillating system would be continued.

The Honourable Mr. FORBES said that he had just learned from an authority on these subjects that all local bodies of the same description as the Corporation were allowed in England to frame their own rules. He thought that no fixed rule could be applied to a man reading his speech, because whether a person should be allowed to do so depended upon the circumstances of the occasion or the character of the man, it often happening that while some men speaking from paper would be strongly objected to, there were other members whom a Corporation might very gladly allow to read his speech.

The Honourable Mr. TUCKER said his honourable friend on his left had mentioned England as an instance of what might be done, but it should not be forgotten that India was not England. In England public meetings were regulated either by the well-known

practice of the House of Commons or by habits which had continued for many generations, but in India there were no traditions of this kind, and it was best to give the Corporation a fair start by framing certain rules for their guidance and reserving to them a power of alteration. The distrust by Government of the people had been largely spoken of, but far more distrust seemed to be entertained by certain honourable members regarding the Government.

The Honourable Mr. MUNGULDASS said the Bench of Justices had framed their own rules for the conduct of their meetings for the last twenty-five years.

The Honourable Mr. TUCKER said he believed that there were no written rules, but that the mode of proceeding depended on the discretion of the chairman and the vote of each particular meeting.

His Excellency the PRESIDENT read the rule which regulated the proceedings of the Council of the Governor of Bombay, which gave to the Government of India power to disallow any alteration in the rules made by the local Council, and said that something upon the same principle might be added to the present section, and he moved that lines nine and ten should be deleted and the following words added after "Corporation"—
 "and that any alteration of such rules shall be forthwith reported to Government who shall have power to disallow the same; and after receipt by the Chairman of the Corporation of a notice of such disallowance, such disallowance shall render the said alteration of no effect."

His Excellency the PRESIDENT'S amendment was carried, and Section eighteen as amended stands part of the Bill.

Section nineteen was agreed to, and stands part of the Bill.

The Honourable Mr. MUNGULDASS moved that after the word "appointed" in line ten of Section 20, the words "the Town Council shall appoint a Chairman" should be inserted, and that these words be struck out:—"Government shall appoint the Chairman of the Town Council." The honourable member said that as the Corporation were allowed to elect their own Chairman, he did not see any reason why the Town Council might not be allowed to do the same; that all public bodies elected their own Chairman; and that it was necessary for the proper and safe conduct of affairs that the chairman should at least be a man who had the confidence of the majority of the Town Council. If Government appointed a Chairman who had little of the confidence of the Town Council, the circumstance would create ill-feeling amongst themselves, and instead of their performing their duty energetically they would be apt to be continually squabbling.

The Honourable Mr. TUCKER said it was desirable that the Town Council should be an efficient board of directors and have a man of independent character and approved business habits at their head, and he considered it more likely that these qualifications would be secured if the appointment were left to Government than if it were left to the Town Council or the Corporation. The Town Council might be indolent or exhibit a disposition to neglect their important duties, and it was proper and expedient that Government should be assured that there was a man of the requisite qualifications at the head of the Town Council. He believed it would impair the efficiency of the machinery created by this Bill for the better government of the city if this provision were omitted, as it seemed a desirable distribution of power that was likely to work for the best interests of all.

The Honourable Mr. MUNGULDASS said he understood the new Bill was intended to give more power to the Corporation, while actually it was curtailing the power which the present Corporation of the Justices possessed.

The Council divided on the Honourable Mr. Munguldass' amendment:—

<i>Ayes</i> —3.	<i>Noes</i> —7.
The Honourable the ACTING ADVOCATE-GENERAL.	His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable H. P. ST. G. TUCKER.
The Honourable J. A. FORBES.	The Honourable A. ROGERS.
	The Honourable Colonel M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable J. K. BYTHELL.
	The Honourable NARAYAN VASUDEVJEE.

The amendment was therefore lost.

The Honourable Mr. BYTHELL proposed after the word "appointed" the following words:—"that the Town Council shall elect their own Chairman, and such election shall be subject to the confirmation of Government." He thought it extremely unlikely that the Town Council would elect an unsuitable man for the office, and he considered that Government should be satisfied with the power of vetoing the appointment. Were the Town Council not to elect their Chairman he would be looked upon with distrust by the other members, and this would not tend to the harmonious progress of business. All that Government could wish in the matter would be to prevent an unfit man from being appointed, and by the alteration which he now proposed Government would have that power, while ill-feeling would be avoided.

The Honourable Colonel KENNEDY said there was something more than Mr. Bythell mentioned. Government was desirous of seeing the best man appointed.

The Honourable Mr. TUCKER said the objection he had to the amendment was that it would create a source of contention between the Town Council and Government.

The Honourable Mr. FORBES said that if Government were to take such a direct part in the Municipal affairs as to appoint all the Chief Officers, then the Corporation and Town Council became a Government department.

The Honourable Mr. TUCKER said there was only one Municipal Executive Officer mentioned in the Bill whose appointment was retained by Government, and he was the Municipal Commissioner.

The Honourable Mr. FORBES said that the Chairman of the Town Council was surely a chief officer. He considered that if Government intended to give the citizens anything like a *carte blanche* to manage their own affairs, the latter part of this Section should be withdrawn.

The Honourable Mr. BYTHELL thought with the honourable member, Mr. Munguldass, that there was really great danger of the Town Council, if their Chairman were to be appointed by Government, working to some extent in opposition to him. As regarded the remark of the Honourable Colonel Kennedy about the object of Government being to get the best man, he thought that really the Town Council were just as likely to hit upon the best man as Government.

The Honourable Mr. RAVENSCROFT—You might as well say that the Municipal Commissioner should not be appointed by Government.

The Honourable Mr. FORBES—We have no objection to that either.

The Honourable Mr. BYTHELL—There is no executive power in the hands of the Chairman.

The Honourable Mr. MUNGULDASS could not conceive what power the Chairman could exercise unless he possessed the confidence of the Town Council.

The Honourable Colonel KENNEDY thought that a Chairman appointed by Government would have more prestige, and business would therefore go on smoother under him.

The Honourable Mr. MUNGULDASS remarked that formerly the Municipal Commissioner possessed the prestige of being appointed by Government, and yet the result was not satisfactory.

The Honourable Mr. TUCKER said one consideration affecting the independence of the Chairman had not been touched upon. If the Chairman were elected by the Town Council he might have a tendency to be subservient to them rather than to guide and direct them.

His Excellency the PRESIDENT thought this discussion was due mainly to the fatherly care that Government wished to exercise over the new body, and he thought that perhaps, so far as Government was concerned, the point was not worth holding out upon.

The Honourable the ACTING ADVOCATE-GENERAL said there was really no practical difference between the amendment and the section as it stood, and although he paid great deference to the objections taken to the amendment by the Honourable Mr. Tucker, he thought this was one of those things on which Government might advantageously yield.

The Honourable Mr. NARAYAN differed from the Honourable Advocate-General and thought there was a practical difference. If the Honourable Mr. Bythell's amendment were carried the Town Council would have the power of appointing a Chairman, and only in the case of the appointment being a bad one would Government have the power to exercise its right of veto.

The Council divided on the Honourable Mr. BYTHELL's amendment:—

<i>Ayes—4.</i>	<i>Noes—6.</i>
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable J. A. FORBES.	The Honourable H. P. ST. G. TUCKER.
The Honourable NARAYAN VASUDEVJEE,	The Honourable A. ROGERS.
The Honourable J. K. BYTHELL.	The Honourable the ACTING ADVOCATE-GENERAL.
	The Honourable Colonel M. K. KENNEDY.
	The Honourable E. W. RAVENSCKOFT.

The amendment was therefore lost.

Section twenty was then agreed to, and stands part of the Bill.

The Honourable Mr. TUCKER said there was some ambiguity in Section twenty-one. He proposed that in the tenth line, between "Council" and "occasioned," the words "or in the office of Chairman thereof" should be inserted; that in line fifteen "or appointed" should be substituted for "or elected," and that in line sixteen "elected" should be placed between "or" and "by."

The amendments were agreed to, and Section twenty-one as amended stands part of the Bill.

The Honourable Mr. FORBES drew attention to the large powers given to Government under Section twenty-two. If three members assisted the Chairman, he and the Municipal Commissioner could do anything they chose. This showed the enormous power Government was vesting in its nominees.

The Honourable Mr. TUCKER—My honourable friend is now suggesting a case in which the Government and its nominees would be actually conspiring against the interest of the Municipality.

The Honourable Mr. FORBES— I do not mean that. I mean to say that if Government thought it was necessary to carry out any particular work in Bombay it might do so. Take for instance the Sonapore Drain. If Government wished that work done, and the Municipal Commissioner wished to carry out the wishes of Government, and the Chairman could manage to get two members on his side, then Government could virtually commence operations regarding the drain in spite of the whole of the members of the Town Council. I think that as the Chairman is appointed by Government, and is, therefore, independent of the rest of the Corporation, it might be as well not to allow him to use the seal of the Corporation without a vote of the Town Council. This practice is very common in public companies.

The Honourable Mr. TUCKER—This section is merely to provide that the Chairman shall never use the seal secretly or without the knowledge of the Town Council, because three members of the Council, no matter who they may be, must be present when the seal is used.

The Section was agreed to, and stands part of the Bill.

His Excellency the PRESIDENT referring to Section twenty-three, asked if the Town Council could have the right to vest all their powers in the sub-committee. The words used in the Section appeared to him to be very broad.

The Honourable Mr. TUCKER said that of course the Town Council could not divest themselves of all their functions, and it might, in his opinion, be safely left to them to select what functions they would delegate to a sub-committee of their body.

Sections twenty-three and twenty-four were agreed to, and stand part of the Bill.

The Honourable Mr. FORBES thought that five members present would be a sufficient quorum for the Town Council instead of six, as mentioned in Section twenty-five.

Section twenty-five was passed, and stands part of the Bill.

The Honourable Mr. FORBES, referring to Section twenty-six, thought that the first line might run, "The Town Council may appoint a Secretary," instead of "The Town Council shall." He could not see why the town should be saddled with a burden of Rs. 500 if the appointment of Secretary were not absolutely necessary. At first starting he thought it probable that a Secretary might be dispensed with, and some one in the Municipal Office holding another appointment might be found to act as Secretary either permanently or for a few months.

The Honourable Mr. TUCKER remarked that the Honourable Mr. FORBES had expressed great alarm at the powers to be given to the Municipal Commissioner, but here he was now proposing that a nominee or dependent of the Municipal Commissioner should be introduced as Secretary to the Town Council, notwithstanding that it depended a great deal

upon the Secretary whether the pressure of effective control over the acts of the Commissioner should be maintained. All the other officers of the Municipality were to be appointed by the Commissioner, and Government had been able to devise no better plan for the appointment of Secretary than that he should be appointed by the Town Council.

The Honourable Mr. FORBES thought it would be best to leave it to the Town Council to decide whether there should be a Secretary.

The Honourable Mr. TUCKER said that it was intended, in making a Town Council, to make it an efficient body, which it could not be without a Secretary.

His Excellency the PRESIDENT said it was obvious that all Mr. FORBES desired was to get some one to do the Secretary's work at a cheaper rate than Rs. 500.

The Honourable Mr. FORBES said that to a certain extent this was so, because he did not think the Town Council should be compelled to make a certain arrangement if a cheaper one could be made.

The Honourable Mr. TUCKER said the duties of Secretary must be onerous. Accounts had to be examined daily, and this could scarcely be done by a man holding other appointments.

Sections twenty-six and twenty-seven were passed and stand part of the Bill.

Section twenty-eight was passed and stood part of the Bill after the words, "the Bank which is now or may hereafter be," were inserted in lines eight and nine instead of "of Bombay or such other Bank as."

The Honourable the ACTING ADVOCATE-GENERAL proposed in Section twenty-nine, line eleven, the following alteration :—"The said Bank," instead of "of Bombay or other Bank."

The amendment was agreed to.

His Excellency the PRESIDENT remarked that as this section stood the people mentioned might sign cheques for any purpose. The whole executive power and responsibility was vested in the Municipal Commissioner, and he thought there ought to be some connection between what the Commissioner did and the payment by these individuals.

The Honourable Mr. TUCKER said that the present practice was that money was paid into the Bank to the account of the Municipal Fund, and that the Municipal Commissioner and the Controller had to sign cheques. In future he considered that the Municipal Commissioner should sign them, as well as two members of the Town Council, and the Secretary of the Town Council countersign them. He approved, therefore, of the alteration which His Excellency suggested.

The Honourable Mr. RAVENS-CROFT said that he thought the Municipal Commissioner's signature should be necessary to a cheque as well as the signature of the persons mentioned in the section.

His Excellency the President considered that the cheques should be signed by the Municipal Commissioner, and proposed that in line six, between "by" and "two" the words "the Municipal Commissioner and" by should be inserted.

The amendment was agreed to, and Section twenty-nine, as amended, stands part of the Bill.

Section thirty was agreed to, and stands part of the Bill.

The Honourable Mr. TUCKER, regarding Section thirty-one, read extracts from a letter which he had received from Mr. Peile, who considered it would be derogatory to the Municipal Commissioner to be compelled to appear before the auditors with books or documents, and sign a declaration with respect to the same.

After some discussion,

The Honourable Mr. TUCKER said he did not think it was expedient to exempt the Municipal Commissioner from the operation of this section. It was necessary that the auditors should have power to compel any person to appear before them who could give them the information they required, and he did not think that it would lessen the influence of the Municipal Commissioner or any other officer to do what was necessary and right in a matter of this description.

His Excellency the PRESIDENT thought that the auditors were not likely to exercise their powers unreasonably. He should like to know, however, who was to be made answerable for the Municipal funds. So far as he could see, the Municipal Commissioner gave no security.

The Honourable Mr. TUCKER said that it was not thought necessary to exact security from the Municipal Commissioner, who was a well-paid official, and that the requirement of any real security would operate as a reduction of salary. The Select Committee had considered that point and did not recommend the requirement of security.

Sections thirty-one to thirty-five were passed, and stand part of the Bill.

The Honourable Mr. TUCKER said, regarding Section thirty-six, that Mr. Peile wished that the power of the Corporation should be limited to the passing or rejecting the Budget as a whole, and that that body should not be empowered to finally reject any items.

This suggestion was not approved of.

Section thirty-seven was passed, and stands part of the Bill.

In line fifteen of Section thirty-eight "charges" was altered to "alterations;" and in line sixteen "or special" were inserted between "Quarterly" and "General." The section was then passed as amended.

The Honourable Mr. TUCKER proposed that after "Corporation" and before "from" in Section thirty-nine, the words "on the recommendation of the Town Council" should be added.

The addition was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. MUNGULDASS, in moving that the Section 40 be omitted, said that as there had already been a long discussion on this subject, he would only briefly repeat that this section and Section 41 were most objectionable. They sapped the very root of the independence and self-government of the Corporation and the Town Council. If the Corporation did not do their duty, the Government might move the High Court by a writ of mandamus to compel them to do their duty, and then the Municipality would have an opportunity of defending themselves, while no one could question the decision of the Court. Such clauses did not exist in the existing law, and he would like to know the reason why they were required now. While the people were clamouring for more power in the municipal management, the Honourable Council were depriving them of even such independence as they possessed by the present Act.

The Honourable Mr. TUCKER—In the past Government have felt the want of such a section. Take for instance the late dispute regarding the payment of the Police.

The Honourable Mr. MUNGULDASS—In that dispute I believe the Justices were right, although out of respect for Government they gave up their right. I would rather—and this is the feeling of all the independent and intelligent portion of the inhabitants of Bombay—see the whole Municipality conducted entirely under Government and their Officers than have the Municipality working under a section like this.

The Honourable Mr. ROGERS thought the section was too sweeping in its powers, but suggested that the section should stand in the meantime, in order to admit of alteration on subsequent consideration of the other section.

The Honourable Mr. NARAYAN—It would be better to define what provisions of this Act Government wish to enforce. I would suggest that “sanitary,” or some such word should be used, because it would only be in the event of the Corporation taking any measures that would injuriously affect the health of the town that Government could seek to interfere.

The Honourable Mr. TUCKER—So far as I know, the duties imposed compulsorily on the Corporation at present are confined to the maintenance of the Police and the protection of the city from fire, and to the purposes specified in Section 137 of the Bill. The introduction of a general term such as the Honourable Mr. NARAYAN has suggested would give a wider scope to the section than it now possesses.

The Honourable Mr. NARAYAN—I think that the words used here are very broad. There are certain sections in this Act which impose upon the Corporation the duty of providing public baths, and under this present section Government might make the erection of these baths obligatory upon the town.

The Honourable Mr. TUCKER—It would not be done unless there were urgent necessity for the baths, but I have no wish to make that duty compulsory.

His Excellency the PRESIDENT—Government's power might be reserved for cases in which the health and security of the town might be endangered.

The Honourable Mr. TUCKER—The substitution of these terms for the language of the present section would increase the latitude of action reserved to Government, and would be open to the objection of vagueness. I have no objection to any alteration of the section which will make the objects, to effect which it may be put in motion, more clear and defined.

The Honourable the ACTING ADVOCATE-GENERAL—The Honourable Mr. Munguldass says that there is such a summary power vested in the Government under this Bill that he would rather see the Municipality managed entirely by Government at once. But it is one thing to have a section with a summary power, and quite another to establish what that summary power shall apply to. I have already said in Committee that I think the power of Government should be confined to sanitary arrangements. I am in favour of leaving the decision in any matter connected with the proper sanitation of the town in the hands of the Executive Government, because a judicial tribunal like the High Court could not travel into the consideration of many matters which the Executive Government could, since, if any matter went before a Judge, he would be bound not to go beyond the four corners of this Bill. I am certain that, speaking as a ratepayer myself, on a question of this kind I would,

much rather entrust it to be dealt with by the Government than by a judicial tribunal such as the High Court with all its attendant delays. Yesterday I alluded to a precedent which was to be found in Section 2 of Act. II. of 1862, and in looking over the proceedings of this Council when this Act was under consideration, I learn that the present Chief Justice, who was then Advocate-General, strongly supported the giving to Government of this summary power. That Act stated that the Governor in Council may issue an order to the local Commissioners to execute sanitary works, and if the order be not obeyed within a week, the Governor in Council may order the Police or Magistrate to execute the same, the expenses to be recovered by suit.

The Honourable Mr. MUNGULDASS, in reply to the remarks of the Honourable the Acting Advocate-General, said that his Excellency the Governor in Council might be certainly a better judge in this matter than a single Judge of the High Court if he and his Council were to sit as the open Court of Justice. But while in the High Court the different parties would have an opportunity of stating their respective cases in public, the Governor in Council might be in Púna or at Mahableswur, and merely on private complaint Government might enforce these sections without giving an opportunity to the Corporation to defend themselves. The Honourable Mr. Munguldass said that he was only expressing the opinion of the intelligent European and Native inhabitants of Bombay, when he said that they would rather see the Municipality conducted by Government itself than accept municipal government in name only. In reference to the remarks of the Honourable the Acting Advocate-General about the power of interference possessed by the Government in the Mofussil Municipalities, he would only say that there could not be a comparison between the intelligence of the educated European and Native inhabitants of Bombay and that of the bulk of the inhabitants of the Mofussil.

The Honourable Mr. BYTHELL—I said yesterday that I thought Government ought to retain very full power to interfere with the Municipality when it went astray or neglected its duty. But I think that the executive power placed in the hands of the Commissioner by this Bill ought to be in the hands of the Town Council, and that he ought to be at their service in doing executive work. I shall vote for this section being retained, because I think that Government ought to have this power, subject to some such provision as I have indicated.

The Council divided on the Honourable Mr. MUNGULDASS' ammendment :—

Ayes—2.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.

Ayes—8.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSBOFT.
The Honourable J. K. BYTHELL.
The Honourable NARAYAN VASUDEVJEE.

The amendment was therefore lost.

The Honourable Colonel KENNEDY thought that the section might be considered as the Bill was proceeded with. He considered that the words "enforcing the provisions of this or any other Act" were very wide indeed.

His Excellency the PRESIDENT—As the section now stands a Government with extreme views upon sanitary matters might certainly compel the erection of expensive works and other things. Under this section and Sections 136 and 137, I think it is perfectly open for any person to come to the Governor in Council and complain that a lunatic asylum, a town hall, or some other building is wanted, and that the Corporation will not build it; and if the Governor happened to have extreme views he could order it to be done, whether the Municipality wished it or not.

The Honourable Mr. TUCKER—If we agree upon the principle that there are certain things in this Act which it shall be the duty of the Corporation to do, not merely that it shall be lawful for them to do, then we might go through the remaining sections and take care as we proceed that we shall alter the language used, so that Government's power of intervention shall extend only to what we may declare to be a duty.

The Honourable Mr. FORBES—I think that would be reasonable, but I should like to see some limit put upon the expenditure which Government may compel the Corporation to make. Government might order the carrying out of a drainage scheme which would double or treble the taxation, and I think that this would be exceedingly undesirable. We have already had an instance of this in the construction of the Vehar Lake. Mr. Westropp, who was Advocate-General in 1862, gave it as his opinion, as I have said, that the town was not liable for any portion of the debt contracted in consequence of these works beyond twenty-five lakhs, the sum which the Municipality agreed to contribute. He also said that it was only by Act XXV. that Government was able to impose the additional contributions. It has never, I think, been shown to be a just proceeding on the part of Government, and the surplus expenditure is well known to have been incurred by the mismanagement of Government servants.

The Honourable Colonel KENNEDY—No; I do not think so.

The Honourable Mr. FORBES—I beg your pardon. The whole work was done under Government control.

The Honourable Mr. TUCKER—So far as my memory serves me I may state that more than one Governor of Bombay has desired to relieve the Municipality of a portion of this debt.

The Honourable Mr. FORBES—I am very glad to hear that, but the contributions have been imposed, and it would have been better never to have imposed them.

His Excellency the PRESIDENT thought that the section should be passed now, leaving places blank for the insertion of the specific sections hereafter to which it was intended that it should refer.

The Honourable Mr. TUCKER had no objection to this course.

The section was then passed, subject to future revision in the manner indicated.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,
Acting Under Secretary to Government.

Puna, 12th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCIL'S ACT, 1861."

The Council met at Púna on Friday, the 13th September 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail. The Council proceeded with the consideration of the Bombay Municipal Bill in detail.

The Honourable Mr. TUCKER referred to Section forty-one, and said he thought some words might be inserted directing the bankers to pay the sums mentioned in the order and indemnifying them from responsibility to the Corporation on that account. He moved that in line twenty, "order" be substituted for "requisition," and that the following words be added to the section:—"and the said bankers shall forthwith pay the sums mentioned in such order, and such order shall be a sufficient discharge to the said bankers for the payment of the sums therein mentioned from all liability to the said Corporation."

The section as amended was agreed to, and stands part of the Bill.

The Honourable Mr. FORBES—I have mentioned that I feel this Bill would be wrong in principle and unworkable in practice if it were carried out in its present condition. This section (forty-two) was one of those I had specially in view when I made that remark, and although the Honourable the Acting Advocate-General differed from me, yet I still think there is a wrong principle involved in this section, and that if it is agreed to it will be found to work extremely badly. I think that the whole experience of the working of the last Municipal Bill goes to show that one of the greatest possible mistakes which could be made was to allow a divided responsibility such as is contemplated here. We now have the full executive power lodged in the Municipal Commissioner, while the Town Council, if they consider themselves worthy of the position and confidence reposed in them, will feel bound to make their views heard in the management of the town, so that there will be continually occasions of disagreement and collision between the Town Council and the Commissioner. I should prefer to see it plainly declared whether the Town Council is to submit to the Commissioner or he to the Town Council, this being at present an open question.

Mr. Forbes' observations on Section 42. He wishes the Commissioner to be governed by the Town Council in matters of difference of opinion.

The Honourable Mr. TUCKER says that the Town Council will have the power of the purse, but as the Municipal Commissioner is to be the person invested with complete executive authority, I believe there will be a dead-lock ere long. The Town Council will not allow him to do as he thinks proper, because by long experience of municipal affairs this has been found to be a mistake, what a Commissioner does not having always turned out to be the most advantageous for the city. Those persons who will compose the Town Council will probably be men who have had experience of the working of the municipal constitution for the last seven years; whereas it is very probable that the Municipal Commissioner will be a man who has not had that experience in Bombay, and the result will tend to bring about the dead-lock I have referred to. For my own part I am far more disposed to put confidence in the Town Council than place it in any single officer, as to whose antecedents, as regards business and experience, we of course cannot form an opinion. I therefore suggest that some words should be introduced here to state distinctly that the Municipal Commissioner, though no doubt he is to be the executive officer, shall in all matters of difference of opinion be obliged to submit to the decision of the majority of the Town Council.

The Honourable Mr. RAVENSCROFT—Is that to extend to every matter of detail? because, if so, the whole time of the Council will be occupied in executive superintendence.

The Honourable Mr. FORBES—I presume that the Council will only interfere in cases where they think it necessary, and that in matters of dispute the opinion shall be deferred to by the Commissioner.

The Honourable Mr. RAVENSCROFT—I think it will be necessary to draw the line somewhere between the duties of the Town Council and the Commissioner.

The Honourable Mr. FORBES—Differences between the two are very likely to occur. For instance, on the point whether work is to be carried out by contract or departmentally there may be great differences, in which it would be necessary for some one to have the deciding voice.

The Honourable Mr. TUCKER—But as the Commissioner cannot make contracts without the approval of the Town Council, except for a very limited amount, the Town Council will have ample control over him in such matters.

The Honourable Mr. FORBES—The Town Council might say as regards any work—“We are convinced that this can only be done in a certain way, and you must do it in that way;” and the Commissioner might entertain a different opinion on this point, and do as he choosed. I think it must be admitted that, as this section stands, these two functionaries, the Town Council and the Commissioner, have not their relations towards each other sufficiently defined.

The Honourable Colonel KENNEDY—The Honourable Mr. Tucker has said that the Town Council and the Corporation have the power of the purse, so that the Municipal Commissioner is virtually their servant.

The Honourable Mr. RAVENSCROFT—I think the difficulty of the Honourable Mr. Forbes is chiefly regarding contracts, but he will see that in Section fifty-five all contracts entered into by the Municipal Commissioner on behalf of the Corporation shall be reported to the Town Council within a week after they have been made.

The Honourable Mr. FORBES—But supposing that the Municipal Commissioner says he thinks he can do the work better departmentally than by contract?

The Honourable Mr. TUCKER—Surely the Commissioner will be a better judge of that than the twelve Councillors. He is sure to be a practical man, while the character of the Council will be at the least doubtful.

His Excellency the PRESIDENT—Without wishing to interfere unduly with the discussion of this question, I think it is now time for me to point out that there is no definite proposition before the Council. No amendment has been proposed, and the motion now before the Council is that this section stands part of the Bill.

The Honourable Mr. FORBES—I beg to move that in the fourth line, and after the word “shall,” the words “subject to the control of the Town Council” be inserted.

The Honourable Mr. TUCKER—The honourable mover of this amendment has complained that the Bill as it stands will be unworkable in practice, and he proposes to remove the main spring which will keep the machinery in motion. Undoubtedly affairs will come to a dead-lock if the chief executive officer is to be fettered in the manner suggested by the honourable gentleman. In England vestries and other local boards have always shown a decided tendency to inaction, and it is to avoid the errors of a system which experience has pointed out that we have, following the principle upon which Act II. of 1865 was based, given to the Municipal Commissioner, within well defined limits in executive matters, the power to act on his own discretion alone. This is a cardinal principle of the Bill. Surely the Town Council will have sufficient influence over the Commissioner as it is left to them and to the Corporation to prescribe the works he is to do and to vote the supplies, and it may be properly left to his judgment to choose the best means of doing these works. I have no doubt that it is better to trust executive details to the will of one man than to the will of many, and I consider that a body constituted as this Town Council will be, if entrusted with the direct superintendence of all executive matters, would be a certain failure. There must be a division of labour, and it is necessary that in matters which do not directly affect the finances of the Corporation the Commissioner should be allowed sufficient freedom of action. If the Town Council keep within the limits assigned to them, there is no reason why the two authorities should not work harmoniously together. The possession of supreme financial control by the Council will enable them easily to check any undue extravagance on the part of the Commissioner.

The Honourable Mr. NARAYAN—We have already tried the experiment of entrusting executive power to boards. We used to have a board of conservancy, but it signally failed.

The Honourable Mr. BYTHELL—How was that board constituted?

The Honourable Mr. NARAYAN—The members were invested with full executive power and responsibility. They were appointed by the Justices, and I believe that there was an Act which authorized them to do certain things.

The Honourable Mr. TUCKER—This section contains a distinct indication of the opinion of the Legislature that the Commissioner shall not be interfered with by the Town Council in his executive work, because he is to be the person who is to be responsible for the work being properly done. This distinct division of labour will enable the public and Government to know who may be to blame when anything goes wrong. If you have a

joint and undefined responsibility in executive matters there will be no means of enforcing it, and affairs will assuredly come to a stand-still.

His Excellency the PRESIDENT—Practically the Municipal Commissioner gets his power in all the after-sections, but not a single power is indicated by these words.

The Honourable Mr. TUCKER—It is specified in the subsequent sections of the Bill that in certain matters of an executive character the Commissioner is not to proceed without the concurrence of the Town Council and Corporation. These are chiefly matters in which considerable expenditure will be involved.

The Honourable Mr. ROGERS.—In all the discussions which have taken place during the last few years with regard to the executive power being vested in the Municipal Commissioner, and especially with reference to the action taken by Mr. Crawford, complaints were not made about the work being badly done. All the complaints arose simply because the Commissioner had spent too much, and this will be prevented under this Act by the powers invested in the Town Council.

His Excellency the PRESIDENT—I think the words which the Honourable Mr. FORBES proposes to introduce by his amendment would paralyse the action of the whole Bill. I think if you add “as hereinafter provided” it would be preferable to the proposal by the honourable gentleman on my right.

The Honourable Colonel KENNEDY—I think it would be a great pity to import into this Bill any ambiguity about the position of the Municipal Commissioner.

The Honourable Mr. FORBES—There is already a great ambiguity as to the relative positions of the Town Council and the Municipal Commissioner, and it is this that I think my words will do away with.

The Honourable Mr. TUCKER—I see no ambiguity if the Bill be studied as a whole.

The Honourable Mr. FORBES—The Town Council have no power at all, excepting, as I said the other day, to sign cheques.

The Honourable Colonel KENNEDY—That is just the power which this Government has over its executive officers.

The Honourable Mr. RAVENSCROFT—My objection is that if the Municipal Commissioner is to be made a subordinate to the Town Council no good work will be got out of him.

The Honourable Mr. ROGERS—I concur to a certain extent with the honourable gentleman who has just spoken, because by the introduction of the words proposed by the Honourable Mr. Forbes the Municipal Commissioner will be made less independent, and his executive power impaired.

The Honourable the ACTING ADVOCATE-GENERAL—If Mr. Forbes' amendment is designed to take executive power from the Municipal Commissioner, that is an objection which applies to the principle of the Bill, and I do not think that he is at liberty to originate that objection at the present stage of the proceedings, because it ought to have been mentioned when the proposal for the second reading was before the Council. If this amendment be agreed to, it appears to me that the whole Bill must be remodelled. It is

one thing to say that the Commissioner shall be as this Bill defines him, and quite another to invest in the Town Council a power intended only for him. The words of the honourable gentleman will, if adopted, give a totally new aspect to the measure, and we shall be compelled to go back and frame a Bill from a point of view totally different from the present one. Certainly, after the labour bestowed upon the Bill, and the most earnest consideration that was given to the question of how it could best be worked by an executive officer independent within fixed limits, it seems to me that it would be better to let the section remain as it stands now.

The Honourable Mr. FORBES—I think that one of the evils of the Bill is that it is trying to guard everybody, and there is no simple principle running through it at all. It is very well to talk of its principle, but it consists of nothing else but a series of checks from beginning to end, and the probability is that if it is brought into force it will end in a muddle.

The Honourable Mr. TUCKER—It is amusing to see how the objections change. First we are told that too little is defined, and in the next minute we are told that there is too much defined.

The Honourable Mr. FORBES—I do not want to put the whole executive power in the hands of the Town Council. I think that an executive officer will be found to be very useful, but I think it should be stated whether he or the Town Council is to be supreme.

The Honourable Mr. TUCKER—Beyond the limits of independent action assigned to him he will be subordinate to the Town Council and the Corporation.

His Excellency the PRESIDENT—Any one who has had experience or acquaintance with the Government at home knows how much depends upon the Treasury. In the same manner there can be no doubt that under this Bill the Town Council will hold a position in some respects equivalent to that of the Lords of the Treasury in English administration. Under this Bill the Municipal Commissioner will to a great extent be dependent on the Town Council, because without their concurrence he will have no possible means of getting the money that he may want.

The Honourable Mr. FORBES—I would point out to your Excellency that if such a thing happened as that the Municipal Commissioner were refused funds for a particular purpose, Government would at once put Section forty into force, and the Commissioner would be authorized to carry out what he desired.

His Excellency the PRESIDENT—We have not yet got the length of settling to what matters Section forty shall apply, and I may say that I am quite prepared to make that section as limited as possible, as I certainly would not desire it to be the means of enabling the Municipal Commissioner to defy the Town Council and the Corporation.

The Honourable Mr. TUCKER—That was never intended by the framers of the Bill.

The Honourable Mr. BYTHELL—I expressed my opinion fully upon this point on the motion for the second reading of the Bill. I know from the expressions of opinion which has fallen from honourable members that the amendment is sure to be lost, but still I cannot help saying, in reply to some remarks that have been made, that if the system of divided responsibility is objectionable (as it has been said to be by the Honourable Mr. Tucker), the objection applies with great force to this Bill. I find

that in the debates on the second reading of the old Act II. of 1865, the arguments made use of then were pretty much the same as those we are hearing now ; that is to say, we were told that the Municipal Commissioner would be simply an executive officer controlled by the Justices, and that if the Justices passed a certain budget, of course the Commissioner would be kept from going beyond the fixed line. Now the principle of that Bill appears to me to be exactly the same as that of the Bill we are at present discussing. We are told that the Corporation, under this Bill, will have a greater amount of control than they had before, but nevertheless the principle of the two Bills is the same. Again, we have got the two authorities, and again we are told that the Corporation will control the Commissioner ; but I cannot believe that the system of divided authority, which has already failed, can by any possibility work better in future. The Municipal Commissioner, on receiving his appointment from Government, will of course study the Act and find out what he has authority to do : he will see that he may do as he chooses regarding the construction of streets, that he may decide what drainage shall be made, that he may cause household property to be demolished if he deem it to be necessary, may fill up any well or tank the existence of which he deems prejudicial to the public health, and may himself decide finally what shall be done in many equally important matters. These are large powers ; and I think, after considering what powers are given to Town Councils in England, that if the Corporation of Bombay are not fit to be trusted with the power of carrying out this Act and deputing their authority to the Municipal Commissioner as their servant, they are not fit to be trusted at all, and it would be much better to have the affairs of the city administered solely by Government. We have seen that the late Municipal Commissioner of Bombay was continually wrangling with the Justices as to where his powers began and theirs ended : this was in fact about the sum and substance of the discussion at many Bench meetings. Under this Act I believe the Town Council and the Municipal Commissioner will be continually quarrelling as to whether he or they shall interfere in, or decide upon, the course to be adopted in regard to the different questions that will be daily arising. I cannot see how any mismanagement would ensue if the Town Council were entrusted with complete executive power, because Government would surely keep a strict watch over their proceedings. With regard to the illustration made use of by the Honourable Mr. Tucker on Wednesday, I think that if the same principle were applied to the present case it would work very well indeed, because if the agent went beyond his orders the Town Council could pull him back, and keep him within the limits which they may desire. The city is now overwhelmed with debt, and if Government wish to see it sink beneath its burdens, they could not adopt a surer mode than striving to perpetuate a principle which has already wrought so disastrously. I cannot see what possible harm could result if the Town Council were invested with the power of administering this Act when Government itself will be invested with the full controlling power. I do think that if we pass this Bill in its present state the citizens will soon find themselves even in a worse condition than they are now. I trust that I shall be pardoned for speaking so strongly, but the importance of the subject must be my excuse.

The Honourable Mr. TUCKER—With reference to the observations of the honourable member who has just spoken, I may remark, with reference to the existing Act to which he alluded, that it was never our intention to carry out a radical change of system. We have throughout recognized the principle adopted by the Legislature in 1865, but where experience has shown there were weak parts in the Act passed in that year we have endea-

voured to amend and strengthen them. One great fault of the present municipal constitution is that there is no board of direction or head to the Corporation. We have endeavoured to supply this omission and have given to the Corporation an efficient board of management in the Town Council. And I believe the effect of this addition will be that the Corporation will henceforth be able to control the Commissioner in all points in which control is desirable. We never intended to subvert entirely the existing system of municipal administration, nor has any good reason been shown for such a course. Our design has been merely to make the former Act more perfect and to remedy its defects so far as they had been demonstrated. This is the whole scope of the Bill, and it must be remembered that we are working now upon actual experience and not on speculative theories.

The Council divided on the Honourable Mr. Forbes' amendment:—

Ayes.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

Noes.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN, VASUDEVJEE.

The amendment was therefore lost.

The Honourable Mr. FORBES—There is another amendment I would propose upon this section. It is stated that the Municipal Commissioner shall be “removeable.” Now I think that the word ought to be altered to “removed,” because if the Municipal Commissioner has made himself so obnoxious to the Corporation as to incur a vote of censure of two-thirds of the members present at a special general meeting of the Corporation, it is desirable that Government should remove him at once from office. I think that the Corporation will feel, if the word which I propose be accepted, that their power is greater, for it will no longer be so doubtful as it will be if the word “removeable” remains. At present, as the section stands, it might be a question whether Government would remove the Municipal Commissioner, even though this heavy vote of censure were passed upon him, and unless you made this certain many of the native members might be deterred from voting on any point in which the Municipal Commissioner was concerned, just from the fear that he would continue in office and be able to annoy them afterwards.

His Excellency the PRESIDENT—I think that instead of two-thirds of the members present we ought to have two-thirds of the whole Corporation, because otherwise it might be easy to get up a meeting at which two-thirds of the members opposed to him could out-vote those who might be in his favour.

The Honourable Mr. TUCKER—I agree with your Excellency that the Commissioner's tenure will be more secure if two-thirds of the entire Corporation, *i.e.*, forty-two members, are required to vote for his removal instead of two-thirds of the number present at a special general meeting. In that case I would be prepared to support the proposal of the Honourable Mr. Forbes.

The Honourable Colonel KENNEDY—I cannot altogether approve of this power being given to two-thirds of the members present at a special general meeting of the Corporation. For much as Mr. Hope did for the town, I think if this Act had been in force during his short incumbency, he would have been removed by the Bench of Justices.

The Honourable Mr. TUCKER—I cannot see any reason why the Municipal Commissioner should not be removed if two-thirds of the Corporation are dissatisfied with his proceedings.

The Honourable Mr. BYTHELL remarked that, as the section stood, it could not cause any injustice to the Municipal Commissioner, because in a limited body of sixty members it could scarcely be expected that all of them, or nearly all of them, could be got together in Bombay at one time. He, therefore, was in favour of the section remaining unaltered as regarded the number of members present at a meeting to pass a vote of censure upon the Municipal Commissioner.

The Honourable Mr. NARAYAN concurred with the Honourable Mr. Bythell.

The Honourable Colonel KENNEDY also said it would be better to allow the section to stand, and stated as his reason that the Corporation would be much more likely to get rid of an obnoxious Commissioner under it than if it were amended, as was now proposed.

The Honourable Mr. TUCKER said that the removal of the Commissioner should not be made too easy, and if the removal on the vote of the Corporation were to be made compulsory on Government, he thought that the power should be placed in not less than two-thirds of the full Corporation.

His Excellency the PRESIDENT suggested that thirty-five votes would be sufficient, because it was not probable that the whole of the sixty-four members could be got together at one meeting.

The Honourable Colonel KENNEDY suggested forty.

The Honourable Mr. TUCKER could not agree to thirty-five, and said that, in a matter of this kind, the members of the Corporation would not show much public spirit if they did not come forward in sufficient numbers to carry a vote by forty voices.

The Honourable Mr. BYTHELL moved an amendment that the section should stand unaltered, except in so far as that the following words should be added to the section after “duty,” the remainder of the section being deleted :— “And that he shall be removed on the vote of not less than 40 members present at a special meeting of the Corporation.”

The Council divided on the amendment of the Honourable Mr. Bythell :—

Ayes—3.

The Honourable Colonel M. K. KENNEDY.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—5.

The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-
GENERAL.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.

The amendment was therefore lost.

His Excellency the PRESIDENT then moved that the three last lines of the section should be omitted and the following words be inserted after "duty":—"And shall be removed from office by the Government on the votes of not less than forty members of the Corporation recorded at a special general meeting of the Corporation."

This proposal was assented to.

The Honourable Mr. TUCKER said, regarding Section forty-three, that he considered the Municipal Commissioner ought to have the power of being present and speaking at the meetings of the Corporation, although he should have no power to vote on any of the subjects under discussion. Mr. Peile, the present Municipal Commissioner, had strongly urged that this should be agreed to, so that if charges against the Commissioner, or erroneous statements were made, he would be in his place to answer them, instead of possibly having to do so through the newspapers. The honourable gentleman thought the Council would have no objection to insert a provision in the present section which would make it easy for the Corporation to secure explanation from the Commissioner.

The Honourable Mr. BYTHELL had no objections to the Municipal Commissioner being allowed to speak at Corporation meetings, but he would not give him the right to initiate or vote upon any matter. If he were not mistaken, that was exactly the same position which was held by Town Clerks in Corporations at home.

His Excellency the PRESIDENT agreed with the Honourable Mr. Bythell, and suggested that the following words might be added to the section:—"But he shall have the same right of being present at all meetings of the Corporation and of taking part in the discussion thereat as any member of the Corporation, but he shall not be at liberty to vote or to move any resolution submitted to any such meetings."

The Honourable Colonel KENNEDY thought that the Commissioner might also be allowed to be present at the meetings of the Town Council.

The Honourable Mr. TUCKER thought that this would not be expedient. The Town Council would be able to invite him to attend at any of their meetings if they desired his presence.

His Excellency the PRESIDENT—Anybody in the Town Council may call upon him to attend Town Council meetings. He is their servant, is he not?

The Honourable Mr. FORBES—That is just the question. The Town Council have no power to require the Commissioner to be present if they wanted him.

The suggestion of His Excellency the President was agreed to.

His Excellency the PRESIDENT said that he considered it would be desirable to fix the Commissioner's salary and allowances for a term, and not allow these to be altered from time to time, which would be a practice most objectionable.

The Honourable Mr. BYTHELL said it appeared to him that under this section a man would not know the salary he was to get until after his appointment. He might be willing to come for the maximum of Rs. 2,500, but not for the minimum of Rs. 2,000. Therefore his appointment would be subject to a vote of the Corporation fixing the salary, and by this means the appointment might be kept open for three or four weeks.

The Honourable Mr. TUCKER did not think that any great delay in the making of the appointment need necessarily be occasioned by the section as it stood.

The Honourable Mr. BYTHELL said that, to his mind, the present wording of the section might prevent Government from getting the best man, because Government apparently had no power of saying to a competent person who wanted the post that the salary of Rs. 2,500 per mensem would be given to him.

The Honourable Mr. TUCKER said that to leave the fixing of the salary to Government, which was what the Honourable Mr. Bythell appeared to wish, would be to deprive the Corporation of the influence over the Commissioner, which it would have if they had a power to raise his salary. This power they ought to possess. He thought, however, that there was much force in the remarks of His Excellency the President, that the salary should not be liable to constant variation.

The Honourable Colonel KENNEDY, alluding to the Honourable Mr. Bythell's remarks, said that a good man might refuse to take his chance of getting any salary between the minimum and maximum.

The Honourable Mr. TUCKER—In that case he will not come forward as a candidate. He well knows the minimum which he must get, and must base his calculations on that sum.

The Honourable Mr. BYTHELL—And consequently you will probably lose the services of the best man in the field.

The Honourable the ACTING ADVOCATE-GENERAL—I think the honourable member, Colonel Kennedy, forgets what passed in the Select Committee upon the question of salaries. One principle operated clearly upon the minds of every member at that time, and that was that the Corporation should have it in its power to remunerate, by increasing their salaries, officers whose services were found to be meritorious.

His Excellency the PRESIDENT said if this were so, he was afraid his suggestion was opposed to the views of the Select Committee.

The Honourable Mr. RAVENSCROFT thought that there should be a fixed sum mentioned in the section, and that there should be nothing about either maximum or minimum.

The Honourable the ACTING ADVOCATE-GENERAL—The Government can say, and is bound to say, to the candidates for the Municipal Commissionership, "Here is your appointment; the salary is Rs. 2,000 per mensem; this is all that we can guarantee to you; further increases depend upon your services, and it is the Municipality that you must look to for the increase."

The Honourable Mr. NARAYAN thought that the power of giving an increase to a deserving officer was a good thing for the Municipality, not only because it would secure the zeal of the Municipal Commissioner in their favour, but because if he made himself disagreeable, his salary, if it were above the minimum, might be reduced.

The Honourable Mr. BYTHELL—And that would be an effective way of getting rid of him. He proposed that in line eight "Government" ought to be substituted for "Corporation," and moved to that effect.

The Honourable Mr. TUCKER said this amendment would be opposed to the principle on which the Bill had been prepared, and he should oppose it. It was right that the power to increase the Commissioner's salary should be given to the Corporation.

The Council divided on the amendment of the Honourable Mr. BYTHELL :—

Ayes—5.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—4.

The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable J. A. FORBES.

—*Carried.*

Section forty-three as amended was then agreed to and stands part of the Bill.

The Honourable Mr. TUCKER said, regarding Section forty-four :—In Select Committee we had long discussions upon this section, and I very reluctantly agreed to the minimum and maximum salaries mentioned in this and the succeeding sections; but on further consideration I really believe that, as regards the Health Officer and the Executive Engineer of the Corporation, we shall be committing a great error in fixing their salaries within such restricted limits. They are officers who possess great powers for good or evil, and carelessness or neglect, ignorance or misconduct, on their part would be productive of most serious consequences to the public. Therefore we should fix with regard to them a scale of salary which will enable the Corporation to get thoroughly good and competent men for the appointments. If you confine the salaries of these officers to the sums now mentioned in the Bill, you will limit the field of selection, and this will probably have the effect of endangering the ultimate successful working of this measure. The Municipal Commissioner of Bombay, when a Government servant, was formerly required to pay a contribution to Government to secure his right to a pension, but through the liberality of the Government of India he has now been exempted; but this is not the case with the Health Officer and the Executive Engineer, who, if they be Government servants, will be obliged to pay one-fifth of their respective salaries to Government for the object before mentioned. The sums now fixed in the Bill, will, therefore, fail to secure for the Corporation the services of any Government servant of standing or experience, and there will be few candidates of the requisite calibre outside the Government service. If you consider this, and also that the persons selected can hold no other office and can engage in no private practice, but must devote their whole time and labour to the Municipality, you will perhaps agree with me that an augmentation of these salaries is desirable—they should at the least be raised to sums that will cover the deductions which must be made in the case of Government servants on account of pension. I think that you might fix the minimum at Rs. 1,500, and then allow the Corporation latitude to raise the salaries as they chose up to a maximum of Rs. 2,000. The Municipality, I need hardly say, will suffer in purse and credit by getting an indiscreet or incompetent Health Officer, and the inhabitants of Bombay be exposed to much evil. This is likely to be the result if you fix the minimum salary at too low a figure. Dr. Hewlett has been a good servant to the town, and we know how popular he has made himself among all classes of the community, especially the Native portion of it. If the good work that has been done is to be continued, we should fix salaries that will give the Corporation a chance of obtaining the services of men like him. I think it is of the greatest importance to the city that we should continue to have men of the same calibre in the post of Executive Engineer and Health Officer as have hitherto been employed, and this you can only do by liberality in the matter of salaries. I think that the Honourable Mr. Ellis, whose speech

on a former occasion has been cited by the Honourable Mr. Munguldass, was greatly mistaken in considering that for the post of Health Officer the Municipality does not require a man of high scientific attainments. The Health Officer of a city like Bombay should be an expert in chemistry, and well versed in the principles of sanitary science, and the Executive Engineer must have both experience and extensive professional knowledge in engineering matters. I consider it of the highest importance that there should be no retrogression in this respect, and that there should be no risk of the replacement of the present executive Officers of the Municipality by unskilled persons, or by men who might succumb to the numerous temptations of their position; and I propose that these officers who will now, if Government servants, get only Rs. 960, should be remunerated upon a scale having Rs. 1,500 as the minimum and Rs. 2,000 as the maximum salaries, which will enable the Corporation to obtain from the public service men of approved character and of ripe experience.

The Honourable Mr. FORBES—I believe the pay drawn by both the Health Officer and the Executive Engineer is larger than they had in their former positions. Take Captain Tulloch, for example, who jumped from Rs. 700 a month to something like Rs. 2,000, merely because he left a Government appointment in Madras to take up a Municipal appointment in Bombay.

The Honourable Mr. TUCKER—Do you know this as a fact? I should suppose that his salary must have been more, judging by his rank in the Royal Engineer Corps.

The Honourable Mr. NARAYAN said he believed Captain Tulloch's salary had been Rs. 1,100.

The Honourable Mr. FORBES—Well, say it was Rs. 1,100. Now he gets Rs. 2,000 merely because he came to the unfortunate town of Bombay, where he has spent a deal more money than he had any right to spend.

The Honourable the ADVOCATE-GENERAL thought there should be no objection to making the minimum Rs. 1,500.

The Honourable Mr. FORBES said the Municipality got on very well at present for Rs. 1,200.

The Honourable Colonel KENNEDY could not see why the Bill should insist upon the Corporation having to pay more than they probably could get a good servant for.

The Honourable Mr. BYTHELL said he found that many men in the Mofussil held very responsible positions for Rs. 500 and Rs. 600 a month, and surely it was quite sufficient if in Bombay double these Mofussil salaries were given.

The Honourable Mr. TUCKER moved that for "twelve" and "fifteen hundred" in line twenty of Section 24, "fifteen" and "two thousand" should be substituted.

Mr. Tucker moves an increase upon Executive Engineer's salaries.

The Honourable Mr. FORBES—Then I move that "twelve hundred" should be made "a thousand." There is no necessity that I can see for fixing the minimum at a larger sum, or for giving even the larger salaries mentioned in the section. It must be remembered that if we have any large drainage or engineering works to carry out we must

Mr. Forbes moves a decrease upon Health Officer's salary.

employ a special professional man for the purpose. The sum I have stated is abundant, I think, for an officer whose chief duty will be road repairing.

The Council divided on the amendment of the Honourable Mr. FORBES :—

Ayes—1.
The Honourable J. A. FORBES.

Noes—8.
His Excellency the Honourable Sir
AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-
GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The amendment was therefore lost.

The Honourable Mr. TUCKER's amendment was afterwards put to the vote and lost :—

Ayes—2.
The Honourable H. P. ST. G. TUCKER.
The Honourable the ACTING ADVOCATE-
GENERAL.

Noes—7.
His Excellency the Honourable Sir AU-
GUSTUS ALMERIC SPENCER.
The Honourable A. ROGERS.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

In line twelve the word " or " was inserted after " duty," and the section was agreed to and stands part of the Bill.

The Honourable Mr. FORBES brought forward the following motion of which the Honourable Mr. Munguldass had given notice :—“ That in Section 45, line 1, the word ‘ shall ’ be omitted, and the word ‘ may ’ be inserted instead” † and that the following proviso be added to the section :—“ Provided that the Corporation may, to perform the above duties, appoint a consultative officer of health when they do not deem it necessary to have an executive officer of health, in which case his salary shall not be less than Rs. 400 nor more than Rs. 600 per mensem. This consultative officer of health shall not be called upon to devote the whole of his time to this duty, nor shall he be precluded from holding any other appointment or office, or from engaging in private practice.”

The Honourable Mr. BYTHELL said he would also vote for this amendment, and thought that if another medical man were called in he would be very useful in assisting the person performing the duties of Health Officer.

The Honourable Mr. RAVENSCROFT said he must oppose the amendment, because he believed that the duties of Health Officer required the constant and undivided attention of one man.

The Honourable Mr. NARAYAN VASUDEVJEE said that the Honourable Mr. Munguldass had read extracts from the speeches delivered by the Honourable Mr. Ellis during the discussion in the Legislative Council when Act II. of 1865 was under consideration, and although these were antagonistic to the appointment of a scientific man as a Health Officer, yet in those very discussions it was shown that there were two ways of looking at the matter. He would read a few sentences to show this:—"His Excellency Sir William Mansfield said, in regard to the remarks that had just been made by Mr. Ellis, he must say that he could not concur in his praise of practical men at the expense of the man of science. Most of the members were present last year at a lecture by Dr. Giraud, and he ventured to say that most of them were ignorant of the facts stated by him, and more especially of the fact that the smells (so to speak) that were not smelt were the most dangerous. It was not merely a good eye or a good nose that detected deleterious influences in the atmosphere; it was only a man whose special business it was to detect poisons who could attend to that duty." The Honourable Mr. NARAYAN VASUDEVJEE proceeded—The Honourable Mr. Cassels said that the medical man would really begin where the practical man of Mr. Ellis left off, and he (Mr. Cassels) submitted that the detection and removal of the insidious causes of miasma and disease were of the utmost importance. He regretted that he could not altogether agree with His Excellency the President in regard to allowing the Health Officer to hold other appointments and take private practice. The Honourable Mr. NARAYAN VASUDEVJEE concluded by entreating His Excellency the President not to approve of any measure calculated to impair the efficiency of the Health Department of the Bombay Municipality.

The Council divided on the Honourable Mr. Munguldass' amendments as put forward by the Honourable Mr. Forbes:—

Ayes—2.

The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.

The amendment was therefore lost.

The Honourable Mr. TUCKER proposed that in line 27, "fifteen" should be substituted for "twelve," and that in line 26 "two thousand" should be substituted for "fifteen hundred."

Proposal to increase Health officer's salary.

The Honourable Colonel KENNEDY said that after the result of the vote upon the previous section he could not approve of this amendment. Higher qualifications were not required from the Health Officer than were required for the Executive Engineer, and both professions being equally respectable he could not see why any differences in salary should be agreed to.

Some discussion on the subject took place, after which the amendment was put to the vote and lost by 6 to 3:—

Ayes—3.

The Honourable H. P. ST. G. TUCKER.
The Honourable the ACTING ADVOCATE-
GENERAL.
The Honourable NARAYAN VASUDEVJEE.

Noes—6.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable A. ROGERS.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

The section was then agreed to, and stands part of the Bill.

Sections forty-six and forty-seven were agreed to, and stand part of the Bill.

The Honourable Mr. TUCKER said that Section forty-eight would practically be limited in application to the case of Captain Tulloch, who was the only person under the Municipality who had been appointed for a certain period.

The section was agreed to, and stands part of the Bill.

The Honourable Mr. TUCKER said that the present Municipal Commissioner, Mr. Peile, desired the introduction of a section before Section forty-nine fixing the status and salary of the Chief Municipal Accountant. He thought it important that the Commissioner should have an accountant whose position and salary would be fixed by the Act. The salary should not be less than Rs. 750, and should increase gradually to Rs. 1,000 per mensem. The Honourable Mr. Tucker said he concurred in Mr. Peile's suggestion.

His Excellency the PRESIDENT also expressed concurrence in the views of Mr. Peile.

After further discussion the proposal to introduce a new section was abandoned.

Sections forty-nine to fifty-two were then agreed to, and stand part of the Bill.

The Honourable the ACTING ADVOCATE-GENERAL proposed to alter the proviso in Section fifty-three. He thought it extremely doubtful that any "officer or servant appointed under this Act, if concerned or interested in any work of contract made with or executed for the Corporation," could by any legitimate construction be made to come under the terms of the 168th Section of the Indian Penal Code. The words of that section applied to a public servant engaging in trade. Any public servant so engaging in trade was under that section punishable with simple imprisonment for a term which might extend to one year, or with a fine, or with both fine and imprisonment; but there was nothing in the present section which applied to trade or trading.

His Excellency the PRESIDENT could not understand what making contracts was if it were not trading.

The Honourable the ACTING ADVOCATE-GENERAL said that mere possession of an interest in a contract would not be trading.

The Honourable Mr. TUCKER said that it was necessary to prohibit the members of the Town Council and the Municipal Commissioner and other officers of the Corporation from being concerned or interested in a contract, and to provide that they should be punished if they did so.

The Honourable the ACTING ADVOCATE-GENERAL pointed out that in this section the words of Section 168 of the Indian Penal Code were not being used at all, and he could not see that this Council had a right to declare that the words "concerned or interested in any contract" were the same thing, and had the same penalty attached to it, as "trading" alluded to in the 168th Section of the Indian Penal Code. He thought that it would be quite sufficient to disqualify from office an officer or servant who might be concerned or interested in any work or contract made with or executed for the Corporation, but he did not think the offence ought to be brought under the rigour of the 168th Section of the Indian Penal Code. His attention had been drawn to the difference in the wording of the two clauses by Mr. Nugent, and it occurred to his mind as it did to the mind of the Secretary to Government that by no possibility could an infringement of the provisions of this section of the Bill render a person liable to punishment under Section 168 of the Penal Code.

The Honourable Mr. BYTHELL could not concur with the Honourable the Advocate-General.

The Honourable the ACTING ADVOCATE-GENERAL thought that it would be better to leave this section as it originally stood, entitling the Corporation to recover Rs. 1,000 from any of its officers or servants whom it deemed guilty of acting in the manner proscribed by this section.

The Honourable Mr. TUCKER thought it was very necessary to indicate that these were things which the Legislature wished to put a stop to by denoting them as offences. He agreed with the learned Advocate-General that at first exception might be taken to the language of the section as it now stood, but if the Council were of opinion that the act specified should be made penal, it would be easy to make the requisite correction.

The Honourable Mr. NARAYAN concurred with the Honourable Mr. Tucker and mentioned that during the construction of the Vehar water works one of the engineers was supposed to have been actually interested with the contractors in the contract.

The Honourable the ACTING ADVOCATE-GENERAL moved that after "and," in line twelve and before "provided," the following words should be inserted:—" Shall forfeit and pay to the Corporation the sum of Rs. 1,000 which may be recovered by suit by the Corporation together with full costs of suit."

The Council divided on the Honourable the Acting Advocate-General's amendment:—

Ayes—1.

The Honourable the ACTING ADVOCATE-GENERAL.

Noes—8.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The amendment was therefore lost.

His Excellency the PRESIDENT proposed that after the words "offence," in line fourteen and before "provided" in line seventeen, the following words should be inserted:—" And

shall be liable to the penalty imposed by Section 168 of the Indian Penal Code on public servants unlawfully engaging in trade."

His Excellency's amendment was agreed to, the Honourable the Acting Advocate-General only dissenting.

The section was then agreed to, and stands part of the Bill.

Section fifty-four was agreed to, and stands part of the Bill.

The Honourable Mr. FORBES said, regarding Section fifty-five, that apparently the Municipal Commissioner need not enter into contracts unless he choose and could do the work departmentally.

The Honourable Mr. BYTHELL said that it was quite possible that the Corporation might vote that the Commissioner should spend a lakh on certain works under the supposition that he would take the usual course of calling for tenders for the performance of the work by contract, while he might spend the whole lakh departmentally.

The Honourable Colonel KENNEDY—But whether he shall do so or not lies within his own discretion.

His Excellency the PRESIDENT—Could not the Town Council and Corporation in passing their budget declare that such works shall be carried out by the Commissioner not departmentally but by contract?

The Honourable Colonel KENNEDY said there was nothing to show that it would be illegal to do so.

The Honourable Mr. TUCKER—The object of this section was to prevent the Town Council from meddling with the letting of contracts and so forth.

His Excellency the PRESIDENT—But what is to prevent the Commissioner from carrying out very heavy works without a contract at all?

The Honourable Mr. TUCKER—How can he pay the persons he employs unless he gets the consent of the Town Council to the outlay?

His Excellency the PRESIDENT—I suppose that if the work is in the budget he must get the money.

The Honourable Mr. TUCKER—If the expenditure be sanctioned, why should he not be allowed to do the work in the way he might consider to be the best and cheapest in the end?

The Honourable Colonel KENNEDY thought it would be a mistake to tie up the hands of the Commissioner too much, because it would limit his usefulness.

The Honourable Mr. FORBES—One Municipal Commissioner already thought he had better make his powers a pretext for a future drainage scheme.

The Honourable Colonel KENNEDY—That was a totally different affair. The drainage scheme was not in that Commissioner's Budget, I believe.

The Honourable Mr. BYTHELL remarked that the Commissioner had certainly to report all contracts above Rs. 5,000, but supposing a work had been budgetted for Rs. 50,000, the Commissioner might even then do as he pleased by letting out the work in fifty contracts.

His Excellency the PRESIDENT thought the Commissioner was being offered a very great temptation to work departmentally.

The Honourable the ACTING ADVOCATE-GENERAL said the sections relating to contracts were based upon the principle that everything the Commissioner undertook involving a cost over Rs. 2,000 should be brought before the Town Council, and if that were not the meaning of the Bill there was no use in having a Town Council. He considered that nothing could be more clear than Section fifty-five, the spirit of which was that instead of the Commissioner working departmentally he should have the benefit of the prices to be obtained from the competition of one contractor with another. He wondered how any man could practically do any work without entering into a contract.

The Honourable Colonel KENNEDY said that evidently the Honourable the Acting Advocate-General was using "contracting" in the same sense as "purchasing."

The Honourable Mr. FORBES remarked that he believed the most expensive department in the Municipality was the Conservancy department, and that was worked departmentally.

The Honourable Mr. TUCKER thought that, according to the Honourable the Acting Advocate-General's interpretation of the term "contract," if one man were to agree to pay another monthly wages it might be held to be a contract. Doubtless there was some ambiguity in the use of the word "contract," and in this way he could perceive that there was some ground for the learned gentleman's argument. He (Mr. Tucker) did not consider that the word "contract" as used in the Bill, could be construed as including purchases for ready money and the regular payment of monthly wages.

The Honourable the ACTING ADVOCATE-GENERAL said he believed that the present clauses had been introduced because it was found that the Commissioner was not sufficiently tied down by the old Act—if he was, at all events the Justices could not keep him sufficiently in hand. Such a state of matters would now be prevented, he believed, because the Town Council were to be placed in the same building with the Commissioner, and, so to speak, he would be continually in their presence and under their supervision.

The Honourable Colonel KENNEDY remarked that the recent unfortunate state of municipal matters was not due so much to the fault of the Justices as to the Controller, who always worked in the same building as the Commissioner.

The Honourable Mr. TUCKER pointed out that the words of the section did not render it imperative for the Commissioner to enter into contracts, the expression simply being "the Commissioner may," &c. He could not but think that it would be wisest to leave full discretion in this matter in the hands of the Commissioner, who for his own sake would do nothing departmentally unless he were sure of that being the best course.

Sections 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 were agreed to, and stand part of the Bill.

The Honourable Mr. NARAYAN moved that the word "special," in line three of Clause 2 of Section 66, be omitted. In view of the distress which prevails in Bombay, in consequence of the weight of taxation upon one class of property, the Bench of Justices had recently exercised a wise discretion in not imposing the maximum police rate of three per cent., and the deficiency in the income from the police rate, as also the lighting rate, was made up by contribution from the municipal fund. Now, if the Corporation could devise means

whereby these contributions should continue to be made, he could not see why the Legislature should interfere in the way suggested by the use of this word "special," and he therefore begged to move that that word should be omitted, and also that clause three, relating to the supplementary rate, should be similarly dealt with.

The Honourable Mr. TUCKER said that the honourable gentleman's object would not be met if "special" were deleted, and that he would require to strike out the whole of the words relating to rates payable by occupiers if he wished to accomplish what he wanted.

The Honourable the ACTING ADVOCATE-GENERAL said this clause was not one that had any mandatory force, the language used being simply descriptive.

The Honourable Mr. NARAYAN—Would it not prevent the Town Council from making contributions from one fund to make up the ascertained deficiencies of the other?

The Honourable the ACTING ADVOCATE-GENERAL—I think that the proper clause on which to move your amendment is the one relating to the police rate, and if you succeed in carrying any modifications or amendments upon that clause you may go back and modify or amend to the same extent the present clause to make it correspond with the clauses subsequently altered.

The section was passed, subject to future revision.

Sections sixty-seven and sixty-eight were agreed to, and stand part of the Bill.

The Honourable Mr. TUCKER said, with reference to Section sixty-nine, that he thought the position of the house-owners in Bombay deserved careful consideration by the Council. Undoubtedly there was considerable pressure upon the owners of this description of property now, because, the supply of houses being greater than the demand, the house owners could not in the present state of affairs increase their rents and throw a part of their burdens upon their tenants as they were able to do and would be able to do when the demand for houses was greater. Mr. Knight, although he was in the habit of indulging in extreme views, had frequently pointed out in his paper the hardships to which the house-owning interest was now subject, and he was right to a certain extent. If it were not for this state of things so many distress warrants would not require to be issued. He (the speaker) did not believe that the house rate would ever be raised beyond the maximum rate stated in this section, and he thought this figure might be reduced.

Proposition to reduce the maximum of house-rate.

His Excellency the PRESIDENT—The Honourable Mr. Munguldass has given notice of a motion on this point, and suppose that we adopt his wish and substitute $7\frac{1}{2}$ per cent. for the maximum of 10?

The Honourable Mr. TUCKER—I should like to hear what the mercantile members of the Council have to say upon the point first. It is a matter of considerable importance, as the value of house property will increase with every improvement of the city, and the present depreciation in this description of property is only temporary.

The Honourable Mr. NARAYAN—At one time the owners had to pay only 7 per cent., but now they have to pay much more, because, in addition to house rates they have to pay all the other rates. It is hardly fair that 8,000 people in Bombay should be made to pay for the water used by the whole of the population. There are 8,000 connections

in Bombay, and the persons who have made these connections alone have to pay for water, while any person may go to the public wells and draw for nothing.

The Honourable Mr. BYTHELL said that if the water were brought by bheestie to any house, still a certain sum would have to be paid, and therefore the water rate complained of was only a return for services rendered.

The Honourable Mr. RAVENSCROFT thought it perfectly fair that those who had connections to their houses should be made to pay.

The Honourable Mr. NARAYAN thought it was scarcely fair that water should be allowed for nothing to all persons who employed bheesties, while those who had connections had to pay 5 per cent.

The Honourable Mr. FORBES considered that the maintenance of a high maximum rate which would never be imposed by the Corporation would be injurious to house property.

His Excellency the PRESIDENT thought the Council were in favour of making the maximum rate $7\frac{1}{2}$ per cent.

The Honourable Mr. RAVENSCROFT said he could not see why there should be any alteration in the maximum now fixed.

The Honourable Mr. TUCKER thought it would be better to keep to whole numbers in settling the rate, and suggested 8 per cent. as a reasonable maximum.

It was agreed to alter "ten" in line seventeen to "eight," and the section as amended stands part of the Bill.

Sections 70, 71, 72, 73, 74 and 75 were agreed to, and stand part of the Bill.

His Excellency the PRESIDENT—The Honourable Mr. Munguldass has given notice of a motion that the proviso at the end of Section seventy-six be omitted.

The Honourable Mr. TUCKER said the liability of the owner of a flat or suite of apartments on one floor, if only a portion were occupied, required to be declared, and if the Honourable Mr. Munguldass' proposition were agreed to, the door would be opened for all manner of evasions.

The Honourable the Acting Advocate-General thought that there ought to be some amendment of the section, because, according to the Honourable Mr. Munguldass, it would work very oppressively.

The Honourable Mr. NARAYAN mentioned the hardship that would accrue as regards chawls, one floor of which might be regarded as one flat. These floors of chawls were let in single rooms, and if one out of fifty were let, the owner would have to pay for the whole fifty.

The Honourable Mr. TUCKER did not consider that the language of the section applied to chawls, which were lodging houses let out as single rooms. In England he believed that lodging-house keepers obtained no remission of rates in consequence of the non-occupation of some of these rooms.

The Honourable the ACTING ADVOCATE-GENERAL said the section was meant to apply to buildings that could be let in parts, and he could not see why separate sets of apartments should not be regarded as separate tenements for the purposes of rating. However,

rather than permit any mistake upon the subject, he would prefer to see the section altered so as only to make a man liable for the part let.

The Honourable Mr. TUCKER—Strictly speaking, I do not think “chawls” would come under the term “flats,” which is a Scotch word, signifying a set of apartments on a floor occupied as a separate domicile. It seems right that these separate tenements should be treated as distinct houses.

The Honourable Mr. NARAYAN—Under the present system all chawls are entered in the municipal books as one house.

The Honourable Mr. TUCKER—And so they are one house, strictly speaking. They are lodging houses let out in single rooms.

The Honourable Mr. NARAYAN—And where one or two rooms are let, the whole buildings have to be paid for.

The Honourable Mr. TUCKER—I apprehend that this is the ordinary way of assessing lodging houses: in other parts of the world rates are levied upon the whole house, no matter whether or not the owner or principal occupant has been successful in letting all the rooms out to lodgers.

The Honourable Mr. NARAYAN—Then if this is done the owners of these chawls will insist upon all their rooms being treated as separate tenements.

His Excellency the PRESIDENT—The word “flat” is apparently inapplicable to these chawls; and I think we might allow the matter to remain in abeyance until we get more definite explanations from the Municipal Commissioner as to the existing practice.

The Honourable Mr. BYTHELL—Mr. Peile should also be asked whether, if there are ten or a dozen godowns in one building, they ought all to be assessed in one lump, and if one be let whether the full rate should be paid.

The Honourable Mr. TUCKER—I agree with His Excellency that perhaps we had better defer consideration of this point until we get more explicit information from Mr. Peile. Personally, I think that the owners of lodging houses let in single rooms such as chawls are should be rated on the whole house, whether it be fully occupied or not, and that chambers or sets of apartments which form separate domiciles or offices for business purposes should be treated as they are in this section as separate tenements. This distinction will be, I believe, in accordance with the ordinary usage in such matters. However, I have no certain knowledge on this point. If this mode of rating operate prejudicially in the case of chawls, it may have the effect of diminishing that kind of building, which would be no disadvantage. I shall write to Mr. Peile, and ask for further information on the working of the existing law.

Consideration of Section 76 was reserved.

The Honourable Mr. NARAYAN, regarding Section 77, said—Before the introduction of Municipal Act II. of 1865, Government paid Rs. 13,000 per annum as municipal tax on their buildings. I find the Select Committee composed of the Honourable W. R. Cassels, the Honourable W. R. Mansfield, the Honourable W. E. Frere, the Honourable Juggonath Sunkersett, the Honourable M. H. Scott, in their report,

Mr. Narayan's observations in support of a proposition to charge Government lands and buildings with house rate.

dated 12th January 1865, on Act II. of that year, said—"Your Committee have omitted the section which, in consideration of the annual payment of Rs. 13,000, exempts buildings owned by Government from house assessment. As no Government buildings (not even Government House in Calcutta) are exempt from this tax, the Committee cannot see any reason why a different system should be adopted in Bombay. The reasons stated in the Government Resolution already quoted, for the introduction of a uniform principle in regard to the maintenance of police, appear to apply quite as strongly to the system of house assessment. Your Committee, therefore, propose that Government buildings be assessed in the manner as private property." Notwithstanding this expression of opinion by the Select Committee when the Bill was considered in detail, Section XLIX. was inserted, expressly exempting Government buildings from such assessment. In spite of this exemption, however—thanks to the subsequent persevering efforts of the Bombay Government—the Government of India yielded to its representations and permitted the payment to the Municipality of house, police, and lighting rates on a fixed valuation of the Government buildings of Rs. 5 lacs—which gives the Municipality at present an income of Rs. 50,000 per annum,—which is liable of course to increase or decrease according to the rates fixed for recovery from the general public in each year. This concession merely placed Bombay on an equality with Calcutta, the Municipality of which city levies *all* these rates on Government buildings, and receives, in addition, from Government, one-fourth the cost of the Calcutta Police. I find, also, that when in 1868 the Madras Government referred for orders the question relative to the provision of funds to meet the municipal tax on military buildings, the Government of India passed the charge by a Government Resolution, Military Department, No. 3067 of 13th June 1868, as an expenditure of the Civil Department, and ruled that the payment was to be made on a certificate from the Public Works Department that the assessment is upon a reasonable valuation of the buildings. I may be permitted to add that the Committee appointed by Government in January last, and of which Major-General Marriott was President, for the purpose of amending and consolidating the existing Municipal Acts and of submitting a draft of all those portions needing revision, noticed this particular point among others and dwelt upon the "practical injustice" of exempting Government lands and buildings from the operation of Act II. of 1865. Their words were these:—Para. 28—"We cannot perceive on what reasonable principle Government buildings are exempt from Municipal rates. The only argument in favour of such exemption with which we are acquainted is contained in a Resolution of Government in the Public Works Department, No. 275 of 12th August 1871, in which it is argued that rating Government property is equivalent to making revenue rateable, and that it would, consequently, be equivalent to giving the Corporation of Bombay the power of taxing the general public throughout India for local Municipal purposes. We fail to perceive why the general public, occupying buildings in Bombay by its representatives in the Government, should not be taxed, like other occupants of buildings, by the Corporation. It must be remembered that the Government compounded for the rates up to the year 1865; and the practical injustice, as it seems to us, of this exemption, introduced by Act II. of 1865, is greatly enhanced by the fact that since that Act came into force the amount of property within Bombay owned by the Government has been enormously increased, and the Government contribution to the police has been withdrawn." I feel that any words I can give expression to cannot put the case more forcibly than General Marriott's Committee have done in the para. I have quoted from their report. When the community of Bombay seek to be

placed on the same footing as Calcutta and Madras, the principle that the Indian ratepayer should not be taxed for local purposes assumes merely a sentimental aspect. Our contention is that if the Indian ratepayer chooses to go out of his way and acquire landed property in Bombay, we do not see why he should derive the benefits of all local conveniences and improvements without paying his fair share of municipal taxation. The Indian ratepayer positively took advantage of the mania which seized us all in 1864 and sold land to us for the sum of about 71 lacs which perhaps was not worth 20, and now that the land has depreciated in value seeks to repurchase as much as his resources will allow. If such a principle is maintained the loss to the Municipality will be very great, since Government have lately purchased extensive properties on the Island, the income hitherto derived from which will be entirely lost to the Municipality. I would instance the property on Malabar Hill and Chowpatty for which the Back Bay Company used to pay all rates; the Parell property, acquired for the railway stores, but which I believe the Company do not now require; the Elphinstone Estate, and various other properties too numerous to mention, the acquisition of which by Government, will, if Bombay is to be treated differently from the other presidency towns, subject its Municipality to a very great loss of income. These remarks apply equally to the police and lighting rates, so that if Section LXXVII. is carried, the income now derived from Government buildings and lands by means of the police and lighting rates will also be lost to the Municipality. I have already shown that all these rates are paid at Calcutta and Madras; and that notwithstanding that the law *to this day* expressly exempts this Government from such payment, the Government of India has, on the strong representations of the Bombay Government itself, refused to take advantage of the exemption enacted by the law in its favour and placed this city on a footing of equality with the sister Presidencies in this respect, by paying retrospectively, from 1st July 1865, the house, police, and lighting rates on the assessed value of the Government buildings, viz., 5 lacs. I am, therefore, surprised that it is now proposed to re-enact a measure, the injustice of which is clearly acknowledged by the action of Government itself, and which at this moment, by such action, is rendered a dead letter. For these reasons, therefore, I must strongly object to that part of this section which seeks to exempt "buildings and lands owned by Government" from house rate, and as a natural consequence from police and lighting rates also. In dealing with this subject, it will not, I trust, be considered irrelevant for me to bring to the notice of your Excellency that the claims of the Bombay Municipality have not at all times met with generous consideration from Government. For instance, when the income-tax was first imposed in 1860 the rate fixed was three per cent. for imperial purposes and one per cent. for local reproductive works. The rates were altered by subsequent enactments; but there is the notable fact, that while the Calcutta Municipality received a contribution from the produce of the income-tax of ten lacs of rupees, the Bombay Municipality did not receive a pie; although, in consequence of our collections being much larger, the proportion that should have fallen to our lot was about $16\frac{3}{4}$ lacs! There is another instance to which I cannot forbear asking your Excellency's attention, and that is the question of police expenditure. Before Act II. of 1865 came into force the Bombay Municipality contributed Rs. 81,600 only towards this object; from the 1st January 1866 the entire cost, viz. rupees four lacs per annum, was imposed upon it; but in November 1866 the local Government wrote an earnest appeal to the Government of India, and it is so pithy that I cannot do better than read a portion of it:—"The city of Bombay has been paying since the 1st January last for the whole of the police

employed in Bombay, with the exceptions of Harbour and Dockyard Police and Government guards, but finding that a similar course has not been followed in Calcutta, the inhabitants of Bombay are beginning to be much dissatisfied, and it is not likely that they will consent to continue to pay when a similar arrangement is not enforced in the other presidency towns. This Government does not desire any privileges for the Municipality of Bombay that are not given to the other presidencies, but His Excellency the Governor in Council hopes that the Government of India will admit the justice of not exacting from the inhabitants of Bombay larger contributions to the imperial revenue than are taken elsewhere. Finally, I am desired to observe that this Government pays nothing in the shape of rates on account of public buildings, and that the only contribution to municipal improvements in Bombay granted from the Imperial Funds during the year has been a sum of Rs. 25,000." The Government of India then authorized the grant *temporarily*, by Government Resolution No. 31 of 21st January 1868, of a contribution of one quarter of the gross charges of the Bombay City Police; but the Bombay Government in reply re-urged the claims of this city and referred to a correspondence from the Bengal Government of 1866, from which they said—"It is apparent the Government of India pays the whole cost of the Calcutta police, while the inhabitants are not taxed one rupee for this purpose. The Government of India must expect great dissatisfaction to be felt in Bombay at this difference, and it was only by the timely concession made last year that the people of Bombay were content to wait;" and they suggested the contribution should continue "until the Calcutta community pay a proportion of their police, when the question as regards Bombay can be reconsidered *and the amount of Government contribution adjusted on the same principle as is approved for Calcutta.*" The Government of India replied—"A police rate is now levied in Calcutta, and the Calcutta and the Bombay Municipality *are exactly on the same footing*, the Government contribution to the former, *in addition to municipal rates on Government buildings, being as follows*: River police, Rs. 26,000, $\frac{1}{4}$ remaining cost of police, Rs. 93,000—Total Rs. 1,19,000." In accordance with these views, the Bombay Municipality received an annual contribution of about a lac of rupees, being one-fourth of the expenditure of its city police from 1866 until last year, when it was summarily withheld to the no-small inconvenience of the Municipality, although, as the Government of India themselves intimated, and as is expressly provided in Section VII. of the Calcutta Police Act of 1867, an imperial contribution is still made by that Government towards such expenditure. The section runs thus:—"VII. The amount of such estimates as may be so passed shall, after deducting therefrom such amount as may from time to time be allowed by the Government from the general revenue towards the maintenance of the said police force, be paid to the said Lieut.-Governor by the Justices out of the annual proceeds of the rate as hereinafter is mentioned." I will content myself by simply adding that since the introduction of Act II. of 1865, to the end of last year, Bombay has contributed the modest sum of Rs. 2,17,98,303 in municipal taxes apart from imperial demands, and that it is burthened with a debt of Rs. 93,12,853, the annual interest and sinking fund on which alone absorbs Rs. 7,03,374 of our income. The total amount contributed by Government during the past seven years is Rs. 7,86,258, or scarcely four per cent. of the whole revenue recovered. In the Calcutta Municipal Act there is no such exemption provided for, except for the buildings and lands situate in Fort William, on the esplanade of the Fort. In Madras, from the resolution I have already quoted, it would appear that they positively pay taxes to the Municipality even on military buildings, and that the Government of India have already sanctioned the grant towards the expenditure. The question naturally arises,

whether the Advocate-Generals of those cities have overlooked the interest of the Crown, after the exposition of the views of the Honourable Mr. Mayhew in regard to the legal aspect of the question. But there is one notable fact, that there is a wide divergence in the opinions expressed by the Honourable the Advocate-General and his predecessor in regard to the liability of Government to the payment of municipal rates on Government buildings. The Honourable Mr. Mayhew has also stated that the buildings were occupied by the servants of the Crown, who were exercising their public duties in such buildings; but he has, I think, overlooked the fact that the Government of Bombay have latterly placed themselves in competition with house-owners, and are positively letting houses on Malabar Hill and other parts of the town, for which the Collector of Bombay recovers rent. If the Municipality has to keep the roads leading to these houses in good order and to light them, the Municipal police as well as the fire brigade must watch their safety, and the rates on buildings and lands would be tantamount to a payment for service rendered in the same manner as the public servants who discharge their public duties receive the money value of their labour. The Honourable Mr. Ravenscroft has pointed out that the Government of India accorded their sanction to the introduction of this Bill on the understanding that we were not to attempt to impose any charge upon the imperial revenues. By this surely they must mean that no additional charge upon the imperial revenue is contemplated. To use the words of the Bombay Government itself, the inhabitants of Bombay do not desire any privileges that are not accorded to the other presidency towns, although I am of opinion that, being the terminal port for all India, there are obligations cast upon it the performance of which is a matter of imperial importance. I therefore deem it a fitting opportunity to solicit your Excellency to treat this Municipality, I will not say liberally, but justly by conceding to it the same rights and privileges as are enjoyed by that of Calcutta. I propose to omit the words "by Government or" in lines five and six.

The Honourable Mr. TUCKER—I intimated when I proposed the second reading of this Bill, that the Executive Government would have been glad if some compromise could have been effected in regard to the rating of Government buildings, but we found that we had no choice in the matter, because the Honourable the Acting Advocate-General has informed us that there is a legal objection to our subjecting the Crown property to any rate. I have not had time to examine into the state of the law on the point, but I am of opinion that it would not be safe to legislate on a matter in which doubts of our competency are entertained by the legal adviser of Government. This is one of the instances in which it seems probable that a silent change has been effected in the law by the transfer of the direct government of India to the Crown and by the introduction of the legal doctrine of the Crown's prerogative which was seldom called into action when British India was under the administration of the East India Company. I have already said it is not the intention of the executive Government of this presidency to discontinue the contributions to occupiers' rates which have hitherto been granted to the Municipality as a matter of grace, and I have no doubt that we shall be prepared to consider in a just and liberal spirit any proposals which the Corporation may bring forward to put the matter upon an equitable footing. I do not think we can exactly adopt the course my honourable friend Mr. Narayan has suggested in the able essay which he has just read, in which he pointed out that as concessions had been made in other Presidencies it was proper that similar concessions should be made here. It appears to me that the concessions referred to may have been made without full consideration of the legal aspect of the question, and if this were the case it would not be right to follow

the example set in other places, now that the state of the law has been brought to our notice. No good grounds have been shown for making the Government buildings liable to owners' house rate, but it would seem right that they should contribute to occupiers' rates which are imposed in exchange for services rendered, and if there had not been the legal difficulty which has been so frequently mentioned, we were prepared to make these buildings liable to occupiers' rates. With regard to lands, I think the case is different. These lands yield revenues which go to the Imperial Exchequer which could not properly be rated for municipal purposes without the sanction of the Government of India, and it appears to me that a rate upon them would be a rate on the revenues of the whole community for the benefit of the city of Bombay. This would scarcely be justifiable. Seeing, then, that there are doubts of the power of this Council to place any rates on Crown buildings, it seems expedient to leave the sections exempting Government lands and buildings from owners' and occupiers' rates as they now stand in the Bill, and to let our contributions to the police and lighting rates be a matter for future negotiation between the Corporation, the local Government, and the Government of India, who will be able to obtain the views of the Home Government on the subject. In England I believe that the Crown lands and buildings are not rated for local municipal purposes, though there is a party there as here who think that the Crown buildings should be assessed for the lighting and watching rate, which answers to our police and lighting rates. Any contributions which the Crown or Central Government may make at home is in the form of a subvention or voluntary payment, and if that be the proper course, then it would be as well to follow it here until another system shall be duly sanctioned. The Honourable Mr. Narayan Vasudevjee has referred to the withdrawal last year of the Government contribution to the maintenance of the police of the city of Bombay, and I am sorry that he should have ripped up an old sore, which I trusted had been nearly healed over. The circumstances under which this withdrawal took place are so well known, and have been so often explained in this Council, that it is scarcely necessary for me to repeat the answer which has been so often made to these objections. By the decentralization of our financial system, and the separation of provincial from imperial revenues, and the assignment of insufficient funds for provincial purposes, it became necessary to have recourse to additional local taxation, and two Acts were passed subjecting the non-agricultural classes in the Mofussil and a few of the Mofussil municipalities to additional taxation. Instead of introducing a new tax into Bombay, as we ought properly to have done, we only withdrew our money contribution of a lakh of rupees to the Municipal police, and for this act of liberality and indulgence to the city,—which, if a license tax had been imposed, would have had to contribute three times as much,—we have been the subject of continued attack; with how much justice, I leave the Council to judge. If we erred at all in this matter it was in exempting the city of Bombay from its fair share of taxation at the expense of the rest of the presidency. This has been already so often explained by your Excellency's predecessor, that I hope we had heard the last of the matter, but as the charge has been repeated, the answer to it must be repeated also: and this is my only excuse for once more touching on a subject which I hoped had passed into the limbo of forgotten disputes. I do not think that it would be safe or right to adopt the suggestion put forward by the Honourable Mr. Narayan.

In answer to a question put by the Honourable Mr. Bythell,

The Honourable Mr. TUCKER said that the non-agricultural cess was not abolished. Its collection had simply been suspended during the current year.

The Honourable Mr. BYTHELL—Will the municipal contribution be renewed then because the collection of the cess has been suspended?

The Honourable Mr. TUCKER—Certainly not. Before any further collection of the non-agricultural cess is ordered, the whole subject of local taxation will be reconsidered.

His Excellency the PRESIDENT said, that seeing it was the view of the Honourable the Acting Advocate-General that the law was that it was beyond the power of the Council to tax the public revenues for Municipal purposes, perhaps the better course would be for the Municipality to accept the promise of a subvention from Government, which would be a payment out of the general revenues in aid of the Municipality.

The Honourable Colonel KENNEDY—As regards the occupiers' rates, Government does substantially pay these at the present time.

The Honourable Mr. TUCKER—I am told that our present payments cover what we should be liable to if we were liable to occupiers' rates on Government buildings.

The Honourable Colonel KENNEDY—A large payment is made on certain properties belonging to Government: both owners' and occupiers' rates are in fact paid.

The Honourable Mr. RAVENSCROFT—I think that there is some misapprehension on one or two points. As regards the police, Government is at this moment actually allowing the Municipality to draw what is really a portion of the imperial revenue—I mean the tobacco duties, which, as many honourable gentlemen here will remember, Government gave over to the Municipality a few years ago as a contribution towards the expense of maintaining the police. Up to last year we gave a contribution in money as well as these duties, and when we withdrew the money contribution we gave a substantial equivalent by relieving the Municipality from paying its fair proportion of the non-agricultural cess. Therefore I do not see that the Municipality has been at all unfairly dealt with; in fact, the opposite is the case. I think that the remarks which were made the other day by the Honourable the Advocate-General are deserving of much consideration, and I agree with him that the Government buildings of Bombay used for public purposes should be exempted from house rate, because I do not think it fair that the public throughout the Presidency should be taxed for the sake of the Bombay Municipality. I would, however, make an exception in the case of those houses on Malabar Hill, at Colaba, and elsewhere, which Government let out to tenants for certain rents, because I think that in that case Government becomes a house-owner, receiving rents from houses, and, as such, it ought to pay as other house-owners do. I think that the Honourable the Acting Advocate-General has pointed out very clearly that any measure which creates a charge on the imperial revenue cannot be introduced in this Council without the Viceroy's sanction. That sanction has never been received, and the fact that I mentioned the other day would seem to show that it is doubtful whether the Government of India would give that sanction. When I was asked in the letter which I received from the Government of India whether there was any thing in this Bill which was likely to make a charge upon imperial revenues, I felt sure that the reference was made with the view of putting a stop at once to the proceeding which is now contemplated. I therefore, though willing to have the section altered so far as to make an exception as regards houses owned by Government and leased to tenants, would

be averse to imposing rates and taxes on Government buildings and on Government lands, which are used for public purposes.

The Honourable the ACTING ADVOCATE-GENERAL—I expected when listening to the Honourable Mr. Narayan and the Honourable Mr. Munguldass (who

The Acting Advocate General's argument that Crown lands in India as in England are exempt from Municipal taxation.

spoke the other day) on this point that I should hear good reasons for taxing Government property; but regarding the speech of the Honourable Mr. Narayan I may say that it contains very admirable arguments to be addressed to the

Governor General in Council, but not one word of it is applicable to the Council of the Governor of Bombay, which is now sitting for the purpose of making laws and regulations and has to consider how crown property in Bombay shall be dealt with. It has not been shown how we can get over the difficulty which I have pointed out upon a former occasion, viz., that we have no power to subject the property to a tax, and that such a measure could only be passed with the consent of the Crown by the Council of the Governor General. The whole of the Indian Acts which transferred the direct government of India to the Crown do not, except in certain defined ways, give any power over the Crown property or the Crown revenues, and such property or revenues cannot be attached or disposed of by a local Government in Bombay or elsewhere as it may think fit or as it may choose. Even in the resolutions of the various Governments referred to by the honourable gentleman who moved this resolution, the language throughout, as I caught it, referred only to "contributions," but did not speak of the payments ordered as levies upon Government lands or buildings.

The Honourable Mr. NARAYAN—They are spoken of as "house rates" upon military buildings.

The Honourable the ACTING ADVOCATE-GENERAL—They may refer to contributions in respect of these, but there is nothing whatever to show that in respect of these properties Government was regularly entered as a ratepayer in the rate books of either Calcutta or Madras. All that the resolutions showed was that communications had passed between the local Executive Governments and the Supreme Government; that the former said,— "We have, for the purpose of making up our subscription to the Municipal fund assessed this property, and we hope you will agree to pay a contribution in the same proportion as persons who are legally liable to pay rates under the Act, and if you do, the annual sum to be paid will then be so and so." This was all; it is only a contribution, and cannot be construed as an acknowledgment of the right of municipalities to claim rates upon Crown property or revenues. Upon a rough estimate the Supreme Government has consented in past times not only in Calcutta and Madras, but also in Bombay, to pay considerable sums on behalf of municipal taxation; but because that has been done as an act of grace, there is no reason at all why we should sit here and lay our hands, as it were, upon the Crown property. The latter part of the Honourable Mr. Narayan's speech was an entreaty to His Excellency the President to get the Government of Bombay to aid the Municipality in making a case out to the satisfaction of the Imperial Government. As to the statement about certain houses on Malabar Hill belonging to Government being let to tenants, this case affords, no doubt, good ground for the application which may hereafter be made to the Government of India to contribute more largely than they now do towards municipal expenses; but it affords no ground whatever for this Council legislating with respect to the

Crown property. Government is at liberty to buy and pay for property as much as any other individual, but because it does so, that is no reason for declaring its property liable to municipal rates, although it may be a good ground, perhaps, why the Government of India should assist the Municipality by a substantial contribution. For us to legislate on the understanding that this property can be taxed would be an entire mistake, and I have not been able to find authority for such a step in any Act yet passed in India or in England. You must show some very strong reasons before the Crown will be induced to put its property on the same footing as the property of its subjects; but at present we have not the power to tax, and therefore I shall vote against this amendment. Reference has been made to the opinion of a predecessor of mine as conflicting with my opinion upon this point. But I think that the Honourable Mr. Scoble, whose *locum tenens* I now am, has put forward the very ground upon which I contend that the Crown property is not liable. With reference to the Crown lands, the local Government could not possibly tax them, because the effect of such a measure will be to charge the imperial revenues for the purpose of local taxation. I may state that I have not overlooked Section thirty-eight of the Indian Councils Act, when I addressed the Council a day or two ago on this subject. I then pointed out that I did not wish my opinion to be deemed conclusive on the point simply because I happened to be a lawyer, but that it was a matter on which every member of this Council could form his own opinion. I think that if you read this section in connection with the others I previously cited, any seeming discrepancies will be reconciled, and as I have said before, this section will have sufficient meaning by supposing it to refer to charges incidental to and connected with these very measures for the taxing of the people which the Governor General has power under Section forty-three to delegate to a local Council, although it makes the remarkable omission of not saying how the public revenues can be attached.

The Honourable Mr. BYTHELL—If Government property is by law exempt, why does the honourable gentleman seek to exempt it specially in this Bill?

The Honourable the ACTING ADVOCATE-GENERAL—The answer to that is obvious. In the Select Committee the argument of the Honourable Mr. Munguldass and others was that the Government property should be taxed, and their united cry seemed to be, "Strike out this clause, in order that we may tax the Government properties," and in order not to leave the matter in any doubt, although we were of opinion that these lands and buildings were not liable to taxation, we retained the section. I think the honourable members of this Council may well be satisfied with this explanation. Had we felt any doubt whatever upon the point, we should have put much greater stress upon it in the first instance.

The Honourable Mr. NARAYAN—With all deference to so high an authority as the Honourable the Acting Advocate-General, I must hold the belief that the Government of India could not have deliberately committed itself to this resolution in regard to the payment of municipal taxes on military buildings in Madras, if there had been no legal power to impose a rate. The Government of India is well known to have the most eminent legal gentlemen at hand to advise it in these matters, and as the Resolution is most distinctly worded, I do not think there is any mistake whatever in it. There is no allusion to a contribution, and a perusal of the Resolution will show this. Now, surely, the Government of India having, as I have said, the best legal advice at its command, could not be mistaken. Again, if the Madras rates were wrong the Calcutta Municipal Act of 1863 would not be allowed to give the power it does to levy rates on Government buildings, or surely

the Advocate-General of Bengal would be much to blame for his want of knowledge of the English law as it is now set forth by the Honourable Mr. Mayhew.

The Honourable Mr. TUCKER was not sure whether the Advocate-General had a seat in the Bengal Legislative Council. He did not concur with the Honourable Mr. Narayan in thinking it probable that the Government of India had fully considered the legal aspect of the question, and said there had been other instances in which the special privileges of the Crown as recognised by English law had been overlooked in the first instance, but were afterwards fully admitted. Thus it may have happened that the right of municipalities to extract revenue from Government buildings may have been in a manner conceded to Calcutta and Madras without consideration that the act was an abridgment of the Crown's prerogative. But as the point has been prominently brought to notice, to act as if no such legal difficulty stood in our way would be a very unwise proceeding. It may not be easy to see the reason why the Crown should have this privilege regarding its buildings and lands, but, nevertheless, if this exemption has been part and parcel of the law of England from time immemorial, no legislation by this Council can affect it.

The Honourable Mr. NARAYAN—We have Government of India Resolutions upon record.

The Honourable Mr. TUCKER—But it may be that the framers of these Resolutions have unwittingly exceeded their powers.

The Honourable Mr. NARAYAN—It is very strange that with the assistance of their legal advisers, the Governments of India, Madras, and Bengal should all go wrong, and Bombay alone right.

His Excellency the PRESIDENT asked the Honourable the Acting Advocate-General whether he founded the legal disability upon the Clauses in the Indian Councils Act or upon the general constitutional law.

The Honourable the ACTING ADVOCATE-GENERAL replied that he founded his objection both upon the general constitutional law and the Indian Councils Act.

His Excellency the PRESIDENT thought that the real question was whether the Council had power to do what the Honourable Mr. Narayan wished to be done. Section forty-eight of the Indian Councils Act did not appear to preclude a consideration of the matter. If, however, the constitutional law would be departed from by the Council in deciding upon this point, that difficulty could not be got over. He considered that the question was so complicated that it ought to be a matter for consideration by the gentlemen advocating the interests of the Municipality, whether it would not be the better course to accept the promise of Government that it would make liberal contributions which should equal in value what might have been realized if occupiers' rates had been imposed on Government buildings.

The Honourable Mr. NARAYAN—If the law of the prerogative precludes the Municipality from claiming any such contribution, there is no necessity for introducing a provision to exempt those lands and buildings.

The Honourable Mr. TUCKER—If we were now to strike out the exemption we should increase the doubt that exists in many minds as to the rateability of the Crown property. Further, we have no disposition to make Government lands or buildings liable to owners' rates.

The Honourable the Acting ADVOCATE-GENERAL—If the Council were to take the section out now, it would be equivalent to an expression of opinion by this Council in favour of the amendment.

The Honourable Mr. BYTHELL—But as the honourable gentleman is now deciding, it is tantamount to ruling that the Municipalities of Calcutta and Madras are doing an illegal act, because the tax on Government properties is still being levied in these places.

The Honourable Mr. NARAYAN again alluded to the report of the Select Committee previous to the introduction of Act II. of 1865, and asked if anything could be more decided on the subject.

The Honourable the ACTING ADVOCATE-GENERAL said this did not, in the least, affect the matter legally.

The Honourable Mr. BYTHELL—The honourable gentleman is putting Bombay in an unfair position. Calcutta and Madras are receiving taxes on Government property from imperial revenue, while Bombay is getting nothing.

The Honourable Mr. NARAYAN—At present the Calcutta Government not only pays all taxes on Government buildings but positively pays one-fourth of the cost of the police, and the Madras Government pays all the police besides rates on those military buildings. Here there are two duties upon tobacco, one of which is an impost for the Municipality while the other is an imperial duty, and the former is all that we get.

His Excellency the PRESIDENT—But is the Municipality not allowed to borrow money out of the general revenue at a cheaper rate than it can borrow it elsewhere?

The Honourable Mr. NARAYAN—On the contrary, had we got power to borrow money elsewhere we could have raised money cheaper in the London markets, and saved ourselves a deal of interest.

The Honourable Mr. BYTHELL—The present Government say they are willing to do what they can towards contributing to the Municipality, but succeeding Governments might have different views on the subject, and reduce their contribution to a nominal sum. It would be as well, I think, if the matter were decided on the ground of right or wrong.

The Council divided on the Honourable Mr. Narayan's amendment:—

Ayes—3.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—6.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.

The amendment was therefore lost.

The Honourable Mr. NARAYAN moved that the following words be added after the word "Corporation" in line 6 of the same section:—"And all huts below the annual value

of rupees twenty-five." At present the Municipality gained Rs. 2,956 from these huts, and for that sum the bill-collectors had to take 4,356 bills all the way to Mahim and other parts lying a considerable distance from Bombay. The matter had been brought before the Bench of Justices several times, and the feeling was unanimous that the poorest classes of the people should be exempted, because the sum recovered from them barely covered the cost of collection. The total number of the huts proposed to be exempted was 1,100.

The Honourable Mr. TUCKER opposed the amendment, because if any exemption were made the class of buildings mentioned would be likely to be increased, which was not desirable.

The Council divided on the Honourable Mr. Narayan's amendment:—

Ayes—3.

The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—6.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honorable Colonel M. K. KENNEDY.
The Honorable J. A. FORBES.

The amendment was therefore lost.

Section seventy-six was then agreed to, and stands part of the Bill.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Puna, 13th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCIL'S ACT, 1861."

The Council met at Puna on Saturday, the 14th September, at noon.

P R E S E N T ;

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail.

The Council proceeded with the consideration of the Bombay Municipal Bill in detail.

Sections seventy-eight to eighty-one were agreed to and stand part of the Bill.

In line 20, Section eighty-two, "after" was substituted for "of" after "days." The section was then agreed to and stands part of the Bill.

In line 3, Section eighty-three, "shall" was inserted between "of" and "be."

The Honourable Mr. FORBES thought it was hardly necessary to make neglecting to give notice of an alteration to a house a penal offence.

The Honourable Mr. TUCKER thought it was very necessary, because unless there was a penalty no attention would be paid to the direction of the law in this matter.

The section was agreed to as amended and stands part of the Bill.

Sections eighty-four and eighty-five were agreed to and stand part of the Bill.

The Honourable Mr. NARAYAN said, regarding Section eighty-six—Your Excellency—
 Mr. Narayan's observations on house-owners' burdens in Bombay: To provide for the annual expense of the city police and fire brigade the present law authorizes the imposition of an annual rate of not less than two per cent. and not more than three per cent., whereas in the present Bill it is proposed to impose such rate "as shall be sufficient to provide the total annual amount which may be fixed as necessary for these purposes by the Government after consideration of any representation which the Corporation on scrutiny of the estimates submitted to them by the Municipal Commissioner may think fit to make." And in Section 89 it is further provided that if at the close of any year there has been an excess of expenditure on this account over and above the amount received on account of the police rate for the said year, "the Corporation

shall forthwith increase the rate for the year next following to such extent as may be necessary to cover the same ; but if the receipts should exceed the expenditure, the surplus is to be applied in diminution of the rate for the next year as to the Corporation may seem convenient, such increase or diminution in any case being not less than one-half per cent." Having thus glanced at the difference between the existing and the proposed law, I will now proceed to show to your Excellency how the new measure if carried will press heavily upon the house-owners. Although the police rate is ostensibly an occupier's tax, it actually falls upon the bulk of the house-owners in Bombay. The great depression of trade which has lasted now for some years in an essentially commercial town like Bombay has been accompanied by great distress, and the municipal taxation introduced in July 1865 by Act II. has been severely felt by the people. The house-owners, as I shall presently show, have to pay in all eighteen per cent. on the rateable value of their property. To be explicit ; altogether there are about 21,000 houses ; of these about 14,000 are small tenements occupied by the owners themselves, 4,500 belong to persons who let them for rent, bearing themselves all occupiers' rates ; so that there are only 2,500 for which the occupiers' rates are paid by the tenants. The result of the enquiries which I have made convinces me that the owners of 18,500 out of the 21,000 houses have at present to bear the entire municipal taxation which is imposed upon house property, whether it be in the shape of landlords' taxes or of occupiers' rates, which for the past few years have been 6 per cent. house rate, 2 per cent. police rate, 2 per cent lighting rate, 5 per cent. water rate, 3 per cent. halalcore cess ; altogether 18 per cent. Section 103 of this Bill imposes upon the owners of houses sub-let in portions the obligation of paying all occupiers' rates. When that section is passed the number of tenants in Bombay who will have to pay the occupiers' rates will be further reduced from 2,500 to 472. These figures I am quoting also appear in the report of General Marriott's committee. Now, considering that all these rates fall particularly upon the poor class of house-owners, and that with a pressure amounting almost to confiscation, will your Excellency permit any enhancement of these taxes ? The consequences of the present fiscal system have been such as to depreciate property to so serious an extent year by year since the present Municipal Act was introduced in 1865, as to render it almost impossible to say where it is going to end. The fact is that the poorer classes of house-owners have been simply ruined by it. It is a crying injustice that one particular class of property should bear two-thirds of the entire municipal taxation of the city of Bombay, or in other words that house property alone should be made to pay 20 out of the '30 lacs which represents the entire municipal income of the place. As one of numerous instances of the manifest injustice and inequality of the present system, suppose the owner of a house to mortgage his property for, say, rupees twenty-five or thirty thousand, which I assume is within a reasonable amount of its value ; he agrees to pay the mortgagee 9 or 10 per cent. for interest, and assigns to him the rents in payment thereof. Thus then the mortgager has to pay 15 and 18 per cent. as taxes on his property, while the mortgagee, a comparatively rich man, who actually derives the income, has to pay nothing upon his investment. What the present Bill should endeavour to do is to remove the present inequality of taxation and to make every man in the place contribute his fair quota towards the municipal expenditure of this city. This section of the Bill, instead of affording the relief so much needed by the house-owning interest, absolutely provides for the enhancement of the rates of direct taxation, the burden of which is already so greatly felt. Under it the Corporation will

be compelled to levy such a police rate as will suffice to cover the *entire* cost of the city police and fire brigade, which has not hitherto been the case. For example, our police expenditure for this year is estimated at Rs. 4,04,038, and the income at 2 per cent., as at present levied, is estimated at Rs. 2,62,421. The deficit of Rs. 1,41,617 will be met by a contribution from the Municipal Fund. Last year this deficit was Rs. 1,94,305, and was met in the same way. Act IV. of 1867 empowers the Bench of Justices to raise the police rate from 2 to the maximum rate of 3 per cent. ; but in view of the distress which prevails in Bombay they have exercised a wise discretion in not doing so. Now, however, the Corporation will have no option in the matter, and the figures that I have given will show that they cannot avoid increasing the rate from 2 to $3\frac{1}{2}$ per cent. or even more, seeing that the strength of the police establishments depends entirely upon the wishes of Government, and that the estimated income in any year may not be fully realized. The cruel oppressiveness of the present system of municipal taxation will be apparent to your Excellency when I mention the astounding increase which has occurred in the number of distress-warrants issued for the recovery of rates and taxes of late years. In 1870 there were issued 2,149 warrants, in 1871 there were issued 8,513 warrants, and during the first seven months of this year, or about only the half year, be it noted, the number of warrants is no less than 9,299. There must surely be some great and radical defect in any system of taxation which renders necessary so vast and ever increasing a number of distress-warrants. Having carefully watched the Municipal affairs of this City for many years past, the conviction has irresistibly impressed itself upon my mind that it will be impossible to better the condition of the people, to alleviate their distress or to allay the keen feelings of discontent which it has engendered, unless it is materially modified, if not absolutely swept away. Before the introduction of Act II. of 1865 the only taxes known in Bombay were the house-rate, which averaged about 6 or 7 per cent. per annum, and the wheel tax. The water-rate was scarcely known, not having been levied until some time in 1865 or later. The new law brought in its train the house-rate leviable from 5 to 10 per cent., police rate leviable from two to three per cent., lighting rate leviable at different rates, halalcore cess, wheel tax, license or certificate tax. This is the true cause of distress and discontent, and it is from some portion of this incubus that the people are yearning for relief. I have shown how grievous the present burden is felt to be, and that it is absolutely necessary that it should be lightened. The problem that remains to be solved then is, how so desirable a measure can be effected without affecting the Municipal income. I can assure your Excellency that no representation, however liberal, that your Excellency can give, no Corporation, no Town Council will be able, unless the present fiscal system is changed, to remove the distress and hardship under which the people have groaned for so many years, and which, I am sorry to say, the proposed measure for taxation will greatly increase and intensify. The Select Committee having expunged Section VIII. of the present Municipal Act they have afforded substantial relief to the Municipal finances to the extent of $2\frac{1}{2}$ lacs, so that by judicious management it would not be necessary to have recourse to any additional taxation. But if it is the intention of the Legislature to provide any additional sources of income for the execution of drainage and other costly works, my own conviction is that it would be better to resort to indirect taxation by a small levy of duties on articles of local consumption than to pursue the present suicidal policy of making only one description of property bear two-thirds of the burden of Municipal expenditure, to the almost entire exemption of the real wealth of the City of Bombay. I must not omit

to inform your Excellency that under the present law we even descend to tax, both in and out of the town, the batty lands of the poor cultivators, who with their wives and children cultivate them for a bare subsistence. Scores of these poor people never visit Bombay. Their lands receive no protection from the police, nor do they receive, much less do the lands require, the benefits of lighting, and yet the cultivators are made to pay these in addition to the house-rate on such lands. The owners of house property, many of whom are only owners in name, by reason of their property being so heavily mortgaged, have to contribute the inordinate proportion of 20 out of the 30 lacs required for our Municipal wants. That so crying an evil needs a remedy, I do not think any one will deny, and if it should be considered objectionable to make indirect taxation the means of such remedy, then I would earnestly submit, for the consideration of your Excellency, the expediency, nay the absolute necessity, of a small Municipal License or Certificate Tax on all incomes of above Rs. 200 per mensem being introduced in order not only that we may alleviate the prevailing great distress, but that we may no longer labour under the reproach perpetuating the grievous injustice of heavily taxing one description of property ill able to bear it, to the almost entire exemption of the undeniably wealthy citizens of Bombay. In substitution of this section I intend to propose Section 224 of Act II. of

1865, and to propose the following additional section:—
 Mr. Narayan proposes new section. “ To provide for the annual expense of the Police of the City of Bombay, and for the prevention of mischief from fires, an annual rate of not more than two per cent. may be imposed upon the occupiers of all the houses, lands, and buildings in the said city.”

The Honourable Mr. RAVENSCROFT—The honourable gentleman has pointed out the very serious burden under which house-holders in Bombay have to labour. However, in the eighteen per cent. which he proved to his own satisfaction that these house-owners have to pay, I must point out that he is mixing up with the legitimate taxes, payments which are simply for value received. It is quite incorrect to call the halalcore cess or water-rate *taxes* which fall on the owners of houses. They are simply payments for goods delivered and services rendered. I agree with the Honourable Mr. Narayan, however, that it would be desirable to fix a maximum rate of 2 or 2½ per cent. instead of leaving the amount which the rate might be levied, unlimited as it is under this section. In reducing the increase of the rate, I would support the Honourable Mr. Narayan.

The Honourable Mr. BYTHELL—I would agree to 3 per cent. as the maximum rate. So far as I can follow the Honourable Mr. Narayan, he lays the whole blame of the depression in the value of house property in Bombay upon the excessive Municipal taxation.

The Honourable Mr. NARAYAN—Not exactly.

The Honourable Mr. BYTHELL—I do not think that Municipal taxation has had anything to do with the present fall in the value of house property in Bombay, and I consider that the reason is to be found in other circumstances. In 1865, house-rents had advanced to Rupees 800 or 1,000 monthly for houses which before these exceptional times were worth no more than Rs. 150 or Rs. 200. This enormous increase was brought about by the American war and the wild speculations that were then entered upon. At present we are suffering from the reaction which has taken place; but although it may fairly be argued that house property here is heavily taxed, still it may be contended that on the other hand house-owners in Bombay possess many advantages, and that the rents now

charged are quite disproportioned to the miserable accommodation provided in most of the bungalows.

The Honourable Mr. TUCKER asked the Honourable Mr. Narayan whether he wished more particularly to relieve the occupiers or the house-owners.

The Honourable Mr. NARAYAN—Many people in Bombay possess single houses, and these have to pay both occupiers' and house-owners' rates. I called at the office of the Municipal Commissioner and found out that the amount of property owned in this way was very large. My contention is that this Council ought to give the Corporation a discretionary power of levying such rate as they may think fit, and to allow them to meet a deficit, if there should be a deficit, by a contribution from the Municipal Fund.

The Honourable Mr. TUCKER—We have already lowered the maximum house-rate by 2 per cent., and the honourable gentleman evidently wishes to limit the occupiers' rates. Do I understand that the honourable gentleman is willing to provide another tax to make good any deficiency which may be occasioned by the limitation of the occupiers' rates?

The Honourable Mr. NARAYAN—In the sections we have already passed power has been given to the Corporation to raise the house-rate, and if at any time a deficiency is found in the Municipal Fund all that the Corporation have to do is to raise this house-rate to the maximum.

The Honourable Mr. BYTHELL—The landlords are very well secured. In houses which are sub-let and in which occupiers' rates are paid by the landlord, these rates are recovered from the occupier in one way or another. In houses which are let for a fixed sum an additional rent is always paid if the landlord pays occupiers' rates. It is an argument against the Honourable Mr. Narayan that houses are still being built in Bombay, and I know that many men have been able to build very favourably recently at a fair return upon their outlay.

The Honourable Mr. NARAYAN—At present nearly two-thirds of the entire house and land property of Bombay is in the market for sale.

The Honourable Mr. BYTHELL—It is nevertheless a fact that building operations are going on vigorously.

The Honourable Mr. NARAYAN—I believe that very few houses indeed are being built at present in Bombay, and I can assure this Council that house property has depreciated very much of late and is falling lower every year.

The Honourable Mr. BYTHELL—Granted. Considering the enormous prices of 1865, it must do so.

The Honourable Mr. NARAYAN—My argument is that bankers and other professional persons have to pay very little out of the enormous profits made from their mode of employing their money, while persons who invest their money in houses are taxed very highly for their depreciated property.

The Honourable Mr. TUCKER—I do not object to a limitation of occupiers' rates if we agree to the substitution of a license tax to make up deficiencies. The fact that so many distress-warrants have been issued shows there has been some pressure put upon the owners and occupiers of houses. I think it is desirable to give some relief

to the class of persons who have suffered under the present distribution of fiscal burdens, and so I do not object to the limiting of police and lighting rates if a new tax be authorised to make up deficiencies.

The Honourable Mr. NARAYAN—There is much dissatisfaction in Bombay at present, and though much is said about representation, the masses of the people are groaning under the pressure of taxation, and care for this more than they do for any privilege of representation.

The Honourable Mr. TUCKER—But we must have a distinct understanding as to how deficiencies are to be made good, because if we alter one section of the Bill without settling the principle on which we are to proceed, we shall introduce much confusion and must refer the matter back to the Select Committee.

The Honourable Colonel KENNEDY—If the Honourable Mr. Narayan's amendment is to provide for new taxation and is to lead to the imposition of what will be nothing more nor less than an income tax, I shall object to it. I would have no objection to limiting the police-rate and lighting-rate, and if necessary the house-rate, but I object to anything like a new principle being introduced into the Bill, and I should certainly not support a proposal for a license tax. House property cannot be depreciated so much in value as has been said, because houses are springing up in every direction in Bombay.

The Honourable Mr. NARAYAN—I have no hesitation in stating my belief that if the honourable gentleman were to poll the whole city to-morrow, he would find that all this excitement in Bombay is not because of the want of representation, or that self-government is earnestly desired, but simply because the burden of taxation is felt to press so heavily in one direction.

The Honourable Mr. TUCKER—The principle of this measure is that all expenses for police and lighting are to be provided for either by these two rates or by the supplementary rate in the last resort. If we reduce this rate, and the lighting-rate, and get rid of the supplementary rate, then something must be substituted to fill up the deficiency in the revenues that must occur.

His Excellency the PRESIDENT suggested that the section should be altered to the following effect—that the annual expenses for the Police of the City of Bombay should on the requirement of Government be paid out of the Municipal Fund, and the Corporation may impose upon the occupiers and all owners of lands, buildings, or houses, an annual rate not exceeding two per cent. upon the annual value of the lands, houses, or buildings. Of course this was one of the clauses which ought to come under the operation of the “bludgeon clause.”

The Honourable Mr. BYTHELL—I should prefer seeing the figure made 3 per cent. I should also like to see occupiers made to pay a fair proportion of the lighting-rates. I may also mention that I think Fire Insurance Companies should be taxed because the high rates they charge in Bombay seem to me to prove that they can bear it.

The Honourable Mr. NARAYAN approved of the Honourable Mr. Bythell's suggestion, and mentioned that at present the Municipality got no benefit from Insurance Companies as all the sums on account of premiums were sent to England. In England many of the Fire Insurance Companies kept up their own fire-brigades, while in Bombay these had to be supported at the expense of the Municipality.

The Honourable Mr. TUCKER thought that if the proposal were agreed to it might be left to the Corporation to fix at what rate the Insurance Companies should be taxed. He was not aware of any valid objection to such a tax.

The Honourable Mr. FORBES could not agree to this. He thought it would be very difficult to ascertain the state of affairs of the companies in Bombay, or rather of the branches, as most of the Insurance Offices here are only branches of English companies.

The Honourable Colonel KENNEDY—It could be ascertained by the accounts sent home every year.

The Honourable Mr. BYTHELL thought that whatever the rate might be, it should not be fixed arbitrarily, because many of the companies which were long established did more business than the younger offices. He thought the best plan would be to lay a percentage upon the net premiums received. He knew that many of the large English towns received a direct revenue from Insurance Companies in return for the services of the Municipal fire-brigade, and he thought Bombay should derive similar advantages.

The Honourable Mr. FORBES mentioned that for one occasion that the Bombay brigade was turned out for an insured building, it was called out a dozen times for the dangerous houses in the native town which were not insured. He thought that if the Corporation made a fixed rate of Rs. 500 the companies would not object.

The Honourable the ACTING ADVOCATE-GENERAL was afraid that the only effect of this rate would be to raise the prices of insurance.

The Honourable Mr. TUCKER was not afraid of this, because he believed that competition would prevent any great increase of rates, which were here very high.

The Honourable Mr. NARAYAN agreed with the Honourable Mr. Tucker, and mentioned that the Royal Insurance Company charged as much as $1\frac{1}{8}$ per cent. on house property in the Fort. Alluding to a previous remark by the Honourable Mr. Bythell, he would suggest that the only way of getting at a larger number of well-to-do citizens, to make them contribute to the Municipality, was to impose a license tax.

His Excellency the PRESIDENT thought the Honourable the Acting Advocate-General should draw out a clause taxing Fire Insurance Companies, and in the mean time the Honourable Mr. Narayan's amendment might be gone on with. He suggested that the following section might be substituted for the one under discussion, and he considered it would meet the views both of the Honourable Mr. Narayan and the Council:—"The annual expenses of the Police of the City of Bombay and of the protection of the City from fire, as from time to time determined by Government, shall, on the requirement of Government, be paid out of the Municipal Fund, and the Corporation shall, for the purpose of making such payment, impose upon the occupiers of all houses, buildings, and lands in the said City, an annual rate of not less than two and not more than three per cent. on the annual value of such houses, buildings, and lands; and if the proceeds of the said rate shall not be sufficient to meet the said expenses, the deficiency shall be supplied from the Municipal Fund."

The amended section was agreed to, and stands part of the bill as Section eighty-six.

The Honourable Mr. NARAYAN, with reference to Section eighty-seven, could not approve of the unlimited power given to the Corporation in levying a lighting-rate, and would rather see the old clause substituted, making the levy optional on the part of the Justices. He begged to move that the section be omitted and the following section substituted:—"To provide for the lighting of the public streets of the City of Bombay with gas or other suitable means, an annual rate of not more than two per cent. may be imposed upon the occupiers of all houses, lands, and buildings in the said City."

Mr. Narayan proposes new section in regard to the lighting-rate.

The Honourable Mr. TUCKER—It would not do to leave the levy optional, and unless the honourable gentleman defines some rate the clause will be useless. Reductions have been made in other places, and we must have some rate fixed here. This is why I would prefer the honourable gentleman's amendment to his suggestion about the substitution of the old clause.

The Honourable Mr. NARAYAN's proposition regarding a two-per-cent. rate was acquiesced in.

On His Excellency the PRESIDENT's suggestion, "towards providing" was substituted for "to provide" in the first line; "of two per cent." was inserted between "rate" and "shall" in the fifth line; and the remainder of the section from "city" in the seventh line was struck out.

With these amendments, Section eighty-seven stands part of the Bill.

Section eighty-eight was agreed to and stands part of the Bill.

Sections eighty-nine and ninety were struck out.

Section ninety-one became Section eighty-nine.

The Honourable the ACTING ADVOCATE-GENERAL, with reference to this section, said he thought there was some ambiguity in the use of the word "supplied." All Bombay was supplied with water, but he apprehended it was not meant by this section that a general rate should be levied on the whole of the occupiers or owners, whether they had pipe connections or not.

The Honourable Mr. RAVENSCROFT thought that "supplied" meant that the water must be brought to the house on which the rate was charged. He himself got water for his bungalow from a place 300 yards off, and yet he was not "supplied" because the water did not come to his house.

The Honourable the ACTING ADVOCATE-GENERAL said that properly there should be a general water rate, though this was not intended by the Bill. Every owner of property ought to contribute to the water rate, and he considered it was not fair to those who had water brought to their houses that they should have to pay the whole cost of bringing water to Bombay.

The Honourable Mr. FORBES would object to a general water rate because it would raise taxation.

The Honourable Mr. TUCKER said the principle laid down by the Honourable the Acting Advocate-General was undoubtedly the correct one, that there should be a small general rate on all house-owners and occupiers, and a special charge upon persons to whose premises water was brought. It had not, however, been considered expedient to alter the existing system.

The Honourable Mr. NARAYAN concurred with the Honourable the Acting Advocate-General regarding the injustice of the present system, which was positively imposing a tax of 10 per cent. upon one class of property while wealthy merchants and bankers were allowed to get off free.

The Honourable Mr. BYTHELL thought water was a most legitimate source of income, and any man who used water, whether from dipping wells or connections, should be made to pay for it.

His Excellency the PRESIDENT was of opinion that as this section stood, the rate was no tax except upon the persons to whose houses the water was taken.

The Honourable the ACTING ADVOCATE-GENERAL proposed that in line eleven "into which water shall be conducted and supplied" should be substituted for "so supplied with water." This alteration was meant to make the present wording of the section more clear, and was only carrying out the present practice.

The Honourable Mr. NARAYAN said that the time had not come when a general rate could be imposed, because water was not yet distributed in mains all over the island.

The alteration suggested by the Honourable the ACTING ADVOCATE-GENERAL was adopted, and the section as amended stands part of the Bill.

Section eighty-nine as amended was agreed to, and stands part of the Bill.

Section ninety-two became Section ninety.

The Honourable Mr. TUCKER—Mr. Peile objects to the proviso at the end of this section, because he considers that the matter might fairly be left to the Commissioner instead of the Town Council. Personally, I differ with Mr. Peile and think the check created by the section is expedient.

The Honourable Mr. RAVENSBOFT said large contracts must be entered into with mills and other large concerns, and he would therefore support the section as it stood.

Section ninety was agreed to, and stands part of the Bill.

Sections ninety-one and ninety-two (Sections ninety-three and ninety-four of the Bill as introduced) were agreed to and stand part of the Bill.

Section ninety-five became Section ninety-three.

The Honourable Mr. NARAYAN thought that any surplus that might arise from the water rate should be set apart for the laying down of mains throughout the city.

Section ninety-three was agreed to, and stands part of the Bill.

Section ninety-six became Section ninety-four. It was agreed to, and stands part of the Bill.

Section ninety-seven became Section ninety-five.

The Honourable Mr. TUCKER said that Mr. Peile did not approve of this section as it stood, and thought some particular rate should be mentioned as in Act II. of 1865.

The Honourable the ACTING ADVOCATE-GENERAL proposed that in line twenty-one after "service," the following words should be inserted, "but shall not exceed three per cent. of the actual rent payable by each occupier."

The amendment was agreed to, and Section ninety-five stands part of the Bill.

Section ninety-eight became Section ninety-six.

The Honourable Mr. FORBES—I propose that this section be struck out.

The Honourable Mr. NARAYAN—I agree with my honourable friend Mr. Forbes. If this section is allowed to remain it will be an inducement to wasteful expenditure. With a too energetic Commissioner, Health Officer, and Engineer, a number of unnecessary works might be carried out by the aid of the supplementary rate, and I think that at the least it is calculated to lead to wasteful expenditure.

The Honourable Colonel KENNEDY—The Corporation would be protected by its own budget, by which nothing but certain specified things could be undertaken.

The Honourable Mr. TUCKER—This section is only meant to give power to raise money should it be required, but it is never likely to be used, if the Corporation manage their affairs with ordinary prudence.

The Honourable Mr. FORBES—We have already seen how this power has acted in times past. For a number of years a sum of two and a half lakhs was levied annually for drainage purposes, but as it was not actually required for these, it was year by year illegally frittered away in little useless works. This section will be an inducement to go on in a similar way.

The Honourable Mr. NARAYAN—We have, for instance, a lakh and three-quarters sunk in the Panwel Brick-works, and these useless works could not have been built but for the power the Honourable Mr. Forbes alluded to. I do not see the necessity for this supplementary rate. The house-rate can be raised to 8 per cent. under this Act, and as that levy can be enforced under the bludgeon clause, there is ample security against any unforeseen deficiency.

The Honourable Mr. TUCKER—It is necessary that there should be some further security, and this section was introduced expressly to provide the necessary guarantee against the accumulation of “deficits.” It is the more necessary now that alterations have been made with respect to police and lighting rates, and the maximum of the house rate has been reduced. This section is never likely to be called into action under good management, unless on the occasion of some extraordinary exigency, but its presence in the Bill is very necessary, as it will ensure the proper adjustment of the Budget and prevent inaction on the part of the Corporation in case of any mistake being made.

The Honourable the ACTING ADVOCATE-GENERAL thought the supplementary rate would come in well if the Corporation found at the end of a year that they had not the balance which it was provided should be maintained under the Act.

The Honourable Mr. NARAYAN thought that the Town Council and the Corporation would always see that the prescribed balance was kept up, and therefore there was no excuse for the present section.

His Excellency the PRESIDENT—We need not be too anxious about the credit of the Corporation, because only too many people will be glad to deal with it.

The Honourable Mr. TUCKER—But we do not want them to run into debt. We desire to make them pay as they go along, and not lay up debts for posterity.

The Honourable Mr. NARAYAN pointed out that under Section thirty-eight the Corporation and Town Council possessed power to reduce expenditure.

The Honourable Mr. TUCKER—We ought to consider that the insertion of this section was advised by General Marriott's Committee, and that Mr. Hope thought it necessary to prevent the accumulation of deficits and to ensure proper economical management. Mr Hope had considerable experience in the working of the Municipal system, and his opinion that this section was necessary was the result of his personal experience.

The Honourable Mr. NARAYAN—Why not say that the Municipality shall have power to impose a license tax in the event of an emergency, and this section will be quite unnecessary? I have given notice of a motion on the subject, and I now propose that the section be omitted.

The Council divided on the amendment of the Honourable Mr. NARAYAN :—

Ayes—4.

The Honourable E. W. RAVENSORFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—5.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.

The amendment was therefore lost.

The Honourable Mr. TUCKER proposed that the words "for other purposes than police and lighting provided for by Sections 86 and 87" should be omitted in lines eight and nine; also that in lines nine and ten the words "other than the police and lighting rate" be omitted.

The amendments were agreed to, and Section ninety-six as amended stands part of the Bill.

Section ninety-nine became Section ninety-seven. It was agreed to and stands part of the Bill:

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under-Secretary to Government.

Puna, 14th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Púna on Monday, the 16th September 1872, at noon.

PRESENT:

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. St. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHAY, C.S.I.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail.

The Council proceeded with the consideration of the Bombay Municipal Bill in detail.

Section one hundred became Section ninety-eight.

The Honourable Mr. FORBES—I do not think that this section is complete, and I should like to see something added to it. I object specially to the

Mr. Forbes desired that poor persons should be exempted from house or occupiers' rates.

levying of the house-rate and the occupiers' rates without some power of exemption. I think that the immense amount of what I may call legal confiscation arises from the extreme

poverty of a large class of persons who become liable to be charged with these rates, and I think it cannot be the intention of Government to wring taxes from people who are almost paupers, and for whom some exemption ought to be provided. I would therefore propose the following as a special section:—

“Special exemption from house rates and occupier's rates may be granted to any person otherwise liable for such rates, provided that within fifteen days from the presentation by the Municipal Commissioner of the bill for such rate or rates, the said applicant for exemption shall by appearing personally before the Municipal Commissioner or by sending in a written statement, declare his inability, on account of poverty, to pay such rate or rates, and shall furnish the Municipal Commissioner with satisfactory proof that such statement or declaration is true and well founded. The names of such applicants shall be immediately submitted to the Town Council, whose confirmation shall be necessary in every case of exemption, and in the event of the Municipal Commissioner refusing to exempt any such applicant, the said applicant may appeal to the Town Council, whose decision shall be final. In the event of any such application being proved to the satisfaction of the Town Council to be groundless, the applicant shall be liable to a penalty not exceeding Rs. 10.”

The Honourable Mr. TUCKER—The whole of the 21,000 owners are likely, on such an invitation as the honourable member proposes, to advance the plea of poverty.

The Honourable Mr. FORBES—To prevent that I have added a penalty.

The Honourable Mr. TUCKER—The section regulating the house rate has already been agreed to and passed, and if it be desired now to prevent any exemption from house rate, an alteration must be made in Section sixty-nine as well as in this section.

His Excellency the PRESIDENT—I think delays would be endless if we were to adopt the Honourable Mr. Forbes' suggestion. If the Corporation have all the trouble and expense of appointing men to present bills, it would never do to leave it to every man to refuse to pay the collector when he called on him. A minimum rate for occupiers ought to be fixed, and exemption should only be allowed to persons whose contributions will not reach that amount. The Corporation probably gains nothing by the attempt to collect these small sums.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—I intended to move something similar to the amendment now put forward by the Honourable Mr. Forbes. If this be done, we shall be saved the trouble of making eight hundred bills, and the Corporation will lose only a trifling sum of about Rs. 400. I would suggest that all under a gross rental of Rs. 20 per mensem should be exempted from the house and occupiers' rates. This will relieve the dwellers in miserable huts from those payments which are a severe burden on them. It was from Mr. Peile that I learned the effect of such a change as the one now proposed, and I think that for the sake of Rs. 400 it is absurd to lose the time and labour that are necessary to make out 800 bills.

His Excellency the PRESIDENT—I think that the Honourable Mr. Munguldass' proposal would practically have operation in one or two of the existing wards. Of houses in which the owners are assessed upon a gross rental of Rs. 20, I find that in Girgaum and Malabar Hill there are only 4; in Oomercarry, Magazon, and Parell, 2; while in Mahim and Camateepoora there are 214.

The Honourable Mr. MUNGULDASS—I believe that before 1857 all such houses were exempted.

The Honourable Mr. RAVENSCROFT—I may mention that in the case of the non-agricultural cess, the executive officers of each district were, under the bye-laws, given full power to exempt persons from payment in individual cases in which it might appear that hardship would be the result of levying the cess. I think something similar should be introduced here, giving the Municipal Commissioner or the Town Council power to make exemptions in cases which in their opinion required them.

The Honourable Mr. BYTHELL—I think that would be much better than exempting a special class, in which a man assessed at Rs. 12 might be in a much worse position than a man assessed at Rs. 20.

The Honourable Mr. FORBES concurred with the Honourable Mr. Ravenscroft.

The Honourable the ACTING ADVOCATE-GENERAL thought any alteration was scarcely necessary, because the Corporation or Town Council would never make the Commissioner throw good money after bad by making him prosecute people who were unable to pay.

The Honourable Mr. NARAYAN understood that under the existing law the process of issuing distress-warrants and selling a person's cooking-pots must be gone through.

The Honourable Mr. RAVENSCROFT mentioned that as regards the house-tax in municipalities in the Mofussil, power is given to remit the tax in ascertained cases of poverty.

The Honourable Mr. TUCKER considered that where the levy of a tax had been directed by law some attempt must be made by the Municipal Commissioner to impose it. He did not object to give a power to exempt in cases in which the sums were so small that it would be no benefit to collect them.

The Honourable the ACTING ADVOCATE-GENERAL believed that to declare that certain people shall not be assessed was wrong, because he understood that one of the objects of the Bill was to bring the whole of the property in Bombay upon the assessment book.

His Excellency the PRESIDENT suggested the following amendment: "and it shall be lawful for the Municipal Commissioner with the approval of the Town Council to remit the rates for the year or any instalments thereof in any case in which they shall be satisfied that the payment of the same would subject the person liable to undue hardship."

The Honourable Mr. FORBES said His Excellency's suggestion entirely met his views.

His Excellency the PRESIDENT said that it was only a sort of general authority that was wanted, much always having to be left to the discretion of the Commissioner. He believed the words he had read would carry out this view.

The Honourable the ACTING ADVOCATE-GENERAL was of opinion that they would only express what the present Commissioner had power to do already.

The Honourable Colonel KENNEDY would prefer to see the limits of the discretionary power more clearly defined.

The Honourable Mr. TUCKER thought that the words "subject the person liable to undue hardship" were vague and too wide. He could not therefore support the amendment as it stood, but he was quite willing to give the Municipal Commissioner power to remit the collection of the rate in cases in which he considered that it was not for the interest of the Corporation to issue process for the recovery of such small items. This would get rid of the issuing of bills and distress-warrants for petty sums which were not worth the trouble of collecting.

The Honourable Mr. FORBES said the Council should endeavour to show that they did not mean to ruin the labouring rate-payers, and that it should be a rule to exempt the poorest classes from direct taxation.

The Council divided on His Excellency the President's amendment:—

Ayes—6.

His Excellency the PRESIDENT.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—5.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.

The amendment was carried and the section as amended stands part of the Bill.

Sections 101 and 102 became 99 and 100. They were agreed to and stand part of the Bill.

Section 103 became 101. The prefix "sub" was taken out before all the words "sub-let" entered in this section, on the suggestion of the Honourable Mr. Tucker.

The Honourable Mr. NARAYAN VASUDEVJEE moved that the words "when any house, building or land is unoccupied or" in lines one and two be omitted. It seemed to him very hard that, even though there were vacancies in a house, occupiers' rates should be paid by the owner. Already the house-tax had been remitted, and the principle involved in this section was precisely the same.

Exemptions claimed from the payment of occupiers' rates on vacant houses.

The Honourable Mr. BYTHELL said that many people had kept and were still keeping their houses unlet chiefly because they would not accept a fair rental. It should not be forgotten that during all the time the houses were thus standing empty, they were getting the benefit of municipal protection.

The Honourable Mr. NARAYAN supposed the case of a man who had fifty apartments in a chawl, who if he got only one tenant had to pay rates for the remaining forty-nine apartments. He quoted the opinion of Government officers on the subject, and stated that General Marriott's Committee in their report had said that the recovery of occupiers' rates from owners during a term of non-vacancy seemed to them indefensible. The Bill as it stood at present was quite different from what it was formerly, and there appeared to be no reason for this.

The Honourable Mr. BYTHELL mentioned that he was looking for a house in Malabar Hill some time ago, and he found that some houses into which he went, and which were marked outside "to let," had one room furnished, and on his asking the "mallee" the reason of this, he was told that the landlord, who lived in the native town, used to spend his Sundays in the room. Now, these houses could not be said to be standing empty.

The Honourable Mr. MUNGULDASS NUTHOOBHOY regretted that these rates were imposed upon vacant properties, and said that the house-owners were so burdened that it would be better for them to pay a lump rate of 20 per cent. at once than to meet all the demands that were now made upon them.

The Honourable Mr. NARAYAN said that an occupiers' rate should be made recoverable from the occupier only and it certainly seemed hard that where a man had no tenant, he had to pay occupiers' rates. All these rates that were put upon the owner seemed to him to be of the nature of an income or property tax, and it would be better to consolidate them and call them by that name at once.

The Honourable Mr. MUNGULDASS NUTHOOBHOY said the house rate was already passed with the exemption now claimed, and he asked that there should not be two principles in the Bill.

The Honourable Mr. NARAYAN concurred with the Honourable Mr. Munguldass.

The Honourable the ACTING ADVOCATE-GENERAL said that the house-rate might be designated as in the nature of an income-tax on capital invested in houses, but the occupiers' rates were clearly of quite a different character. These rates were contributed in return

for advantages given to the owner, and were payments for the preservation of property by affording it the benefits of lighting and the protection of the police and fire brigade. These benefits were neither more nor less whether a house was vacant or full or partly so, and he therefore could see no justice in the argument that because the house-rate had been remitted this rate also must be remitted. He certainly should vote against any such proposition.

The Honourable Mr. TUCKER—We have recognized the same principle here as we were willing to do with respect to Government buildings—namely, that these rates are virtually payments for services rendered.

The Honourable Colonel KENNEDY also thought there was a great distinction between the two rates.

His Excellency the PRESIDENT said that as the law stood at present, if a house were unoccupied the owner only paid police or lighting rate, and it appeared to him that by the present amendment it was sought to obtain an exemption from something which did not at present exist.

The Honourable Mr. MUNGULDASS—Supposing the population of the city were suddenly to fall off one-half, would it be fair to levy the whole of the occupiers' rates from the owners of the empty properties?

The Honourable the ACTING ADVOCATE-GENERAL—If that were ever to happen, the Council of His Excellency could sit and alter the law.

The Honourable Mr. FORBES—But it is the same principle, only the Honourable Mr. Munguldass has placed it before the Council in a stronger light.

The Council divided on the Honourable Mr. NARAYAN's amendment:—

Ayes—3.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCHROFT.
The Honourable J. K. BYTHELL.

The amendment was therefore lost.

The section was agreed to and as amended stands part of the Bill.

Section 104 became 102.

The Honourable Mr. MUNGULDASS proposed that the old section should be followed instead of this new one, under which the landlord was made to recover from the occupier in the Small Causes Court at considerable trouble. He desired more facilities for the landlord recovering his rent and he objected to his being compelled to furnish the Commissioner with a list of tenants, and being made liable if he did not do so. He begged to move that in the section the words "thereof shall" should be omitted, and that there should be added in the place of the deleted part of the section, "and shall furnish the Municipal Commissioner," &c., as in Section 102 of the Bill as referred to the Select Committee.

The Honourable Mr. TUCKER said that this section would assist the landlords in recovering occupiers' rates from their tenants, and that he considered its retention necessary.

The Council divided on the Honourable Mr. MUNGULDASS NUTHOOBHOY's amendment :—

<i>Ayes</i> —3.	<i>Noes</i> —7.
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable J. A. FORBES.	The Honourable H. P. ST. G. TUCKER.
The Honourable NARAYAN VASUDEVJEE.	The Honourable A. ROGERS.
	The Honourable the ACTING ADVOCATE-GENERAL.
	The Honourable COLONEL M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable J. K. BYTHELL.

The amendment was therefore lost.

His Excellency the PRESIDENT proposed that, as the Council were dealing only with rates, the words "or tax" in the fourth line should be omitted.

The amendment was agreed to, and the section as amended stands part of the Bill. Section 105 became Section 103.

The Honourable Mr. TUCKER proposed that in the 25th line "police and lighting" should be substituted for "occupiers." This was agreed to.

The Honourable Mr. NARAYAN withdrew the amendment of which he had given notice, viz., that the words "by Government or" should be omitted in the twentieth line, because of the Advocate-General's previously expressed opinion and the promise of His Excellency the President that the contributions would continue to be paid.

The Honourable Mr. TUCKER said that it had already been announced that in this matter the Council could do nothing by legislation, and that Government had agreed to contribute to the Municipal Fund the equivalent of these rates upon buildings.

The Honourable Mr. NARAYAN—Government are already bound to pay police and lighting rates upon all their lands, and already the returns of all such property have been prepared and are in the Commissioner's Office. There was the opinion of the Advocate-General, the Honourable Mr. Scoble, upon this point.

The Honourable Mr. TUCKER—The honourable member is right so far in saying that the Municipal Commissioner is seeking to recover these rates upon Government lands under the present Act, but Government do not admit that they are under any legal obligation to pay, and the success of any attempt to establish such an obligation seems very improbable.

The section, with the alteration proposed by the Honourable Mr. Tucker, was then agreed to and stands part of the Bill.

Section 106 became 104.

The Honourable Mr. NARAYAN mentioned that a petition was some time ago submitted to the Bench of Justices by the owners of bullock hackeries in Mahim, stating that they

felt that Rs. 7-8 was too great an imposition upon their hackeries, which could only be used for a certain season of the year, the bullocks having to be employed for agricultural purposes during the monsoon. He thought that some reduction might be made.

The Honourable Mr. TUCKER considered that this description of vehicle could afford to bear the tax imposed upon it.

The Honourable Mr. NARAYAN thought there was too great a difference between the tax of Rs. 4 for labour carts and the tax of Rs. 7-8 for native hackeries.

His Excellency the PRESIDENT wished to know by what calculation hackeries were taxed more than carriages.

The Honourable Mr. TUCKER said it was because in the case of the carriages the horses were taxed separately, while in the case of the hackeries the bullocks were included in the tax on the hackeries.

The Honourable Mr. BYTHELL noticed that no tax was laid on bheestie bullocks.

The Honourable Mr. TUCKER remarked that the time had hardly arrived for such a measure.

The Honourable Mr. NARAYAN suggested that the rate on hackeries might be reduced from Rs. 7-8 to Rs. 5.

The Honourable Mr. TUCKER said it was not desirable to encourage the multiplication of these vehicles.

Section 104 was then passed and stands part of the Bill.

Section 107 became 105.

The Honourable Mr. FORBES objected that under this section a man who owned a horse only for a single day would be liable for the tax.

In the third line "for use" was placed after "kept," and in the fifth line "exceeding seven days" was inserted after "quarter."

Section 105 was agreed to as amended and stands part of the Bill.

Sections 108 to 111 became 106 to 109. They were agreed to and stand part of the Bill.

Section 112 became 110.

The Honourable Mr. TUCKER said this section would be useful, because practically a good number of people who possessed vehicles or animals liable to taxation evaded payment of this impost. The effect of this section would be to considerably increase the Municipal revenue derived from this tax.

The Honourable Mr. BYTHELL—The only difficulty that occurs to me is that when a stranger comes to Bombay he will not know of this regulation.

The Honourable Mr. TUCKER—When the Act has been passed the Commissioner will take care that the provisions of this section are widely published, and the Magistrates will exercise discretion in the administration of the law.

The Honourable Mr. BYTHELL—I intended to move that this section be omitted, but if we could devise some notice which would be given in the English and Vernacular newspapers, I would vote for its being retained.

The Honourable Mr. NARAYAN thought a penalty was necessary, because he had known instances of parties escaping payment for a whole year.

The Honourable Mr. TUCKER concurred with the Honourable Mr. Narayan, and mentioned that he was cognizant of instances in which the tax was evaded. No great hardship would be inflicted by this regulation, which was requisite to secure the full collection of the tax.

The Honourable Mr. FORBES could not see that the penalty was necessary, and was inclined to move that it should be withdrawn. If it were enforced it would lead to great hardship, and if it were to be a dead letter, he could not see the good of introducing such provision.

The Honourable Mr. MUNGULDASS was in favour of the whole clause, because a horse was not like a house that could not be hidden.

The Honourable Mr. FORBES said that on a man who owned a horse even for a single day the section would operate most oppressively. If a man were to come down to Bombay and buy a horse, he would be immediately liable, and he did not consider that this was reasonable.

His Excellency the PRESIDENT concurred with Mr. Forbes' interpretation of the section.

The Honourable Mr. BYTHELL thought that if additional revenue were to be made out of the section, the section ought to be made public. He would therefore move that to the section the following words should be added:—"Provided that the Municipal Commissioner shall advertise this section once monthly in at least one English and one Vernacular newspaper in Bombay."

The Honourable the ACTING ADVOCATE-GENERAL thought it was entirely unnecessary to legislate upon such a small point as this, because the Commissioner would surely have discretion to give notice if he thought that course to be necessary.

His Excellency the Commander-in-Chief thought the whole section should be omitted, because it looked dangerous.

The Honourable Mr. FORBES had no objections to this.

The Honourable Mr. TUCKER pointed out that the alterations which had been made in Section 105 would save the persons whom the Honourable Mr. Forbes wished to protect from the consequences to which they would have been liable if the former section had remained as it originally stood.

The Honourable Mr. FORBES withdrew his objection.

The Council divided on the amendment of the Honourable Mr. BYTHELL:—

Ayes—3.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. K. BYTHELL.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCE.

The Honourable H. P. St. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHAY.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The amendment was therefore lost.

Section 113 became Section 111. "106" in line ten was altered to "104." The section was amended and agreed to, and stands part of the Bill.

Section 114 became Section 112. It was agreed to and stands part of the Bill.

Section 115 became Section 113.

The Honourable Mr. TUCKER—The carts mentioned in this section come in from Salsette with loads and then ply about the city or return with passengers, &c. They do as much damage to the roads of the island as do carts that belong to the city, and they have hitherto escaped taxation. The toll we propose to levy is a very moderate one, considering that these carts for the most part come into Bombay and ply about all day, and return after making a profitable use of the opportunities for hire which they obtain in the island.

The Honourable Mr. NARAYAN thought some provision should be made for the Municipal Commissioner making such arrangements as he might choose for the levying of this toll. He would have to keep up an expensive establishment that might be avoided if he had power to farm the tolls. This difficulty had been practically felt under the old Bill.

The Honourable the ACTING ADVOCATE-GENERAL was astonished to hear that under the extensive powers of making contracts possessed by the Commissioner through the old Act, he had not this power of farming tolls.

The Honourable Mr. TUCKER said that under the section electing Municipal officers to be public servants, there was a clear indication that the Legislature intended that the Commissioner should have power to farm out taxes and tolls.

His Excellency the PRESIDENT—Supposing the owner of a cart sees that a man has got a written authority for the Corporation under the contract section of this Bill to collect the toll, how can he refuse to pay the toll to a person so appointed?

The Honourable Mr. RAVENSBOFT—The person liable for the toll might say to the former that he was not legally authorized to take the toll from him, and force his way through, and if the Commissioner has no authority to farm the toll, the person so acting could not be punished.

The Honourable Mr. TUCKER said that although in the Bill there was no express declaration of the power of the Commissioner to farm out the collection of any rate, tax, or toll, yet under the general power given to him to make contracts, and the distinct reference in Section 51 to "contractors or their agents to whom the levy of any rate, toll, tax or other impost shall be entrusted by or on behalf of the Corporation," it could be held that the Legislature had given him a general power to farm out any rate, tax, toll, or other impost. He (the speaker) did not feel sure that it was expedient that the Commissioner should have the power of farming out all rates, taxes and duties, as such a system might lead to a considerable amount of oppression and annoyance to the inhabitants in this respect. He was therefore willing to give express powers to farm out the particular taxes with reference to which the Council thought that such authority might properly be given. In the case of the toll mentioned in the section now under discussion, there could be no objection to the grant of this power. He would therefore support the Honourable Mr. Narayan's proposal, and he proposed to move an alteration to Section 51 at the third reading.

The Honourable Mr. NARAYAN proposed that between "levied" and "on" at the end of the second line and the beginning of the first, the words "by the person authorized by the Municipal Commissioner" should be inserted; and that after "city" in the eleventh line, the following words should be inserted, "and it shall be lawful for the Municipal Commissioner, with the sanction of the Town Council, to farm out this toll."

The alterations were agreed to, and the section as amended stands part of the Bill.

Section 114 became Section 112.

The Honourable the ACTING ADVOCATE-GENERAL—Sir,—I beg to move that "It shall be lawful for the Corporation to levy duties on such articles imported from any place into the City of Bombay as shall from time to time be determined upon by the Corporation.

The Acting Advocate-General moves that special articles should be exempted from town duties

The said duties shall be called Town Duties and shall be leviable in addition to any Customs Duties prescribed by law, provided that the rates according to which such duties shall be levied shall be subject to the revision of the Government. Provided also that no duties shall be leviable in respect of the articles mentioned in the Schedule B annexed to this Act. Schedule B "Grain of all sorts; gold and silver, iron and steel; railway sleepers; and Government stores, arms and ammunition." I propose first of all to ask the Council to affirm this proposition, that the Corporation alone shall have the power of saying what are the articles upon which duties shall be levied. In the next place, I would ask the Council to consider the claims which the articles mentioned in Schedule B have to exemption. I think that the first part of what I ask is a matter that may safely be entrusted to the Corporation as a public body. No one can deny that the sixty-four members of the Corporation will compose a body much more fitted than this Council to decide upon the articles which shall be taxed, because they will almost all be traders as well as householders, and will possess most of the wealth and property of the city, and therefore will be well qualified to revise, it may be from year to year, the duties they impose, and regulate them according to their experience, so that no burden would be allowed to remain unduly long upon any one class. It seems to me that Schedule B which is attached to this Bill places the burden of taxation upon what is certainly the lowest stratum of society in Bombay, the poorest poor who have to provide themselves with grain as a necessary means of existence. But I shall not discuss just now what articles should be exempted from duty. All I ask is that the Council shall alone have the power to determine what articles shall be taxed, and therefore I propose that the section I have read be substituted for Section 114 of this Bill.

The Honourable Mr. TUCKER—Do I understand the honourable gentleman to propose that the Corporation shall be allowed the power to select the articles which shall be taxed, but that Government are to confirm or disapprove of the rates?

The Honourable the ACTING ADVOCATE-GENERAL replied affirmatively.

The Honourable Mr. TUCKER—Then I am opposed to the honourable member's proposition, because I think it will be much better to leave this clause as it stands. There seems to me to be as much importance in the selection of the articles to be taxed as there is in the fixing of the rates, and I certainly think that Government alone should have the power of saying what articles shall or shall not be taxed. One of the recognized principles of taxation upon commodities is not that every commodity shall be taxed, but that duties shall be placed on a few selected articles in general use and limited

to an amount which will press but lightly on the individual consumers of the articles taxed. This is the principle on which all tariffs are now regulated, and we have endeavoured to adhere to it in fixing the articles and rates entered in Schedule B referred to in this section. No duty specified in the schedule can be held to fall on the poorer classes save the duty upon grain, and though as a general rule it is desirable to tax luxuries and not necessaries of life, yet there are special circumstances in connection with the City of Bombay which justify the imposition of this rate. In India, where the lower classes consume so few articles which may be considered luxuries, it is requisite, if indirect taxation is to reach the bulk of the population, to place it on an article the consumption of which is general, and for this purpose we are compelled to have recourse to an article of food. The rate in this instance has been fixed so low that it affects the price of the commodity to the consumer in a degree so infinitesimally small that the imposition of this duty can give no reasonable cause of complaint. I cannot concur with the learned Advocate-General that the Corporation to be constituted by this Bill will be a better body than this Council to select the articles to be taxed, and the power we have given them to make alterations in the schedule both with respect to articles and rates subject to the confirmation of Government is all that seems necessary or desirable. I shall vote for the section as it stands.

The Honourable Mr. ROGERS—I think that, as the Corporation will be entirely new and unaccustomed to decide in matters of this kind, the Honourable the Acting Advocate-General's proposition would be inexpedient, and therefore I would rather see the present section allowed to stand.

The Honourable Colonel KENNEDY thought that before the Honourable the Acting Advocate-General's amendment could be accepted, it would first need to be decided what articles should and should not be taxed.

The Honourable Mr. FORBES—I am disposed to think that it would be better to limit the articles to be taxed because otherwise duties may be imposed which may be a serious hindrance to trade. In fact, I think that town duties under any form are extremely objectionable, and though in this case they may be necessary, it is nevertheless advisable to restrict the damage that they are capable of doing. I may mention with reference to the statement that the tax on grain falls heavily upon the poorer classes, that in a former discussion on this subject it was mentioned that every coolie required about a candy and a half of grain in the course of the year, so that the total annual amount of the tax for a labourer will only amount to about 6 annas a year. This is not very severe taxation so far as grain is concerned.

The Honourable Mr. TUCKER—Since the tax was instituted, the price of grain has gone down 30 per cent. This fact, which I have learned on the authority of the Honourable Mr. Munguldass, shows that the grain tax has not operated to prevent a fall in prices.

The Honourable Mr. BYTHELL—I certainly prefer that this Council should fix the articles to be taxed, and that the Corporation should only be allowed to vary the rates within the limits of the schedule. I do not think that it is the province of any municipal corporation in India to fix articles for taxation.

The Honourable Mr. RAVENSCROFT said he was not in favour of the Corporation selecting the articles to be taxed.

The Honourable the ACTING ADVOCATE-GENERAL—I should have been very glad if this Council had given an indication that they were willing to trust the Corporation with this power. Already they are to be charged with the management of the city, they are to have full powers to spend the revenues, and they are to have full powers also to collect rates and taxes; and therefore I cannot see why upon principle they should not also have the power to say upon what articles of trade that enter the city duties should be levied. I have not heard any honourable member except the Honourable Mr. Rogers advance any real objection to what I ask, and all that this honourable member could say was that a new body of men like the Corporation would not be accustomed to deal with such matters, and that therefore they would not be able to decide, at least for a considerable time, what should be the articles upon which to levy duties. It seems to me much more consistent with practical government to give the Corporation powers, but to restrict them within certain limits. I certainly hoped that members who upon former occasions signified their desire that larger power should be given to the Corporation; would have given me their support in this matter. Of course if the Council do not agree to my first principle, there is no use going on to consider the new schedule I would propose.

The Honourable Mr. MUNGULDASS agreed with a great deal of what had been said by the Honourable the Acting Advocate-General, and therefore he would support his proposal.

The Honourable Mr. NARAYAN said that he also would vote for the proposal, because the Corporation, having power in matters of expenditure, should have power in the matter of income also.

The Honourable Mr. BYTHELL would be afraid to trust the Corporation with this power, because it might be influenced regarding one particular article, and the result would be an unfair distribution of taxes.

The Council divided on the Honourable the Acting Advocate-General's amendment:—

Ayes—3.

The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable NARAYAN VASUDEVJEE.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

The amendment was therefore lost.

The Honourable Mr. BYTHELL—I wish to move that in the tenth line the words “list of articles and” should be deleted. I think that the Legislative Council ought to decide upon the principle whether transit dues should be allowed to be imposed or not. I stated on a previous occasion that this question had been discussed by this Council on several occasions during the last six years, and that on each of these occasions it had been decided that transit dues should not be allowed. I think consequently that this Council should now decide whether articles on which town duties shall be levied should

Objections taken to the levying of duties of the nature of transit duties.

include articles in transit or be limited to articles consumed in the place. I make this motion now with the view afterwards of moving that all articles that are articles of transit should be expunged from Schedule B.

The Honourable Mr. TUCKER—The honourable member's amendment would come in more properly on the discussion on Section 172, where refunds are provided for.

The Honourable the ACTING ADVOCATE-GENERAL—I think that the amendment now suggested is made altogether under a mistake.

The Honourable Mr. TUCKER—I think so also. As this Bill stands, there are no transit dues made leviable, and under Section 120 as it now stands refunds are allowed on exportation on all articles, including cotton. I shall propose an alteration of that section, but until that alteration is carried, the honourable member's objections are premature.

The Honourable Mr. BYTHELL—I make this motion with the view I have already stated, and because leaving the section as it stands might imply that we approved of transit duties without a vote being taken.

The Honourable Mr. RAVENSCROFT—I object to certain articles being fixed for taxation for ever.

The Honourable Mr. BYTHELL—It has been decided on every occasion when the question of transit dues has been brought up in this Council that they shall not be imposed, and to leave this section alone just now would be to empower the Corporation to levy transit dues.

The Honourable Mr. RAVENSCROFT—Still, I object to it being laid down that certain articles shall always escape taxation, and you are now trying to get it affirmed that the Corporation never shall lay dues upon articles supposed to be in transit.

The Honourable Mr. TUCKER—The Honourable Mr. Bythell appears to wish to effect two things, (1) to restrict the power of the Corporation to select new commodities for taxation, and (2) to prevent the imposition of any transit duty. For the first purpose it is competent to him to move an amendment of this clause, but for the second the proper time for his proposal will be when we come to consider the section which directs refunds. At present, I must repeat, there is no transit duty sanctioned by the Bill, as a refund on exportation is authorized on all articles on which duties are levied. The section as it stands includes cotton, and the omission to alter it was an oversight of the Select Committee.

The Honourable Colonel KENNEDY—I agreed with the Honourable Mr. Bythell as to the principle of no transit dues, but it seems to me that if this amendment were made the Corporation would be paralyzed in another direction—that is, it would be deprived of power to levy taxes upon articles which are not in transit.

The Honourable Mr. ROGERS concurred with the Honourable Colonel Kennedy.

The Honourable Mr. BYTHELL—As owners of house property are evidently desirous of transferring their burdens from themselves to the shoulders of the trade of the place, and as householders are sure to be well represented in the new Corporation, I think that even at this stage the Legislative Council should object to giving the Corporation power to do anything of the kind, and affirm to itself the right of saying what articles shall be taxed. Supposing that the owners of house property should mainly compose this Corporation, it is

not in the least improbable that they would lower the police-rates, the house-rates, and the lighting-rates, and impose the difference upon transit articles—a power which ought not to be permitted.

The Honourable Mr. MUNGULDASS—The so-called transit duties could be imposed only with the consent of Government.

The Honourable Mr. NARAYAN—And the honourable gentleman seems to forget that minimums have been fixed for the rates he has mentioned.

The Council divided on the Honourable Mr. Bythell's amendment:—

Ayes—1.

The Honourable J. K. BYTHELL.

Noes—9.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable H. P. St. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHROY.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The amendment was lost.

The Council then proceeded to the consideration of Schedule B.

The Honourable the ACTING ADVOCATE-GENERAL—The first duty here mentioned is

It is moved that grain should be struck out of the list of articles upon which it is proposed to levy town duties.

“grain of all sorts, per candy, Rs. 0-4-0.” I move that this be struck out altogether. This duty on grain is the most odious tax there is in the city of Bombay. I need not make any comments upon the principle of modern legislation upon these matters, because it will be well enough

known to the members of this honourable Council that taxation upon the poorest people is condemned, and that the first object of good Governments now is to provide food for the poor at as cheap a rate as possible. Although a duty has been raised from grain for sometime past, yet there are many other commodities coming into the City of Bombay which are much more legitimate objects of taxation, and I certainly feel bound to oppose this article remaining any longer in the schedule for purposes of taxation. One of the reasons why I was desirous of giving the Corporation the power of saying what articles should be taxed, was that I had faith that sixty-four gentlemen connected with the city would decide correctly upon such an important matter as this. If the Corporation come to the conclusion that there must be a tax upon grain well and good; but I do not think they would do anything of the kind. This Council has no positive information before it, and I think it will be a very wrong measure indeed if this Council pass this schedule as it stands, and do not declare that the municipal tax-gatherer's hands shall not be again laid upon grain. I shall be very glad to see this Council strike this commodity out of the list, and, if there shall be a consequent deficiency in the municipal revenues, the Corporation should have additional powers to raise money either upon property or upon some commodity other than

grain which may enter the city. I repeat that for twenty-five years it has been the established principle in English legislation that the poor shall get their food at the cheapest possible rate.

The Honourable Mr. NARAYAN mentioned that in 1871 a sum of 1,34,000 rupees was raised from the grain tax.

The Honourable Mr. RAVENSCROFT—Apparently, if the Corporation agreed to levy this tax, the Honourable the Advocate-General would have no objections.

The Honourable the ACTING ADVOCATE-GENERAL—I have already expressed my belief that a body composed of sixty-four persons would come to a sounder conclusion than this Council upon the point whether this grain tax is a right one.

The Honourable Mr. RAVENSCROFT—Under Act IV. of 1869, the previous Act which authorized the levy of town duties, the Corporation of Justices, if they disapproved of the tax on grain, had the power to reduce it; but the Justices, who were well acquainted with the state of the city, knew that as a fact this four annas' rate upon a candy of grain was perfectly inappreciable, while at the same time it realized a very fair revenue yearly. The Justices therefore made no alteration, and I see no sufficient reason for the Honourable the Advocate-General's amendment.

His Excellency the PRESIDENT—Assuming that this tax does fall upon the poor, such as coolies, do they pay in any other way towards the municipal revenues?

The Honourable Mr. TUCKER—The other taxes do not reach them, and they are benefited in many ways, especially in the supply of water, for which they pay nothing.

His Excellency the PRESIDENT—And yet they get the advantage of protection by the police, of lights, and of the higher wages consequent upon living in a centre of labour like Bombay. In what possible form can they be made to contribute to the income of the Municipality if this tax is abandoned? I think there can be no doubt that if the grain tax is done away with, a large portion of the population will contribute nothing for the advantages which they receive.

The Honourable Mr. TUCKER—The Honourable the Advocate-General is right in stating that it is against the canons of political economy to tax the necessaries of life, but there are exceptional circumstances in which taxes on such articles are permissible, but my learned friend is wrong in stating that in England articles of food escape taxation. I need only mention beer and tea, which are articles of consumption among the poorer classes in England. In fact, the desideratum of a free breakfast table has not yet been attained. I do not say that the articles I have mentioned do not partake of the character of luxuries as well as of necessaries, but grain itself becomes a luxury when consumed in larger quantities than are requisite for the maintenance of life. In a country in which we cannot reach the masses of the people in any other way, it is justifiable to place a light impost on a necessary of life, if care be taken that the rate is not too high so as to cause a material increase in the price of the article. One public writer in Bombay has stated that this insignificant duty does not touch the consumer at all; in this declaration I am not prepared to agree, but I think it affects him so slightly that he is well able to bear this trifling drain upon his pocket in exchange for the advantages he gets. I may remark that though the price of all cereals has greatly diminished since the first imposition of this duty, wages have not proportionately decreased, so that the state of the labouring classes in Bombay is far better than in other parts of the Presidency, and there can be no doubt that their material condi-

tion has in no appreciable way been injured by this duty. Under these circumstances, it would be very unwise of us to throw away a legitimate source of income for considerations which are founded more on sentiment than on actualities. On these grounds I hope that the Council will not entertain the proposal which my learned friend in his laudable anxiety to relieve the poor has thought it necessary to make.

The Honourable Mr. ROGERS—Grain is used by more than the poorer classes, and the larger portion of this tax is, I apprehend, paid by the richer and well-to-do classes of Bombay. Before we can provide for the wants of the city, it is necessary that we should have a tax which will reach every person, of whatever degree. I also am opposed to the amendment.

The Honourable Mr. MUNGULDASS—If our Municipality had been in prosperous circumstances, I should have supported the Honourable the Advocate-General's amendment, but practically I do not think that this small tax has much influence on the price of grain or affects the poor. I believe that the whole tax comes out of the profits of trade, and not from the pockets of the consumer, because the tax is so small that the merchant feels that he cannot charge any increased price to his customers.

The Honourable the ACTING ADVOCATE-GENERAL—By the use of the word "food" in my remarks, I undoubtedly laid myself open to the criticisms of the Honourable Mr. Tucker, and I certainly should have used the word "grain," because it was to those fiscal principles which in England have caused the abolition of the corn laws that I more especially alluded. There are articles in the schedule which correspond to the articles beer and tea mentioned by my honourable friend. Ghee is an instance, and sugar is another, and these are consumed by natives much in the same way as tea and beer are consumed by Europeans. For this reason they should be lightly dealt with, and although the honourable gentleman may think my objections merely theoretical, I can find nothing in the debates in this Council in 1865 to substantiate his opinion. It should not be forgotten that this four annas, which is considered to be so little, would be sufficient to supply some of the poorest poor with food for a week. I consider that in this community as in others the lowest stratum of the community should get the benefit of remissions of taxation if possible. After what His Excellency the President and other members have said, I do not anticipate that my motion will be carried, but I still regret that the power of levying taxes on grain and other articles has not been left to the discretion of the members of the Corporation.

The Council divided on the Honourable the Acting Advocate-General's amendment:—

Ayes—1.

The Honourable the ACTING ADVOCATE-GENERAL.

Noes—9.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The amendment was lost.

The Honourable Mr. NARAYAN thought that the next item—“metals, except gold and silver, iron and steel, $\frac{1}{2}$ per cent. on tariff value”—should be altered. He begged to propose that “1 per cent.” should be substituted for “ $\frac{1}{2}$ per cent.” This alteration, he calculated, would yield about Rs. 26,000.

Enhancement of the duty upon certain metals.

The Honourable Mr. FORBES objected to the increase.

The Honourable Mr. TUCKER mentioned that Messrs. Nicol & Co. had written complaining that the present impost on timber of $2\frac{1}{2}$ per cent. was too heavy, and thought that the rate on timber might be diminished and refunds abolished. One reason which they advanced for lessening the duty on timber was that a large quantity of timber left Bombay in a changed shape, so that it was almost impossible to get a refund. The honourable gentleman said he understood that Messrs. Nicol & Co. had large dealings in timber, so that they naturally would like to see a reduction of that particular duty. Their remarks were however entitled to careful consideration. General Marriott's Committee recommended that the duty on metals and timber should be equally one per cent.

The Honourable Mr. FORBES thought similar reasons could be advanced in favour of a reduction of duty on copper as well as on timber.

The Honourable Mr. BYTHELL said he was afraid any addition to the rate upon copper would create much dissatisfaction, while the increased income would be very small.

The Council divided on the Honourable Mr. Narayan's amendment:—

Ayes—6.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCHROFT.

The Honourable NARAYAN VASUDEVJEE.

Noes—2.

The Honourable J. A. FORBES.

The Honourable J. K. BYTHELL.

The amendment was therefore carried.

The Honourable Messrs. TUCKER and ROGERS declined to vote.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—The next item is—“wines and spirits, per gallon, Rs. 0-2-0.” I think that higher duties could be levied on these liquors, because however necessary they may be in a cold climate like England, they are not necessary in this country and are doing a great deal of harm here.

Enhancement of duty on Wines and Spirits.

His Excellency the PRESIDENT wished to know whether the honourable gentleman's objection was founded on moral or financial considerations.

The Honourable Mr. MUNGULDASS said his objections were founded on both considerations; but chiefly because the consumption of liquors was doing much harm among the poorer people of Bombay.

The Honourable Mr. RAVENSCHROFT remarked that there were two kinds of spirits—one imported and of European manufacture and another made in the country, and he asked whether it was not the latter which did most harm.

The Honourable Mr. FORBES—I object to the increase of duty both on the moral ground and the financial ground, because if we tax the wines and spirits imported from Europe, we drive the classes whom the honourable gentleman now accuse of using too much liquor to cheap native liquor, which is worse in its effects.

The Honourable Mr. NARAYAN—But the duty will be the same on both kinds.

The Honourable Mr. FORBES—At present Bombay has to compete, under great difficulties, with Calcutta and Karáchi for the trade in the interior of India, and no doubt the importation of wines and liquors forms a considerable part of that trade. The provisions for refund are practically inoperative. If, therefore, we were to increase the duty, Bombay would find it very difficult to keep a forward place in the competition for internal Indian trade.

The Honourable Mr. BYTHELL would prefer to see taxes on such articles increased, to taxes being levied on any article in transit.

The item was allowed to stand unaltered.

His Excellency the PRESIDENT—The next item is “beer per gallon 0-0-6,” upon which the income is only about Rs. 8,900.

The item was allowed to stand unaltered.

The Honourable Mr. BYTHELL—On the next item, “sugar, including molasses, jagri and goor, the duty is 1 per cent. on tariff value,” I have to propose that the duty be increased by a half per cent., making the whole duty $1\frac{1}{2}$ per cent. on tariff value.

Enhancement of the duty upon sugar.

The Honourable Mr. TUCKER—The present Municipal Commissioner thinks that there ought to be some increase upon this commodity. He complains of the want of elasticity of the municipal revenues, and considers, as the Honourable Mr. Bythell does, that sugar is one of the articles which may bear an increase of duty.

The Honourable Mr. BYTHELL—The increase will affect only the wealthier classes of Bombay, and will not be much felt.

The Honourable Mr. MUNGULDASS—Sugar is a necessary of life, and I would oppose any further taxation upon it.

The Honourable Mr. FORBES thought that with customs duties, sugar had already as great a burden as it could bear, and therefore he would oppose the motion.

The Honourable Mr. NARAYAN mentioned that half a lakh of revenue would be raised from the proposed increase of a half per cent.

The Council divided on the Honourable Mr. Bythell's amendment :—

Ayes—6.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable H. P. St. G. TUCKER.

The Honourable A. ROGERS.

The Honourable Colonel M. K. KENNEDY.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

Noes—4.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable E. W. RAVESCROFT.

The Honourable J. A. FORBES.

The amendment was therefore carried.

Enhancement of the duty upon ghee. The next item for consideration was "ghee, per Bombay maund, Rs. 0-8-0."

The Honourable Mr. MUNGULDASS hoped there would be no additional taxation upon ghee. Medical men could tell the Council that ghee was absolutely necessary to the healthy existence of the portion of the Hindoo community who were vegetarians, and he considered that any further imposition of duty upon this article would lead to great hardship being inflicted upon a very large class of Her Majesty's subjects.

The Honourable Mr. TUCKER—The honourable gentleman did not object to the duty on beer, an article of consumption to another important section of Her Majesty's subjects, and against taxing which the same arguments might be urged.

The Honourable Mr. MUNGULDASS—But the difference is that ghee is not a luxury and beer is.

His Excellency the PRESIDENT—Does the honourable gentleman consider that beer and wines and spirits are luxuries only?

The Honourable Mr. MUNGULDASS—Yes, in this country they are.

The Honourable Mr. RAVENSCROFT—I looked upon the matter from the opposite point of view.

His Excellency the PRESIDENT—I also cannot agree with the Honourable Mr. Munguldass.

The Honourable Mr. BYTHELL—I beg to propose that the duty on ghee be increased from 6 to 8 annas per Bombay maund. I have been informed by several native gentlemen that the increase which I propose will fall almost entirely upon the better part of the community, and I do not think the Council can agree with the opinion expressed by the Honourable Mr. Munguldass, that if we assent to this trifling increase we shall be open to a charge of "class legislation." If we admit this plea, we should at once, as the Honourable Mr. Tucker suggested, have to abolish taxes upon beer and spirits, which I presume are not drunk by the vegetarians represented by the Honourable Mr. Munguldass.

The Honourable Mr. NARAYAN said he would not oppose the amendment.

The Council divided on the Honourable Mr. Bythell's amendment:—

Ayes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIO SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDÉVJEE.
The Honourable J. K. BYTHELL.

Noes—3.

The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.

The amendment was therefore carried.

The next item in the schedule was "timber, excluding railway sleepers, 2½ per cent, on market value."

The Honourable the ACTING ADVOCATE-GENERAL thought that since the duty on other articles had been increased, timber should not be allowed to escape.

The Honourable Mr. TUCKER said that he had before mentioned that there were complaints of the oppressive character of the present duty on this very useful article, and he would oppose any increase.

The existing duty was passed unaltered.

The next item was the duty on cotton of four annas per candy.

The Honourable Mr. BYTHELL—Sir,—I beg to propose that this duty be expunged from the schedule. Before making any remarks of my own, I shall read to the Council the following letter from the Bombay Chamber of Commerce upon the subject of taxing cotton:—

Objections to a duty upon cotton, because such a duty would amount to a transit tax.

“ To the Acting Chief Secretary to Government, Bombay.

SIR,—The attention of the Committee of the Chamber has been called to the New Municipal Bill printed as Part V. of the *Government Gazette*, dated 30th ultimo, with the report thereon of the Select Committee of the Council of His Excellency the Governor of Bombay for making Laws and Regulations, in Schedule B of which Bill cotton is noted as one of the articles on which a town or octroi duty of 4 annas per candy might be levied.

It is not the intention of the Committee to discuss the question of the imposition of town duties on the present occasion, but I am instructed to draw the attention of His Excellency in Council to the point that, in the opinion of the Committee, the levy of any rate on cotton brought to Bombay for export would be, not a town or octroi duty, but a transit duty.

This being the view taken by the Committee, I am further instructed respectfully to inquire whether it is competent for the Council of the Governor of Bombay for making Laws and Regulations, to legislate for the imposition of transit duties in any form without the consent of the Government of India.

The Committee are far from believing it to be the intention of His Excellency in Council to agree to the imposition of a rate of any kind on the export of cotton, but they consider it to be their duty to call special attention to the matter when they see that a Select Committee of His Excellency's Council for making Laws and Regulations have placed cotton in a schedule of articles on which they consider town duties should be levied.

I am to request you will be good enough to place this letter before His Excellency with the least possible delay.—I have, &c.,

JAMES TAYLOR, Secretary.”

I see that the increase which we have just made in the town duties on other articles will amount to a lakh and Rs. 14,000, and as this is nearly equivalent to the amount which might be expected from the transit duty of 4 annas per candy upon cotton, I trust that this Council will see its way to agree to my suggestion. I do sincerely hope that this Legislative Assembly will not adopt such a hazardous and retrograde policy as will be implied by the imposition of this duty. Although cotton may fluctuate in price like other articles of commerce, yet I would point out that year by year the average price realised for the Indian cotton crop is becoming less. Low-class Indian cotton has been found to be completely unsaleable lately almost at any price in England and in the chief Continen-

tal markets. The reason of this is that America is fast regaining her old supremacy in the cotton trade, and if India is to be expected to compete with her, she must be allowed to work very cheaply indeed. Instead of adding to the burdens that already exist, you ought therefore to relieve this Indian cotton trade as much as possible. I have already spoken at considerable length upon this point on the motion for the second reading of this Bill, and I have already drawn attention to the fact that this tax of 17*d.* per ton will actually put Bombay in an unfavourable position, considering Liverpool charges, and also to the fact that this Council has always steadily refused to allow transit duties to be levied in any shape. I therefore will not repeat my arguments, but I trust that this Council will agree to this amendment.

The Honourable Colonel KENNEDY—I agree with the Honourable Mr. Bythell as to the inexpediency of maintaining cotton among the list of town duties in this schedule, not only upon the general grounds of the objectionableness of transit dues, but upon the important ground of Bombay's difficulties in competing with America in the home markets.

His Excellency the PRESIDENT understood the Select Committee to recommend that this duty should be levied on cotton exported to Europe as well as cotton consumed in Bombay. But as refunds were allowed, they would be obtained in the case of the exported cotton.

The Honourable Mr. TUCKER—It was not intended by the Committee that there should be any refund allowed on cotton. The omission to alter the section relating to refunds was an oversight.

The Honourable Mr. RAVENSCROFT could see no reason why cotton should not be made to pay a contribution to the municipal revenues, because it had the benefit of municipal protection and the traffic in it destroyed the roads of Bombay more than anything else did. Though this duty partook of the character of a transit duty, he still thought it ought to be imposed, because the burden would be almost inappreciable, and would be fully compensated for by the services rendered to the trade.

The Honourable Mr. ROGERS thought that this could hardly be called a transit duty at all, because it would be merely a payment for services rendered and would in no way affect the price of the article. The price at home depended on an entirely different set of considerations, and was regulated chiefly by the demand and the supply from America. In this country, owing to the establishment of telegraphic communication, every up-country ryot knew from day to day the price at home, and would take very good care to regulate his bargains accordingly without reference to any intermediate payments the staple might be subjected to. The tax would in fact fall on the middlemen, up-country on the Wukharias or storekeepers, and in Bombay on the merchants or commission agents and as the latter were benefitted in the place in which they resided by it he thought cotton should make some return to assist the municipal expenditure.

The Honourable Mr. FORBES—I have very considerable objections to seeing any tax put upon an article which I think the Council must continue to regard as the mainstay of Bombay trade. I find that the late Governor of this Presidency, while speaking in the Legislative Council on the 18th February 1869, on the subject of a proposal to include cotton under the new town duties, used these words:—"Now the objection he (the President) had to the tax

might be sufficiently stated in this way that, whether it was paid in any respect by the grower or was partly a burden on the grower and partly on the consumer, it would nevertheless be a burden; but he thought it would be a burden on the consumer only, and therefore it was perfectly clear that it would not be a tax upon any one in Bombay, but a tax paid solely by people residing away from the city for the benefit of the people of Bombay. The Honourable Mr. Ellis had said that cotton enjoyed all the benefits which were given by the municipality just as the residents did. He (His Excellency) supposed the honourable gentleman meant by that that cotton had the benefit of being watched and having roads to be carried over: but cotton must belong to somebody in Bombay, and that person in Bombay already paid for those things and contributed to the funds of the Municipality, to the water rates, the police and lighting rates, and so on. That was a tax upon the owners of cotton, and as long as the article was in Bombay, it was a legitimate reduction on his profits. The tax on cotton would be a legitimate tax if it came out of the profits of a resident in Bombay, but as proposed it would fall on the consumer. The argument used by the Honourable Mr. Ellis that the tax was so light, seemed to him not to be a good one. One of the objections which he first stated and which was one which he strongly entertained against the adoption of the system of town duties, was that when the schedule was settled, in the event of any need arising, however slight, what was perhaps at first an insignificant tax would be increased till it became a burdensome one. He thought above all that cotton was an article that ought not to be included, for it was a tax that would not fall on the resident in Bombay, but would become simply and solely in its most naked form a transit duty paid by the consumer abroad." Besides this very definite expression of opinion by the former Governor of Bombay, I find in support of the Honourable Mr. Bythell's proposal a Resolution published by the Government of India on the 14th November 1868 on the subject of municipal taxation. The minute is very clear and interesting, and among other things it specified articles upon which town duties or cess under any name should not be levied by any municipal body. Cotton is specified among the articles which should be so excluded, and I may mention that you have just imposed duties upon articles which the Government of India considered ought to be left free. I suppose that the Chamber of Commerce had this minute in view when it addressed to this Council the letter which has just been read, and particularly that it is owing to it that they have pointed the fact that transit duties are supposed to have been prohibited by the Government of India.

The Honourable Mr. TUCKER—There is no legal restriction to our legislating on the point, though undoubtedly we must show good reasons to induce the Government of India to assent to a proposal which is undoubtedly at variance with opinions they have expressed.

The Honourable Mr. FORBES—At any rate, certain rules have been laid down by that Government for the guidance of Bombay as well as other Presidencies in municipal matters.

His Excellency the PRESIDENT—I do not consider that this Council would act illegally in placing this duty in the schedule, but there is no use in disguising the fact that if such a duty be carried in this Council, it is not improbable that it may be disallowed by the Viceroy, as we are aware that the views of the Government of India are not in accordance with those of the Select Committee.

The Honourable Mr. FORBES—In looking over the Resolution of the Government of India to which I have before referred, it appears that its objection to such duties and its

approval of these rules were so strong, that it uses the following words:—"It will be for local Governments and administrations to review the whole question of municipal taxation and expenditure, and the Government of India will be prepared to consider any well founded claims for assistance from the imperial revenues in bearing the charges for town police when it can be shown that the observances of the principles laid down in this Resolution renders it proper to revise the existing adjustment of the shares of those charges between the Government and the Municipality." I think that if a majority of this Council decide against the amendment, an appeal will be made to the Government of India, and when that appeal comes up for consideration, the result will be that the tax will not be permitted, and the Bill including it will be returned.

His Excellency the PRESIDENT asked how much the Corporation were likely to gain from all the little increases of duties which the Council had just agreed to.

The Honourable Mr. BYTHELL replied that the total would be Rs. 1,14,000, and all that was wanted from cotton was a lakh and a quarter.

The Honourable Mr. FORBES pointed out that doubling the duties did not necessarily mean that the income would be doubled.

The Honourable Mr. MUNGULDASS concurred with the Honourable Mr. Forbes, and pointed out that house rents were going down very rapidly.

The Honourable the ACTING ADVOCATE-GENERAL—I can hardly think that the Honourable Mr. Bythell is in earnest when he says that this insignificant duty will tend to effect the ruin of the cotton trade in Bombay. When we were proposing a tax upon grain he said nothing about the destruction of the grain trade—indeed, he spoke in quite a different strain, and said that this tax of 4 annas upon a candy of grain was quite inappreciable and would not fall with any force upon the poor consumer; but, the moment that we propose to lay 4 annas upon a candy of cotton, an article which is mostly dealt in by wealthy people, he exclaims: "O! this will be such an extravagant impost that the cotton trade of Bombay will be well nigh ruined; we shall not be able to compete with America, and the trade will be destroyed in the course of a few years." I can hardly think that the honourable member means to advance these arguments seriously.

The Honourable Mr. BYTHELL—Certainly I do.

The Honourable the ACTING ADVOCATE-GENERAL—I could not think the honourable gentleman did. The honourable gentleman says that this duty assumes the character of a transit duty; so be it, but I consider that the objections of the Government of India to a series of inland transit duties will scarcely apply to a small market duty levied at the chief emporium of the trade. Cotton does not merely come to Bombay and pass on to Europe, China, or elsewhere. It remains a long time in the city and is protected and the dealers in it are supplied with many conveniences. It changes hands and in every operation connected with it yields profitable occupation to a large class of persons—a duty on it cannot therefore be classed as an ordinary transit duty. It is a commodity which appears to me may as properly be taxed as any other description of merchandize mentioned in the schedule, and certainly with better reason than articles which are necessaries of life. Why should dealers in articles on which large profits are realized not contribute something to the revenues of the city in which they receive so many advantages? The tax is too small to have any effect on the future prospects of the trade, and I am unable to see any objection to its imposition which

might not be made to a duty on any article of trade whatsoever. I cannot agree with the Honourable Mr. Forbes when he says that he is certain the Government of India will not agree to this tax upon cotton if this Council decides upon imposing it. The Government of India must have at heart the interests of all classes of the community, and not simply of one or more sections, and it will surprise me if, when looking over this schedule, it shall prefer to strike out cotton and leave grain to stand as an object of taxation. Supposing that the cotton merchants of Bombay do go up to the Governor-General and petition him to expunge this tax on cotton from the schedule, what is likely to ensue? The Viceroy will see before him on one side a body of men rolling in wealth, who stay in handsome houses, who possess fine properties, asking that cotton should be relieved. On the other side the picture will show myriads of poor people, with hardly any clothes upon their backs, and having the appearance of starvation, and these will implore that grain should be set free so that their bellies may be filled. And which of these representations will a wise and beneficent ruler incline to? I hope to heaven that the representatives of the ratepayers will stir themselves to get up a kindred petition from the poor inhabitants of Bombay and present it to the Viceroy, who will then consider whether or not there is justice in taxing grain. If the present Governor-General, with the liberal antecedents that he has displayed elsewhere, shall listen to this petition to remit the tax on cotton while he ignores the claims of the poor consumers of grain, I shall be greatly surprised. If I am to vote upon the present question, I cannot vote for expunging cotton while I see that grain is kept in the schedule.

The Honourable Mr. MUNGULDASS—I should have hesitated to express my opinion upon this question after hearing such strong opinions against the taxation of cotton from my honourable friends Mr. Forbes and Mr. Bythell. But I cannot forget that a few years ago, when this same subject was being discussed, though the Honourable Mr. Brown, a mercantile gentleman, was against the impost, yet we had the Honourable Mr. Campbell in favour of it; and in 1856, when the Committee of the Bench of Justices was appointed to settle what articles should be taxed, Mr. J. Graham, Mr. J. Parsons, Mr. John Fleming, and others were in favour of a slight tax being placed on cotton. A report was published expressing these views, and was signed by these gentlemen and many others; and I cannot help thinking that the opinion of these gentlemen is just as likely to be correct as the opinions just expressed by the Honourable Mr. Forbes and the Honourable Mr. Bythell. Again in 1868, when the question was submitted to the Bench of Justices, a slight tax upon cotton was preferred to any impost upon grain by an overwhelming majority; and I believe that to this day the native merchants are in favour of a slight tax on cotton. They consider a slight tax upon cotton so unobjectionable that they, in selling cotton, always put so much per candy aside for charitable purposes. Thus they give 4 annas per candy for the support of pinjrapoles, they give half an anna per candy for the feeding of pigeons, and they had formerly to give a quarter per cent. under the Cotton Frauds Act, which payment has now been reduced to half the amount I have stated by Government.

The Honourable Mr. BYTHELL—It was not a quarter per cent., but 4 annas per bale of 492 pounds, irrespective of value, that was levied.

The Honourable Mr. MUNGULDASS admitted the correction, but said that the principle that a charge of some kind was made was the same.

The Honourable Mr. BYTHELL—Those charges to which the Honourable Mr. Munguldass has referred are unwillingly paid. I have been told this by the men themselves.

The Honourable Colonel KENNEDY—As to the services rendered that have been spoken about, I think that this is hardly a fair plea on which to tax cotton, because wheel tax has to be paid very largely for its carriage through the city.

The Honourable Mr. TUCKER—At the utmost the honourable gentleman can only say that the municipal rates are contributed to indirectly by the dealers in cotton, through the medium of the tax on carts.

The Honourable Colonel KENNEDY—The use of the roads seems to be the only service rendered to cotton.

The Honourable Mr. TUCKER—Sir,—When moving the second reading of this Bill I mentioned the reasons which induced me to support the imposition of an infinitesimal duty upon cotton, and to advocate the retention in the schedule of the item which the Honourable Mr. Bythell now desires to expunge. I then admitted that the subject was one of great importance to the city of Bombay, and that it was a question on which a considerable difference of opinion might reasonably exist. I agree in what the honourable gentleman has said with respect to the critical position in which our great staple trade is now placed, in consequence of the gradual increase of the American supply and the present inability of India to produce an article which can successfully compete with the best descriptions of American cotton. I am also as sensible as he is of the importance of the cotton trade to the material progress of the city of Bombay, and to the mischief which will ensue if there should be any sudden or serious contraction of that trade. I trust that the evils to which I have referred may be averted, or at any rate greatly mitigated, by the opening of new markets in the continent of Europe—which can now be supplied directly from Bombay in consequence of the opening of the Suez Canal, without the necessity of a previous voyage to Liverpool—and by progressive improvement in the growth and preparation of the Indian commodity. It is only because I am of opinion that the trifling duty which we propose to levy will have no appreciable effect on the fate of the trade, and will in no way accelerate the approach of that evil day which must come if the new trade springing up between Bombay and the countries bordering on the Mediterranean and the Black Seas, does not serve to counterbalance the falling off of the trade with England on account of the increase of the American supply, that I advocate the retention of this item in the schedule. When I last addressed the Council on this point, I endeavoured to shew that the imposition of this duty would not affect the price of the commodity at Liverpool, inasmuch as the market value there depended solely on the American supply, and not on the cost of production and of the distribution of the article in India. The truth of this assertion is borne out by the statements made by my honourable friend Mr. Munguldass, who has told us that oriental ingenuity has discovered a way of making this trade contribute to the support of Hindoo charitable institutions and to supply the means of maintenance for asylums for useless and decaying animals, and for the preservation of vermin and the feeding of pigeons. Now it appears to me far better that this trade should contribute its quota to municipal revenues in return for the numerous advantages which it receives, which I have enumerated on a former occasion, than that it should be subjected to irregular exactions of this kind, which, when not paid voluntarily, are enforced by the

Mr. Tucker's remarks in support of the cotton duty.

power of combination which Hindoo traders know so well how to exercise. If on the contraction of the trade the time should come when the cost of the production and of the distribution of cotton in India will have the natural effect upon price which it now has not, these caste-imposed contributions will leave a margin for saving which must needs be exhausted before the duty proposed by this Bill will operate in the enhancement of price. One of the good effects of the duty may therefore possibly be to cause the extinction of these exceptional levies. I stated before that under the orders of the Government of India all inland transit duties on cotton have been done away with, and that now the only places at which duties are taken are the ports of Kurrachee, Gogo, Carwar, and Coompta, and the duty of two annas per bale levied under the Cotton Frauds Suppression Act at Bombay. The municipal duties collected at the four ports I have named are of a light character. The duty sanctioned at Kurrachee is the highest. It is four annas per bale. The others are much less, only small fractions of that sum. The Honourable Mr. Forbes has read to us a Resolution of the Government of India on the subject of municipal taxation generally, and on the objections to transit duties as a mode of raising municipal revenues. In much of the reasoning put forth on that order I concur, but I think it somewhat too absolute in the denunciation of transit duties. In my opinion there are circumstances in which duties on articles not consumed in the place where a tax is levied may be legitimately imposed. These are (1st) when advantages and services are rendered to the trade which more than counterbalance the payments exacted; and (2nd) when the amount of duty is so small that it will be no check to the growth or development of the trade. Both these conditions exist with relation to the cotton trade in Bombay, and in my judgment justify the imposition of this tax. I may mention that we have received an expression of the views of the Government of India on this important point of more recent date than the Resolution which has been read and commented upon by the Honourable Mr. Forbes. In reporting the abolition of all Inland Transit Duties throughout this Presidency, we made the suggestion that a duty of four annas per bale might be legitimately imposed at Bombay for the benefit of the Municipality. To this remark we have received a reply that though the effect of the duty would probably be inappreciable, yet that the Government of India thought it would be better not to impose such a duty. There is some foundation, therefore, for the honourable member's supposition, that the inclusion of this duty in the schedule may not meet with the approbation of the Viceroy when the Bill goes up to him. If I had seen this reply before the insertion of this duty was carried in the Select Committee, I should not have felt myself at liberty to support the proposal, but as the measure had been decided upon in Select Committee before we were aware of the opinion of the Government of India, it appears to me that it was the proper course to allow the matter to be fully discussed and considered in this Council, and if there should be a majority in favour of the duty, to let it remain in the Bill, leaving it to superior authority ultimately to decide whether in the interests of the entire community it is desirable that the duty should be confirmed or disallowed. There is another objection which it seems to me probable may be taken to the measure by the Government of India, which I think has not been prominently brought forward in the course of our debates on this question, viz., that the duty, if it reaches the producer, will place a tax more or less on the whole of the Bombay Presidency, and on the inhabitants of Native States and of other parts of British India not included in the Bombay Presidency, for the exclusive benefit of the city of Bombay. The answer to this is that Bombay being the central mart

for the cotton trade in India, and the principal port of embarkation, is entitled in return for the protection and facilities which it affords to the trade to claim a small contribution from the territories from which cotton is brought to it for consumption and for ultimate exportation. As my honourable and learned friend the Advocate-General has pointed out, the bulk of the cotton remains some time in the city before it is sent away, and if the duty should come out of the pockets of the producers or of the middlemen who distribute the commodity, either class receives an ample return in the improvement in the means of transit and the additional ease and security with which they can carry on their operations. On the other hand, if the tax should fall on the consumer of raw material in Europe, the other parts of India beyond the limits of the city will have no cause of complaint. I trust that these considerations may have weight with this Council and with the Government of India. The Honourable Mr. Bythell is alarmed lest the insertion of cotton in the schedule should prove to be an introduction of the thin end of the wedge and be merely a preliminary step to the further augmentation of duties upon cotton. As the Corporation will have no power to increase the rate fixed by this Bill without the confirmation of Government, which will not be lightly given to any proposal in this direction, I think the honourable gentleman may feel assured that no such progressive augmentation of the duty as he anticipates will take place. I may state that personally I would strongly oppose any increase of the duty unless the state of the cotton trade should greatly alter, and the demand for Indian cotton in Europe become as stable and permanent as it is now fluctuating and precarious. I have no fear that the Government of Bombay will not always be alive to the necessity of protecting the trade in its staple commodity from the pressure of burdens which may be injurious to it or prevent its expansion, and it is only because I am satisfied that the light duty now proposed will have no such effect, that I shall vote against the honourable member's amendment, and with reference to this item shall give my voice in favour of the schedule as it stands.

His Excellency the PRESIDENT—In dealing with this question I do not think we ought to lose sight of the fact that we are proposing to touch a commodity in which the mercantile community of Bombay is largely engaged. The persons interested in this trade are well represented and are certain to make themselves heard, while those who will be affected by the duties on ghee, grain, and other articles of taxation, which the honourable gentlemen who are now opposed to the tax on cotton assisted to raise, cannot have similar opportunities. I really cannot see how any one can equitably propose that cotton alone should be totally exempted from taxation—and left out of this schedule, and that the Council should prefer to raise a revenue from articles of domestic consumption and the necessities of life, such as grain, ghee, sugar, &c. On these grounds I think we should adhere to our present position and reject the amendment.

The Honourable Mr. BYTHELL—Looking at the position in which Bombay is placed, I think it would be much better for the interests of all concerned, whether householders or traders in Bombay, to have taxes levied upon articles consumed in the city rather than upon the cotton which simply passes through it in transit. If taxes are placed upon ghee and grain and sugar, the burden falls upon the local consumer, but if taxes are placed upon cotton they do not fall upon Bombay, but must either

His Excellency the President approves of the duty on cotton.

Mr. Bythell argues that cotton practically already pays for services rendered.

fall upon the produce or the purchaser at home. Although it may be possible that this tax if levied in Bombay, would not at first affect the price in Liverpool, where the prices will be regulated by supply and demand, yet nevertheless Bombay will be greatly influenced by the incidence of the duty. Indian produce is already taxed heavily for carriage, and it has to bear many other expenses; and the net amount left in the hands of the ryot after all these charges have been met will decide the question whether the Bombay trade in cotton is to increase or decrease. It will be seen that not only a low average price in Liverpool, but an addition to the expense of transit, will help to bring about the time when the ryot will find out that the production of cotton does not pay him, and therefore will not grow it. When that day comes, it will be a bad day for Bombay. Whatever the house-owners may say about the burdens they have to bear, there can be no doubt of the fact that no other article of Indian produce will leave behind the same amount of money in Bombay that cotton does. It requires a great deal of preparation; it has to pay the labour of doing this; it requires great care in its selection, and highly-paid men have to be entrusted with its management; buildings for its accommodation have to be provided; and there are other matters which go to prove that if the cotton trade fall off in Bombay, no trade that one can substitute will be as beneficial for the city. The history of Bombay shows how valuable cotton has been to it. The moment cotton became the one great article of Bombay trade, the value of property went up immensely and even now one will find that the value of immoveable property has not fallen to the point at which it was before the share mania, being still higher than it was before the American war. The Honourable Mr. Mayhew has made a sensational reply to remarks which I never made. I never said that this tax would ruin Bombay. I merely said that, considering the position of trade in Bombay, it should be the object of house owners to lessen taxes and charges on cotton because there can be no doubt that cotton in India is already at a considerable disadvantage with its American competitor, and if we go on adding burdens the trade, though it may not be exactly ruined, will be considerably injured. I differ from the Honourable Mr. Tucker in his opinion that this will be an infinitesimal tax, and I think on this point I have already shown this Council how a small increase upon the duties on trade in Bristol made all the difference between the comparative ruin and the prosperity of that port. These four annas per candy make 17*d.* per ton, and I do not think anybody can be justified in calling that an sum infinitesimal duty, especially when numerous instances can be adduced to show that smaller taxes even have had material influence in destroying trade in certain ports. As to the remarks made by the Honourable Mr. Ravenscroft, to the effect that cotton carts cut up the roads while cotton hitherto has paid nothing to the support of the municipality, I would merely repeat that every ton of cotton passing through the city employs people of almost every description, from the coolie to the banker and Government servant, and thus makes money circulate freely, and directly benefits the city greatly. If cotton pays nothing, I should just like to know where Bombay derives its wealth. She has no agriculture, no mineral mines, no special manufacture; she is but a strip of barren rock running out into the sea; and it is simply because it has this great trade in cotton and other articles that the city is what it is. We have heard a great deal about the miserable state which householders are in at the present moment, but if we look at the rents they receive and the accommodation they give, it must be evident that the cry of distress raised by this section of the community is without justification, and that they owe much of their good fortune to this cotton which it is now proposed to tax is a fact beyond dispute.

The Honourable Mr. RAVENSCROFT asked what effect upon the whole Bill it would have if the Government of India refused to assent to the tax on cotton.

The Honourable Mr. TUCKER—If the Viceroy do not approve of this portion of the Bill, he will refuse to give his assent to the measure, and it will be sent back to us with a statement of the objection taken, and it will remain with the Council to alter it, if it pleases, so as to make it conform to the view expressed in the communication made to us by the order of the Viceroy.

The Honourable Mr. FORBES remarked that he was so confident that the Government of India would object to the proposal to tax cotton, that he would be almost disposed to vote against the Honourable Mr. Bythell's proposition just that the Bill might be thrown back upon the Council.

The Council divided on the Honourable Mr. Bythell's amendment :—

<i>Ayes</i> —3.	<i>Noes</i> —7.
The Honourable Colonel M. K. KENNEDY.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable J. A. FORBES.	The Honourable H. P. St. G. TUCKER.
The Honourable J. K. BYTHELL.	The Honourable A. ROGERS.
	The Honourable the ACTING ADVOCATE-GENERAL.
	The Honourable MUNGULDASS NUTHOOBHOY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable NARAYAN VASUDEVJEE.

The amendment was therefore lost.

The amended schedule of town duties. Schedule B., after being amended, stands as follows :—

		Rates.
		Rs. a. p.
Grain of all sorts	per candy	0 4 0
Metals, except gold and silver, iron and steel.	1 per cent. on tariff value.	
Wines and spirits.....	per gallon	0 2 0
Beer	per gallon	0 0 6
Sugar, including molasses, jagree, and goor.	1½ per cent. on tariff value	
Ghee	per Bombay maund	0 8 0
Timber, excluding railway sleepers	2¼ per cent. on market value.	
Cotton	per candy	0 4 0

Section 114, including the amended schedule, was agreed to and stands part of the Bill.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under-Secretary to Government.

Puna, 16th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Puna on Tuesday, the 17th September 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHAY, C.S.I.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail.

The Council proceeded with the consideration of the Bombay Municipal Bill in detail.

No alteration was made in Sections 117 to 119 of the Bill.

Section 120 became Section 118. The fifth and sixth lines were altered to read as follows:—"time to time be paid into the Bank which is now or may hereafter be." The section was passed as amended.

Section 121 became 119. It was passed and stands part of the Bill.

Section 122 became Section 120.

The Honourable the ACTING ADVOCATE-GENERAL moved that in line one, the word "goods" should be omitted, and that in its stead the words "articles except cotton" should be adopted; also that in lines four and nine the word "re-exported" be made "exported."

The Honourable Mr. TUCKER said that the amendment proposed by his learned friend should have been made in the Select Committee, but it was overlooked. It was intended, when cotton was added to the schedule of town duties, that the duty should be paid by all cotton that came within Municipal limits, whether intended for local consumption or exportation. A tax confined to the cotton used in Bombay would not give sufficient to make it worth while to impose it. It was curious that at the time when the Bill was subjected to much hostile criticism for imposing a transit duty on cotton, it did not really impose such a duty, inasmuch as under this section refunds on cotton were permitted as well as on other articles. This fact indicated that an actual study of the provisions of the Bill did not always precede the utterance of these adverse opinions.

His Excellency the PRESIDENT could not see the use of this section. He understood that there was so much difficulty in obtaining refunds that practically no one but large dealers in the articles taxed ever thought of applying for a refund.

The Honourable Mr. RAVENSCROFT thought that the section might be omitted with advantage.

The Honourable Mr. TUCKER—Such a step would convert all the duties into transit duties and the Bill would be more at variance than ever with the supposed views of the Government of India. He thought that there should be a power to obtain refunds on all the articles subjected to town duties with the exception of cotton, and he therefore should oppose the removal of the section altogether. If persons did not largely avail themselves of the power to obtain refunds, it showed that the duties were not heavy, and that it was better to put up with them than to take the necessary steps to get the duty refunded.

His Excellency the PRESIDENT said that practically only the large dealers benefitted by this section, and that it did not seem of much use to keep up this system for the advantage of this class alone.

The Honourable Mr. NARAYAN VASUDEVJEE remarked that last year Rs. 5,28,000 were collected as town duties, and refunds to the amount of Rs. 42,000, or 8 per centum on the collections, were made. This was not a small sum, and it was important to traders and others to be able to obtain this return of duty.

The Honourable Mr. TUCKER concurred with the last speaker.

The Honourable Mr. FORBES thought this refund must employ clerks and give a good deal of trouble, and that the advantages to trade must be inappreciable.

The Honourable Mr. MUNGULDASS thought the amendment of which he had given notice, viz., in line one the words "which having not broken bulk" be inserted between the words "goods" and "upon," would meet the views of the Government of India, and would also secure a sufficient income from cotton.

His Excellency the PRESIDENT did not see any sufficient reason for treating cotton differently to other articles in the schedule.

The Honourable Mr. TUCKER said that if refunds were allowed upon all cotton exported, there would be but little realized under the new duty, and the trade would be exposed to much inconvenience and trouble without any corresponding advantage to the Municipality. If cotton were not excepted from this refund section, it would be better to give up the duty altogether, and he did not see any reason for disallowing the refunds which had hitherto been permitted with respect to other articles because it was considered expedient to treat cotton in an exceptional manner.

The Honourable Mr. BYTHELL—Many hundred thousand bales come in by rail; and many of those bales never are put upon a bullock cart, but are shipped right off from the Elphinstone Bunder. The Municipality should have no claim upon these bales, and how can the honourable gentleman say that services are rendered to them?

The Honourable Mr. FORBES said he was sure this section would involve the rejection of the Bill by the Government of India, because it would appear perfectly inconsistent that a transit duty should be imposed upon cotton, while other articles, which were certainly much more of the nature of luxuries, should be allowed to pass through the town without any transit duties being recovered from them. He proposed that the whole section be omitted.

It is proposed to omit the whole refund section.

The Honourable Mr. BYTHELL—I shall vote on principle both against the amendment of the Honourable Mr. Forbes and the alteration proposed by the Honourable the Acting Advocate-General, and I must say that I hope that on consideration the Council will decline to allow this new system of taxation to be commenced. It has been suggested that I have been inconsistent because I voted for the octroi duties and yet am opposed to transit duty being laid on cotton. But I hold that I have been quite consistent—in fact, I have just adopted the policy pursued by this Council three years ago. The Council as a body, including the then president, objected very strongly to the levying of town duties; but when it was explained that money must be raised, and that there was no other source of revenue available than these town duties, they agreed that octroi duties should be levied upon articles consumed in Bombay, but they nevertheless steadfastly refused to have transit duties imposed. I have endeavoured to induce this Council to affirm the same principle, and I think that, unless it can be clearly shown that transit dues cannot be avoided, this Council ought not to depart from the wise policy previously carried out. Some remark has also been made about my having moved that the duty on ghee and sugar should be increased, but the increases will fall, I believe, principally upon the wealthy, and I have good authority for this belief. Before I came up to Puna I was talking this matter over with the Honourable Mr. Narayan, and I explained to him that if we possibly could raise an income from other sources than cotton, it would be the best thing for the Municipality to do. He suggested to me that ghee and sugar might fairly be subjected to increased taxation, his own knowledge leading him to believe that the burden would fall only upon the wealthy classes, and especially upon a class which, comparatively, pay at present very little indeed to the Municipality, because, though possessing considerable riches, they live in small houses, and spend very little one way or another. Therefore, in the course I took, I was simply adopting the Honourable Mr. Narayan's suggestion, and I respectfully submit that this native gentleman should be a tolerable judge of the propriety of the increase which this Council has agreed to. I hope that as a lakh and a quarter have been raised by these increases, this attempt to put a transit duty upon cotton will be foregone.

His Excellency the President—I am afraid that the honourable member is now reverting to what has been already said, and I would merely remind the Council that the motion before it is practically whether there shall or shall not be a refund upon cotton.

The Honourable Mr. BYTHELL—I was merely trying to influence, if possible, the vote, this being a question of transit against simple octroi duty.

The proposal to omit the whole section rejected.

The Council divided on the Honourable Mr. FORBES' amendment:—

Ayes—3.

The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIO SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable J. K. BYTHELL.

The amendment was therefore lost.

The Honourable the Acting Advocate-General's amendment was then taken up by the Council.

The Honourable MR. BYTHELL—I consider it very unfair that traders in the staple article of the port, cotton, should be denied a privilege given to traders in all other articles.

The Honourable MR. RAVENSCROFT—Any invidious distinction in this section is, I think, objectionable, and I shall vote against the proposition to except cotton.

The Honourable the ACTING ADVOCATE-GENERAL—I consider that the alteration I have made is simply verbal, and designed to carry out the principle decided upon in Section 114. The alteration should have been effected in the Select Committee, and the omission to make it was a mere oversight in drafting the Bill. What I propose is only what is requisite, because one of the rules of this Council is that where a principle has been decided upon in one section of a Bill, the verbal alterations necessary in other sections shall be made without discussing the principle over again.

The Honourable MR. TUCKER agreed with the Honourable the Acting Advocate-General.

The Honourable MR. RAVENSCROFT—My belief is that every one of these articles should pay duty whether exported or not. I object altogether to the whole system of refunds.

The Honourable MR. TUCKER—Then does the honourable gentleman wish all the commodities in the schedule to pay transit duties?

The Honourable MR. RAVENSCROFT—Certainly; they are all equally benefitted by improved Municipal arrangements, and therefore they ought all to pay transit duties.

The Honourable MR. BYTHELL—With regard to what the Honourable the Acting Advocate-General has told us, that we should alter this section without discussion, so as to carry out the principle decided upon in a previous section, I would remark that if this view of his is correct, it was also irregular for this Council to vote upon the question whether the whole section should be expunged or not.

The proposal to exempt cotton from the operation of the refund clause carried.

The Council divided on the Honourable the Acting Advocate-General's amendment:—

Ayes—6.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable NARAYAN VASUDEVJEE.

Noes—4.

The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

—Carried.

Section 120, as amended, was agreed to and stands part of the Bill.

Section 123 became Section 121, and was agreed to and stands part of the Bill.

The Honourable MR. TUCKER proposed that the following new sections should be added to the Bill, and become Sections 122, 123, and 124 respectively. He said that he thought that these companies ought

Taxes upon Insurance Companies.

to contribute to the Municipal Fund, from which a fire brigade establishment was kept, and he found that under the recent arrangements for the protection of the city of London from fire these companies did contribute. The new sections had been drawn up by his learned friend the Acting Advocate-General, who considered that there should be a maximum and minimum rate to be fixed by the Corporation and that any company might avoid an enquiry into its affairs by paying the maximum rate.

Section 122.—Every Insurance Company carrying on business in Bombay or having an agency for such purpose and which ensures from fire any property in the City of Bombay, shall pay annually to the Corporation by way of contribution towards the protection of the city from fire, a sum of not less than five hundred rupees, and not exceeding one thousand rupees, to be determined by the Town Council. The said payments should be made half-yearly in advance, and every amount due from an Insurance Company to the Corporation in pursuance of this Act shall be deemed to be a speciality debt due from the Company to the Corporation and to be recovered accordingly.

Section 123.—Every Insurance Company insuring property from fire in the City of Bombay shall on the 1st day of January in every year make a return to the Municipal Commissioner in such form as he may require of the gross amount insured by it in respect of property in the city. There shall be annexed to the return so made a declaration made by the Secretary or other officer performing the duties of Secretary of the Company by whom it is made, stating that he has examined the return with the books of the Company, and that to the best of his knowledge, information, and belief, it contains a true and faithful account of the gross amount of the sums insured by the Company to which he belongs in respect of property in the City of Bombay. The return so made shall be the basis upon which the Town Council shall determine the amount to be paid by each company for the then current year within the minimum limit of five hundred rupees and the maximum limit of one thousand rupees as aforesaid.

Section 124.—If any Insurance Company makes default in making such return to the Municipal Commissioner as required by this Act, it shall be lawful for the Town Council to determine the amount to be paid by any such Company for the then current year at the maximum rate authorized by this Act.

The Honourable Mr. BYTHELL thought that the assessment should be in proportion to the incomes or amount of premiums paid to an Insurance Office. The minimum of Rs. 500 might sweep away the whole of the premiums in one office in Bombay, while another would scarcely feel it.

The Honourable Mr. FORBES' idea was that a simple license tax of Rs. 100 would be the most satisfactory plan to adopt. He thought the system of examining the books would be exceedingly troublesome, and many of the Insurance Companies would consider it most distasteful. He did not think that the basis on which the charges were to be made would work at all, because one office might be charging at half the rate of another, and if the amount of tax were to be determined by the amount of business done, it ought to be according to the premiums collected and not according to the amount of property insured.

The Honourable Mr. TUCKER remarked that there were eighteen Insurance Companies in Bombay, and if each contributed the maximum rate of Rs. 1,000, the collections would

be Rs. 18,000, and if one-half paid the minimum rate and one-half the maximum, the sum realized would be Rs. 13,500. Either of these amounts would be an assistance to the Municipality.

The Honourable the ACTING ADVOCATE-GENERAL said that the sections were prepared according to the principles laid down in the English Metropolitan Fire Brigades Act, which placed contributions upon the amount of the sums insured and not upon the amount of incomes; but probably the reason of this was that in England insurance rates were uniform, and there was thus no necessity for looking at the actual premiums received.

The Honourable Mr. BYTHELL said that he would rather see the tax made Rs. 7 on every lakh insured, because this would meet all cases fairly. It certainly seemed to him very unfair that a company doing a large business should be assessed at the same rate as a company doing no business at all.

The Honourable the ACTING ADVOCATE-GENERAL thought that looking into the books of companies should be avoided if possible.

The Honourable Mr. MUNGULDASS thought it would be a very good thing to have two classes—one at Rs. 1,000 and another at Rs. 500, because it would not be fair to tax equally all companies whether rich or poor.

The Honourable Mr. FORBES thought if any tax were to be imposed, he would prefer to see a uniform rate of Rs. 500.

The Honourable Mr. TUCKER thought that a uniform rate would not be equitable, as there would be a great difference in the positions of the different companies. The old established companies might escape any inquisition by paying the highest rate.

The Honourable the ACTING ADVOCATE-GENERAL was not altogether satisfied of the expediency of this new tax. In London, where almost every building was insured, a similar tax produced only £11,000, and considering the amount of property that would be insured in Bombay, the utmost likely to be realized by this impost would be Rs. 10,000.

The Honourable Mr. RAVENSCROFT thought that the amount that would be received from the tax would be so small, and the opposition that it might create so great, that he considered it hardly worth while to add to the Bill the clauses proposed by the Honourable Mr. Tucker.

The Honourable Mr. FORBES concurred with the last speaker.

His Excellency the President expressed a similar opinion. However, he would put the proposal to the vote whether there should be a tax placed upon Insurance Companies of not less than Rs. 500 nor more than Rs. 1,000.

The section containing this provision was accordingly put to the vote, and was carried by 6 votes to 4:—

Ayes—6.

The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—4.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable Colonel M. K. Kennedy.
The Honourable J. A. FORBES.
The Honourable E. W. RAVENSCROFT.

Sections 122, 123, and 124 were agreed to, and stand part of the Bill. The following words were added to Section 66:—“(7.) A tax on Insurance Companies.”

Section 124 became Section 125.

The Honourable Mr. FORBES thought that the bill which the Commissioner had to present to persons liable for payment of rates or taxes should, besides containing a notice of the time within which an appeal against such rate or tax may be preferred, also contain the addition made to Section 100, which stated that it would be lawful for the Commissioner, with the consent of the Town Council, to make exemptions in certain cases.

His Excellency the PRESIDENT thought that to agree to this suggestion would be impolitic, because it would be equivalent to inviting people to claim exemptions.

The Honourable Mr. FORBES asked how a man was to know that he could, under certain circumstances, claim exemptions.

The Honourable Mr. TUCKER thought that the power given to grant exemptions would soon be widely known, and that it was not necessary to invite people to claim them.

Section 125 was agreed to and stands part of the Bill.

Section 125 became Section 126, and, together with Schedules C and D therein mentioned, was agreed to and stands part of the Bill, “such” in line 6 being struck out.

Section 126 became Section 127, and was agreed to and stands part of the Bill.

Section 127 became Section 128. In line 13, the words “receipt by” were struck out and the words “presentation to” inserted after the word “the.”

Section 128 became Section 129. It was agreed to and stands part of the Bill.

Section 129 became Section 130. In line 2, “a” was substituted for “the,” and the section as amended was agreed to and stands part of the Bill.

Section 130 became Section 131:

The Honourable Mr. NARAYAN considered the fees upon distress warrants to be much too high, and he therefore moved that the fees referred to in the section and set forth in Schedule F be reduced by one-half.

Distraint fees reduced.

The Honourable Mr. TUCKER was in favour of the amendment, because the fees were high, and when a man was about to be distrained was not the time to put a heavy fee upon him. He had written to Mr. Peile asking whether these fees could not be reduced, and the answer was that they might with propriety be diminished to the extent proposed.

The amendment was agreed to, Schedule F standing now as follows :—

Sum distrained for.		Fee.
		Rs. a.
Under 5 Rupees		0 4
Rupees 5 and under 10 Rupees.....		0 8
„ 10 „ 15 „		0 12
„ 15 „ 20 „		1 0
„ 20 „ 25 „		1 4
„ 25 „ 30 „		1 8
„ 30 „ 35 „		1 12
„ 35 „ 40 „		2 0
„ 40 „ 45 „		2 4
„ 45 „ 50 „		2 8
„ 50 „ 60 „		3 0
„ 60 „ 80 „		3 12
„ 80 „ 100 „		4 8
„ Above 100 „		5 0

The above charge includes all expenses except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each man.

Section 131 was passed as amended and stands part of the Bill.

No alterations were made in Sections 131 and 132.

Section 133 became Section 134.

The Honourable Mr. MUNGULDASS mentioned that many owners of property resided in the Mofussil, where the Commissioner had no jurisdiction.

The Honourable Mr. TUCKER pointed out that the section met this case, inasmuch as the rate due from an owner might be recovered from the occupier, and deducted by him from his rent.

The question of owners' rates being recovered from tenants.

His Excellency the PRESIDENT asked if it would be fair to charge a person for arrears of rates incurred before he became an occupier. As the section stood, it was quite possible to make an occupier pay for any period under a twelve-month whether he had been an occupant during that time or not.

The Honourable Mr. BYTHELL concurred with His Excellency and considered that "time being" should be struck out of line 8.

The Honourable the ACTING ADVOCATE-GENERAL thought the section as it stood was unobjectionable.

The Honourable Mr. TUCKER thought that an occupier could only properly be called upon to pay arrears that might have accrued due from the owner during the time the occupier was in occupation. To make him liable for more might put him in the position of being called upon to pay more on account of the owner than the sums due by him as rent to the owner would cover. This would not be equitable, and it would seem that the section required alteration. The proper course would be to add to the proviso that an occupant would not be liable for any period during which he had not been in occupation.

The Honourable the ACTING ADVOCATE-GENERAL said the principle was that though a house might be empty it was never to be free of occupiers' rates, and the Municipal Commissioner should have a right to recover these from a tenant, who, before taking possession of a property, ought to ascertain whether there were any arrears of rates upon it. If it did happen that at the end of a six months' possession the Commissioner presented his bill for twelve months' rates, the tenant could still recover from the owner in respect of "the next and following payments of his rent."

The Honourable Mr. NARAYAN—The honourable gentleman chooses six months as an illustration, but a tenant in possession of a house for one month might actually be called upon to pay a year's rates. Monthly tenants are not uncommon, and a person may be called upon to pay rates amounting to more than the rent due.

His Excellency the PRESIDENT considered that another objectionable part of the section was that an occupier's goods and chattels might be seized and sold for rates with which he had nothing to do. Was it absolutely necessary to have this power of recovery against an occupant who might have unfortunately taken a house on which rates were due by the landlord?

The Honourable Mr. TUCKER—The section is intended to meet the case of occupiers who will not disclose their landlord's name or address. It saves the necessity of the Commissioner having to send up-country to sue an absentee landlord. I propose that the proviso should read thus:—"Provided that no arrear of rate which has remained due from the owner of any house, building, or land for more than one year, or for any term for which he has not been in occupation, shall be so recovered from the occupier thereof." Thus no injustice will be done to an occupier who may have been less than a year in possession of a house. This clause was suggested by Mr. Hope, and, so far as I can remember, he never intended that any tenant should be made to pay for rates which had accrued due during a time when he was not a tenant. Therefore this amendment will, I think, carry out the intention with which the section was framed.

The motion having been put to the vote the Council divided:—

Ayes—8.

The Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—2.

The Honourable COLONEL M. K. KENNEDY.
The Honourable the ACTING ADVOCATE-GENERAL.

So the motion was carried.

Section 134 was agreed to as amended and stands part of the Bill.

Section 134 became Section 135, and was agreed to and stands part of the Bill.

Section 135 became Section 136.

His Excellency the PRESIDENT thought that "shall" in the fifth line was too imperative, and the Council agreed that "shall be applicable" should be substituted for "shall be applied."

Section 136 was agreed to as amended and stands part of the Bill.

Section 136 became Section 137.

His Excellency the PRESIDENT reminded the Council that the clauses in this section were permissive.

The Honourable Mr. TUCKER—Yes, and the question arises whether the payment for the police, which is not permissive, should not be removed altogether from this section—that is to say, can we include a duty which is compulsory among a number of other things which are compulsory? If the police is allowed to remain in this section, possibly an argument that it is permissive may be founded hereafter on the circumstance; but I think the difficulty will be obviated if we confine this section to matters which are permitted but not commanded to be done, and if we mention the things ordered to be done specifically in the other sections which refer to them.

The Honourable Mr. FORBES—There has been great difficulty experienced in getting sufficient money to meet the absolute requirements of Bombay for purposes of health, &c., &c., and I therefore think it desirable to restrict these permissive clauses as much as possible.

The Honourable Mr. TUCKER—The honourable member is again afraid to trust the Corporation.

The Honourable Mr. FORBES—There is no limit to the possible taxation that may be imposed under these clauses, and we may in the end be burdened with such imperial duties as providing lunatic asylums.

The Honourable Mr. TUCKER—In England, not only are Lunatic Asylums supported by Local Funds, but so also are Jails. It is a well recognised principle at home that every county must support its own lunatics.

The Honourable Mr. FORBES—I should like to see several of the objects here mentioned struck out, because I do not think that Bombay will ever be able to provide funds for them unless necessary objects like the securing of a good supply of water are to be sacrificed. As to the Lunatic Asylum, I believe that most of the lunatics in Bombay come from the Mofussil, and why should the citizens of Bombay have to build asylums for these lunatics?

His Excellency the President—That question does not arise here, because, at any rate, Bombay must provide proper accommodation for its own lunatics.

The Honourable Mr. TUCKER—It is already the intention of Government to build an asylum for the Mofussil lunatics, and there is no intention to make Bombay pay for the detention of lunatics that do not belong to it.

The Honourable Mr. FORBES—In clause one of "Public health," I move that the words "the total cost of construction and maintenance of Hospitals, Dispensaries, and Lunatic Asylums and of," be struck out.

Mr. Forbes objects to the Municipality constructing Hospitals, Dispensaries, and Lunatic Asylums.

The Honourable Mr. NARAYAN—It will be entirely in the discretion of the Corporation to vote money for these purposes.

The Honourable Mr. TUCKER—Does the honourable gentleman distrust the economical tendencies of the rate-payers and their nominees? Surely this is greater distrust than has been displayed by Government.

The Honourable MR. FORBES—I do not think that there is any use in giving the Corporation powers to do things which it is clear they will never have means to undertake.

The Council divided on the Honourable Mr. Forbes' amendment:—

Ayes—1.

The Honourable J. A. FORBES.

Noes—9.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable H. P. St. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The motion was lost.

The Honourable MR. FORBES—It would seem that the people of Bombay are to be made to supply funds for education, but they have no call to do so and I think that those who are so anxious to see education carried out should arrange especially when the children proposed to be educated do not belong to Bombay, to get funds somewhere else than from the Municipal Funds.

The Honourable MR. NARAYAN—The Director of Public Instruction pointed out some time ago that he was spending money for primary education in Bombay from the Mofussil Fee Fund. It is hardly fair that the children of the people of Bombay should be educated at the expense of the inhabitants of the Mofussil.

Proposal to omit the clauses relating to "Public Instruction." of the first clauses relating to "Public Instruction" should be omitted.

The Honourable Mr. TUCKER—Then, according to the view of the honourable member, the City of Bombay should do nothing for the education of its poorer inhabitants.

The amendment was put to the vote and lost by 1 to 9:—

Ayes—1.

The Honourable J. A. FORBES.

Noes—9.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable H. P. St. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

Mr. Forbes objects to the Municipality erecting public libraries and museums.

The Honourable Mr. FORBES—I move that the second paragraph of the “Public Instruction” clause, relating to the erection and maintenance of public libraries and museums, should be omitted.

The motion having been put to the vote the Council divided :—

Ayes—3.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

Noes—7.

His Excellency Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.

The amendment was therefore lost.

Mr Forbes objects to the Municipality erecting public halls. propose an amendment to this effect.

The Honourable Mr. FORBES—I object to the Municipality having to erect and maintain public halls, and I

The Honourable Mr. TUCKER—Might not the Municipality with propriety build itself a guild hall if it should prosper and be in a position to do so? At present the Town Hall in Bombay belongs to Government, and the use of a portion of it is ordinarily lent to the Municipality. The time may come when this arrangement cannot be conveniently continued, and when a better place for assembling may be desired by the Corporation. If the honourable gentleman is afraid that useless buildings will be erected under this section, he might introduce words confining the permission to buildings of public utility.

The Council divided on the Honourable Mr. FORBES' amendment :—

Ayes—2.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.

Noes—8.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Section 137, with its various clauses, was then agreed to and stands part of the Bill. Section 137 became Section 138.

The Honourable Mr. TUCKER—The matters mentioned in this section are to be compulsory on the Corporation, and it will be necessary to mention the maintenance of the police among them. This is one of the sections which must be specified in the so-called bludgeon clause.

The question of the Corporation having to enter into an extensive drainage scheme.

The Honourable Mr. NARAYAN wished to know whether the Government or the Municipality were to decide the question as regards the funds necessary for drainage.

The Honourable Mr. TUCKER replied that Government would have that power.

The Honourable Mr. FORBES—A man may be starving, but nevertheless he may not be in a position to get food, and in the same way the Corporation may be unable to carry out this section in its integrity. If Government were to insist upon the Municipality carrying out a certain idea of “adequate and suitable provision for draining” and “maintaining, a proper and sufficient water supply,” the result will be that the present enormous rate of taxation will be doubled.

The Honourable Mr. NARAYAN—If we were to light the whole of Bombay thoroughly it would involve the enormous expenditure of four lakhs and a half.

The Honourable Mr. MUNGULDASS objected to the section.

The Honourable Mr. RAVENSCROFT thought that the Corporation might remain satisfied that Government would never expect them to carry out works for which they would never be able to pay.

The Honourable Mr. MUNGULDASS thought that Government might trust the Corporation to do its duty. If Government could not trust the Corporation thus far, it would be far better for Government to take over and conduct the affairs of the Municipality as a Government department. Up to the present time Government never possessed this compulsory power, and he should like to know why it should be thought necessary now.

The Honourable Mr. TUCKER—The Honourable Mr. FORBES has given this Council an illustration of the necessity for the existence of this power, for did he not mention the case of an unfortunate resident in a back street which was neither lighted or kept in order, and who received nothing in return for the rates which he paid.

The Honourable Colonel KENNEDY—In the event of any accident happening to the Vehar dams, I have heard the Honourable Mr. Munguldass say he would not think it necessary to repair them, or at any rate he would object to the expenditure. Now I think if we were likely to have in the Corporation many men holding similar opinions to the Honourable Mr. Munguldass, a compulsory section would be found very useful.

The Honourable Mr. MUNGULDASS—I never said anything of the kind, and I think the Honourable Colonel KENNEDY must have misunderstood me.

The Honourable Colonel KENNEDY—If the honourable gentleman does not hold these views, I have nothing more to say. I certainly understood him to express such views, more than once in the Select Committee.

The Honourable Mr. MUNGULDASS—Nothing could be further from my intentions than to refuse to sanction expenditure necessary for the safety of life.

The Honourable Mr. NARAYAN considered that the Corporation should be vested with discretionary power in the matters referred to in this section, the wording of which was so wide that there would be nothing to prevent the Government from insisting that an expenditure of five or six lakhs should be incurred for lighting Mahim and all the suburbs of the city.

The Honourable Colonel KENNEDY—It would be as reasonable to suppose that Government would call upon the Corporation to light the Byculla-Flats.

The Honourable Mr. RAVENSCROFT thought that the distrust shown of Government was extraordinary.

The Honourable Mr. NARAYAN thought that Government might be satisfied if it retained compulsory power simply with reference to matters concerning public health and safety. He could not understand why Government should distrust the Corporation in every thing.

The Honourable Mr. MUNGULDASS repeated that if this section were carried out in its integrity there would be no use whatever in creating the Corporation. Government already possessed ample powers, and if it wanted more it might as well conduct the whole concern.

The Honourable Mr. TUCKER—The Honourable Mr. Munguldass has already shown the amount of confidence which he has in the Corporation, by his vote on the question of giving them a discretionary power to contribute to the establishment of libraries, museums, and other useful institutions. The charge of distrust on the part of Government which he has now so often repeated, does not come with the best grace from him.

The Honourable Mr. MUNGULDASS thought there was a great difference, because he distrusted the Corporation lest it might become extravagant, while Government distrusted it lest it might be economical.

The Honourable the ACTING ADVOCATE-GENERAL—I propose to omit from the 7th line the words and “lighting,” and that in lines 8 and 9 the words “and for maintaining the public streets and roads” should also be omitted. I expressed a doubt in Select Committee as to whether this clause should include the maintenance of a proper water supply, but I feel now that that doubt was not well founded. I think that draining and the water supply ought to be rendered compulsory on the Corporation as well as providing for the police, because these are the essential requirements of every town. Of course, if a city had been newly formed, lighting and maintaining the public streets would also be an actual necessity; but Bombay is already a very well lighted city and it possesses very few of what may be called dark holes and corners, and although I live in one of these myself, yet I must say that at present I do not see any disposition on the part of the Municipality to deprive the city of lights or allow the roads to fall into disrepair. As Bombay has fulfilled its duty in times past to the satisfaction of Government in respect of lighting the city and maintaining the roads, I do not see that there is any practical necessity for including these services in a compulsory clause like this.

The Honourable Colonel KENNEDY—I shall oppose these amendments, because I consider that lighting is as essential for police purposes as the police itself, for unless the city is properly lighted, it is impossible for the police to do their duty thoroughly.

The Honourable Mr. NARAYAN mentioned that the Municipality had a contract regarding lighting which would last for another five years.

His Excellency the PRESIDENT—And this Bill can only run for three years, so that there is no great necessity for Government action in this matter.

The Honourable Colonel KENNEDY—But I think the repairing of the roads is also essential to the well-being of the city, and we know that already many places in Bombay are in a most disgraceful state.

The Honourable Mr. TUCKER—It need not be anticipated that the Corporation will for some time at least neglect to keep the roads and the lighting of the city in a proper condition, but after a time carelessness and indifference may be exhibited in this respect, and the necessary extensions and improvements may not be made, from false notions of economy, so that it would be unwise of us not to provide against such possibilities. It is one of the first duties of a Local Board of Administration to maintain the roads in good order and to see that all the inhabited parts of the island are properly lighted at night, and there is still much to be done in this respect. If the Municipality do their duty, the powers given to Government under Sections 40 and 41 and this clause will never be called into action. With regard to drainage, it is imperatively necessary that some means for the removal of sewage and other similar matters should be provided, and the Corporation should not be permitted to be inert on so important a subject. I am quite aware of the difficulties which surround the whole question, but they must be faced at one time or another and I think we might fairly trust the Executive Government not to attempt to force on the city extravagant or ill-considered schemes, nor to require them to do what is impossible. I shall object to any alterations of this section.

His Excellency the PRESIDENT observed that caution would be advisable, because Captain Tulloch's very heavy drainage scheme was looming in the not far-distant future, and it would be possible for Government to use the "bludgeon clause" regarding it and order its being carried out.

The Honourable Mr. TUCKER—There can be no doubt that some better method than exists at present for the removal of excrementitious matter must be provided, but I cannot suppose that Government will ask the Municipality to meet this want without the utmost caution and deliberation, and assisting them in borrowing the necessary funds.

The Honourable Colonel KENNEDY—I think we should simply speak of "surface drainage."

The Honourable Mr. TUCKER—The great problem to be solved is to get rid of and utilize the sewage of the city, and it is right that Government should have power to put pressure on the Corporation to effect this much-needed object. Government is fully alive to the difficulties which beset the subject, and the necessity for great caution in taking any line of action. I do not see, therefore, why the honourable member should suppose it will not be discreet in using its power, or anticipate that it will step in where there is no absolute necessity for doing so.

His Excellency the PRESIDENT—The Municipality can scarcely neglect the matter, because it is already very hard pressed, and we see them with a law suit on their hands on account of imperfect arrangements regarding the outflow of the sewage at one side of the island, while Government is pressing them to abate the existing nuisance at the Carnac Bunder. Certainly these things cannot be shirked, and it is necessary to devise some new method of meeting the difficulty.

The Honourable Mr. TUCKER—And knowing this, it would be foolish if Government were not to retain a power of compulsion in its own hands, especially when it is remembered that in matters of public health delay is always caused by local differences of opinion, and the disposition to inaction in difficult matters evinced by all boards of administration.

The Honourable Mr. RAVENSCROFT thought the matters mentioned in the section might be left to be carried out by the Commissioner, "subject to the approval of the town Council."

The Honourable Mr. TUCKER—If the Council takes out the part relating to draining, which is the most important item in the section, I think that it might as well throw out the whole section. I repeat that something must soon be done for the drainage of Bombay—a settlement of this difficult question one way or another must be come to ere long.

The Honourable Mr. BYTHELL—If under the old Act Government had no such power as this, I should wish to know why it has thought it necessary to take the power now.

The Honourable Mr. TUCKER—Because, while there is no doubt that the Municipality is subject to the common law relating to nuisances, yet we know that this is not sufficient to compel them to perform the obligations which they are under to the whole community in this respect, and it is necessary to provide against the growth of an evil of alarming magnitude.

The Honourable Mr. FORBES—I think that this is a section upon which the whole principle of the Bill seems to turn, as it virtually decides the question whether Government is to be responsible for the administration of the Municipality, or whether the responsibility belongs to the Corporation. As the section now stands, Government will assume the responsibility, and I therefore do not see what use the Corporation will be in looking after its own affairs. Any power of considering whether the carrying out of any work will be compatible with the means at the disposal of the Corporation will be taken away from that body, which will be made merely an instrument to carry out certain Government instructions. I think it is a generally-accepted rule that people must cut their coats according to their cloth, and if the Corporation should find out that the people of Bombay are unable to meet the expenditure necessary to carry out certain works, I think it ought to have the power of saying that these works should not be carried out. Clearly by this section the Corporation have no powers left to them except in the most petty things.

The Honourable Mr. TUCKER—Then all the other matters in the permissive clause go for naught?

The Honourable Mr. FORBES—Practically they will be a dead letter, because the carrying out of either a large scheme of drainage or of water supply will give ample opportunities to Government to make the Corporation spend all the revenue that could be collected in Bombay for the next twenty years.

The Honourable Mr. TUCKER—But there is no reason why the expense of a large drainage scheme or project to supply water should not be borne by posterity as well as the present generation, or why money should not be raised by loans for the execution of these necessary sanitary works.

His Excellency the PRESIDENT—I think it would be better to make Section 40 apply only to the police and the water supply, because if the Municipality do not do their duty for the removal of nuisances, Government has always the power of proceeding against them before judicial tribunals, and by this means can compel them to do what is right. Moreover, any individual who sustains, or considers he sustains, damage from the fault of the Municipality in allowing the continuance of nuisances, could bring an action against them

and Government could always come to the aid of such a person, and by thus accepting the responsibility on behalf of the public, it would have all the power that is necessary.

The Honourable Mr. MUNGULDASS would be quite satisfied if His Excellency the President's suggestion were carried.

His Excellency the PRESIDENT—I must confess that I am speaking quite as much in the interests of Government as in those of the Municipality, because I do not like this unlimited and somewhat indefinite power of interference with the Corporation being vested in Government.

The Honourable Mr. TUCKER intimated that he would support the clause as it stands, as he considered it essential for the future well-being of the general public.

The Honourable Mr. BYTHELL said he would support His Excellency the President's proposition.

The motion having been put to the vote the Council divided :—

<i>Ayes</i> —6.	<i>Noes</i> —4.
The Honourable the ACTING ADVOCATE-GENERAL.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable H. P. St. G. TUCKER.
The Honourable E. W. RAVENSCROFT.	The Honourable A. ROGERS.
The Honourable J. A. FORBES.	The Honourable Colonel M. K. KENNEDY
The Honourable NARAYAN VASUDEVJEE.	
The Honourable J. K. BYTHELL.	

—Carried.

The Honourable Mr. NARAYAN—I now propose that we put before “draining” in the seventh line the word “surface.”

The Honourable Mr. FORBES—I am opposed to this, because I think the word “draining” should come out altogether. It seems to me that it was admitted just now that the Corporation may be entrusted with the care of the roads and streets, and this duty must include what the Honourable Colonel Kennedy thinks “surface drainage” would be. I propose that the word “drainage” be omitted.

The Honourable the ACTING ADVOCATE-GENERAL—The practical working of this section seems to me to be this, that the Government would have the right to say to the Corporation, have you under your consideration any scheme for the better draining of the city? If the Corporation say that they have, Government will naturally ask them to submit their scheme to it for consideration. Then the Government will place its own engineers in communication with the engineers of the Corporation, and the result will be that the two sets of engineers will bring forward the drainage scheme suitable for the city. Should, however, the Corporation answer that they have no scheme, and decline to submit one, saying that they do not see the necessity of draining the town, are all the inhabitants of the city to be left without a system of drainage? Surely, then, it is only in the event of any such absurd position being taken up, that Government will use its power under this section, and send its own engineers to carry out a scheme at the Corporation's expense. This section seems to me to be a mere power for Government to ask the Corporation if they are prepared to submit a scheme for drainage which must be carried out sooner or later; and, in

the event of a negative reply, to say that the town cannot be left without a drainage scheme, and therefore its own engineers will undertake the work.

The Honourable Mr. NARAYAN—I believe that there must be some grave misapprehensions regarding the expense of carrying out a drainage scheme. My own idea is that for a city with such low levels as Bombay, it will be impossible to perfect a drainage system worthy of the name under a million of money. I know that Sir Bartle Frere's Government positively committed the Municipality to a system which would have cost us quite that amount, and it was only on the interposition of the late Government that Bombay was saved from this enormous liability. If this Council now agree to this section as it stands, we may have a scheme fastened upon us which will require our whole fiscal system to be altered, and certainly double the amount of our present taxes will not enable us to meet the charge.

The Honourable Mr. MUNGULDASS—Besides, it has not yet been agreed amongst medical men whether an under-ground system of drainage would be advantageous to a city like Bombay.

The Honourable Mr. TUCKER—The probability is that under the most favourable circumstances it will be years before any drainage scheme for Bombay will be matured, much less decided upon.

The Honourable Colonel KENNEDY remembered that it was only by the merest chance that Sir Seymour FitzGerald stopped the previous drainage scheme from being commenced.

The Honourable Mr. NARAYAN—And at that time several gentlemen professed great indignation because the scheme was stopped.

The Honourable Mr. FORBES—I believe that another scheme equally or more expensive is being hatched just now in England.

The Honourable Mr. TUCKER—If Government surrender this power, and leave it entirely to the Corporation to decide whether there shall be a proper drainage system carried out, nothing will ever be done, because naturally the Corporation will have a great dislike to enter upon any expensive reform of the present defective system. It will, however, be most injurious to the inhabitants of the city, if this measure, so necessary for the future health and comfort of the town, be indefinitely postponed, and the Council will expose itself to the charge of indifference to the best interests of the citizens if it leaves the matter in the unsatisfactory state proposed. It is not to be supposed that Government will try to force the Corporation into hasty or ill-considered action on a point of this kind.

The Honourable Mr. NARAYAN—But supposing Government *should* want us to carry out an enormous scheme—that is what we fear.

The Honourable Mr. TUCKER—Government will never ask the Corporation to do anything without fully considering the ways and means.

His Excellency the PRESIDENT—We might, perhaps, put some limitation upon the cost of any work which Government may desire the Corporation to carry out.

The Honourable Mr. TUCKER objected to any arbitrary limitation of the kind suggested.

The Honourable Colonel KENNEDY repeated that he thought the use of the term "surface draining" would sufficiently protect the Municipality.

The Honourable Mr. FORBES considered such an alteration as that proposed by the Honourable Mr. Narayan quite unnecessary, because the Corporation might be entrusted to carry out any work of that kind. He thought his amendment, to omit the words "and draining" altogether, would best serve the interests of the Municipality.

The Council divided on the amendment of the Honourable Mr. FORBES :—

<i>Ayes</i> —3.	<i>Noes</i> —7.
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable J. A. FORBES.	The Honourable H. P. St. G. TUCKER.
The Honourable NARAYAN VASUDEVJEE.	The Honourable A. ROGERS.
	The Honourable the ACTING ADVOCATE-GENERAL.
	The Honourable Colonel M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable J. K. BYTHELL.

The amendment was therefore lost.

The Honourable the ACTING ADVOCATE-GENERAL—Before the Honourable Mr. NARAYAN'S motion is put to the vote, I should like to ask some body to define what "surface draining" is, because the expression is manifestly vague. Drains or open sewers could not be touched by this, I apprehend.

His Excellency the PRESIDENT considered that "surface draining" would not meet the case of the Carnac Bunder nuisance. The alteration appeared to him to give to Government nothing but the right to supervise the sweeping of the streets of Bombay and the removal of filth from the black boxes.

The Honourable Colonel KENNEDY said the expression meant only the removal of pools and accumulations of water, and would not apply to any underground system of draining.

The vote was taken upon the amendment, and Council having been equally divided, the Honourable Mr. Tucker remarked that the responsibility now rested with His Excellency of deciding whether Bombay was ever to have a proper system of drainage or not.

The Council decide that the Municipality may be compelled to carry out "surface draining only."

His Excellency the PRESIDENT said he was not a believer in the great shortcomings of the Municipality, and he would therefore vote for the amendment :—

<i>Ayes</i> —6.	<i>Noes</i> —5.
His Excellency the PRESIDENT.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable H. P. St. G. TUCKER.
The Honourable Colonel M. K. KENNEDY.	The Honourable A. ROGERS.
The Honourable J. A. FORBES.	The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable NARAYAN VASUDEVJEE.	The Honourable E. W. RAVENSCROFT.
The Honourable J. K. BYTHELL.	

The motion was carried.

The Honourable Mr. FORBES thought there was something very vague about the words proper, and sufficient water-supply." It was considered by many people "that a proper,

and sufficient water-supply" meant double what the city had at present, and others again thought the present supply was quite sufficient.

His Excellency the PRESIDENT thought it might be fairly considered that Government would not require the Corporation to double the existing water supply.

The Honourable Mr. FORBES nevertheless was afraid of the wording of the section, because it was still an open question what a sufficient supply of water for Bombay was. Why should the section not merely say that the water-supply is to be maintained as it is at present?

The Honourable Mr. TUCKER suggested that after "necessary for" might be inserted "the maintenance of the police and the protection of the city from fire and for the."

The alteration was agreed to, and the section as amended stands thus:—"It shall be the duty of the Corporation, and they are hereby required to provide such funds as may be necessary for the maintenance of the police and the protection of the city from fire, and for the purpose of making adequate and suitable provision for the cleaning and surface draining of the city, and for maintaining a proper and sufficient water-supply."

Section 138 was passed as amended and stands part of the Bill.

Section 138 became Section 139. In line 5, "of Bombay or such other Bank as" was omitted, and "which is now or" inserted after "Bank."

The Honourable Mr. NARAYAN moved that the words "or Municipal debentures" should be inserted after the word "securities" in line 9. It would be a great advantage, he said, if his amendment were agreed to, because the Government securities brought only 4 per cent., while the Municipality had to pay 6 per cent. interest on their debentures, and by buying in these debentures, 2 per cent. would be the net saving.

The Honourable the ACTING ADVOCATE-GENERAL said he would take the legality of such a provision into consideration.

This amendment accordingly stood over.

No alterations were made in Sections 139 to 142.

Section 143 became Section 144.

The Honourable Mr. TUCKER read the following remarks of Dr. Hewlett regarding this section:—"I notice that no provision has been made for the enclosure or proper conservancy of the gathering ground of the water-supply of the city. At present it is fouled by the droppings of cattle, and large quantities of dead vegetable matter must be washed into the lake at the commencement of each monsoon, whilst the margins and sides of the lake, left exposed as the water recedes, are covered with offensive mud which the Commissioner ought to be compelled by law to remove." The Honourable Mr. Tucker added that doubtless what the Health Officer said was very desirable, but inasmuch as all the gathering ground of the lake did not belong to the city or Government, his suggestion was scarcely practicable. Means might be devised of enclosing the lake and confining the income of water to particular channels and openings, and subjecting it to purification before entrance; but those would be costly measures and could not be made compulsory on the Corporation. The preceding section gave great powers to the Commissioner, and

the Corporation would doubtless attend to any reasonable suggestions of the Health Officer to prevent the fouling of the water of the lake.

The Honourable Mr. BYTHELL said the only feasible plan to get over the difficulty was to filter the water before distribution.

The Honourable Mr. TUCKER—Dr. Hewlett also says “sand filtration before distribution must also be rendered imperative.” This however may, I think, be left to the good sense of the Corporation.

Sections 144 and 145 became Sections 145 and 146. They were agreed to and stand part of the Bill.

Section 146 became Section 147.

The Honourable Mr. MUNGULDASS moved that the words “the Corporation and” be inserted between the words “of” and “Government” in line 11, Section 147.

The Honourable Mr. TUCKER suggested “Town Council.”

The Honourable Mr. MUNGULDASS agreed to this suggestion.

The section was amended as proposed, and stands part of the Bill.

Section 147 became Section 148, and was agreed to and stands part of the Bill.

Section 148 became Section 149.

The Honourable Mr. MUNGULDASS moved that the word “all” in line 7 be omitted, and the words “several of” be inserted in its stead, and that the words from the beginning of line 11 to the end of line 12 be omitted, and that the words “the actual rent he realizes from persons actually residing on the property” be inserted. At present, if a person occupied a room or an office, he had only to pay according to the water he used, but under this section, the water tax was put upon the rental of the whole house. Take the case of one of the large houses in Elphinstone Circle. Only a part of it might be occupied, but unless the tenant or the owner agreed to pay the occupiers’ water rate upon the whole property, the tenant would have no right to get water.

Objections taken to the water tax being levied according to the rental of a whole house instead of on that portion only of a house to which water might be supplied.

The Honourable Mr. NARAYAN suggested the use of water meters, each tenant to be charged according to the quantity of water he used.

The Honourable Mr. TUCKER thought that the Commissioner had already powers to sell the water in this way if he chooses. In the case of the single tenant mentioned by the Honourable Mr. Munguldass, it would scarcely do to make a water connection on the application of a single tenant, which could be used by the occupants of the whole house, though the rate was paid on a portion of it only.

The Honourable Mr. NARAYAN thought that the Commissioner’s object under this section was to prevent fraud, so that one tenant might not supply from his tap all the other tenants in a house.

The Honourable Mr. MUNGULDASS withdrew his first amendment, and proposed that after “tenant” in line 6 should be added “to take water by metre measurement.”

The Honourable Mr. TUCKER observed that if the Commissioner saw it to be to his advantage he would be only too happy to supply water by measurement, and there was no need for any alteration.

The Council divided on the Honourable Mr. MUNGULDASS' amendment :—

<i>Ayes</i> —3.	<i>Noes</i> —7.
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable J. A. FORBES.	The Honourable H. P. St. G. TUCKER.
The Honourable NARAYAN VASUDEVJEE.	The Honourable A. ROGERS.
	The Honourable the ACTING ADVOCATE-GENERAL.
	The Honourable Colonel M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable J. K. BYTHELL.

The amendment was therefore lost.

The section was agreed to and stands part of the Bill.

Section 149 became Section 150, and was agreed to and stands part of the Bill.

Section 150 became Section 151. In lines 1, 7, and 9 "may" was substituted for "shall."

The Honourable Mr. TUCKER read the following remarks of Dr. Hewlett, who was of opinion that the section would be inoperative:—"This section is impracticable, as the Commissioner cannot fulfil the obligations laid down in it, as he does not possess the means. It always, I fear, will remain a dead letter."

The section was passed and stands part of the Bill.

Section 151 became Section 152, and was agreed to and stands part of the Bill.

Section 152 became Section 153, and was agreed to and stands part of the Bill.

His Excellency the PRESIDENT then adjourned the Council.

JOHN NUGENT,
Acting Under-Secretary to Government.

Puna, 17th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Púna on Wednesday, the 18th September 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail.

The Council proceeded with the consideration of the Bombay Municipal Bill in detail.

Before proceeding to the consideration of Section 153 (which now became 154), the Honourable Mr. TUCKER called attention to the heading "Building Regulations," and said that as such regulations did not commence until Section 162, the sections between which and 154 related only to the construction and repairing of streets, the title was a misnomer. He therefore suggested that the heading should be altered to "Construction, Paving, and Repairing of Streets."

This was agreed to.

The Honourable Mr. FORBES thought it would be well to strike out Section 154 and all those that followed, down to Section 253. This course would, he thought, tend considerably to lighten the labours of the Council, and place matters upon a better footing than they would be if all the subsequent details of the Bill were to be gone into and settled. The affairs mentioned in the sections to which he objected were matters which might fairly be left to the discretion of the Corporation, and if anything at all were necessary, it would be simply a single section stating that the Corporation shall have power to frame or alter such regulations as are necessary for the general conservancy of the town, and that, until these regulations were altered by the Corporation, those which were in force under the old Act should continue to be enforced. He thought that already the new regulations mentioned in the sections which he objected to had given rise to considerable alarm and dissatisfaction in Bombay.

The Honourable Mr. TUCKER—The bulk of these sections were in the old Act, and if the honourable member's proposition be seriously entertained, there will be an element of indefiniteness and uncertainty introduced which the city has hitherto been free from.

The proposal of the honourable member that this Council should relieve itself from its troublesome duties and cast them on the Corporation would be a retrograde movement.

The Honourable Mr. MUNGULDASS—I think that the old sections were sufficiently stringent, and, as far as I can make out, there is no necessity for introducing more rigorous rules by this Bill.

The Honourable Mr. TUCKER—The Honourable Mr. Munguldass mistakes the character of the Honourable Mr. Forbes' suggestion, which is not to omit new sections which may be considered too rigorous, but to strike out the whole of the old and new clauses, and to leave the Corporation to grope in the dark about matters which this Council ought to regulate.

His Excellency the PRESIDENT—The very day this Bill comes into operation, there must be some means of regulating the matters affected by these sections; bye-laws, if there be nothing more definite, must be prepared, otherwise the old sections will remain in force until the new Corporation can alter them.

The Honourable Mr. TUCKER—It is a proposal simply to postpone the orderly management of these matters for an indefinite period and to waste the whole of the time and labour which have been bestowed upon making the Bill as complete as possible. I am of opinion that this Council has already affirmed the principle that these matters should be regulated by the Bill, and I therefore submit that the Honourable Mr. Forbes is out of order in the proposal which he has now made.

The Honourable Mr. FORBES—I clearly referred to this in my remarks upon the second reading of the Bill.

The Honourable Mr. TUCKER—Certainly the time for suggesting an alteration of this character which affects the principle of the Bill was when the motion for the second reading was before the Council. I have no objection to the Corporation being given power to make bye-laws, but I certainly think it would be highly inexpedient to leave the matters regulated by this part of the Bill to their discretion.

The Honourable Mr. ROGERS—Mr. Hope had great practical experience in the working of municipalities both in the Mofussil and in Bombay, and most of the new provisions which have been introduced are the result of his experience, I therefore think that it would be very wrong if this Council were now to set them aside for no reason whatever.

The Honourable Mr. TUCKER—They embody the experience of the last two Commissioners and of the various Committees of the Bench which have considered these matters.

The Honourable the ACTING ADVOCATE-GENERAL—Moreover, the suggestion of the Honourable Mr. Forbes is quite opposed to the principle upon which the British Parliament legislates upon such matters. The Metropolitan Building Act is no doubt very well known to the honourable member, and it illustrates the tendency of English legislation to consolidate regulations on these subjects in one Act, so that the public may have the fullest possible opportunity of knowing the rules affecting themselves and their property. By bye-laws which may be altered from day to day, the public cannot have the same facilities of knowing the regulations relating to building as they would possess with an Act such as the Metropolitan Building Act, and such as this Bill is intended to be. I certainly think it would be a very backward step in legislation if we were to omit these

sections and leave the management of the city to be regulated by shifting bye-laws. I think it of the greatest value that every citizen should have an Act which he can read and study at his leisure, and learn how he must guide himself in his actions and in the ordering of his property. I believe that in the course of a few years it will be necessary to introduce another Bill into this Council in order that the bye-laws which will be framed under this Bill may be incorporated in a new law which will be the result of later experience. The Honourable Mr. Munguldass wonders at new sections being introduced, but it would not have been wise not to have utilized the experience of the last seven years.

The Honourable Mr. FORBES—As to what has just been said, I should be very sorry indeed to be the means of a retrograde step in legislation, but at the same time I think it is a matter of opinion as to whether my proposition is a retrograde step or not. I object to Government legislation upon these little things, and I will read an extract from a writer whose opinion this Council will probably consider to be of equal weight with the opinion of the Honourable the Acting Advocate-General. Mr. Toulmin Smith, in his work on “Local Self-Government,” says—“One of the characteristics of modern law-making is the peddling detail into which it enters and by which it seeks to bind and tie men up, by pedantic foregone conclusions, from free action and responsibility. This is a style of legislation which produces multiplied evils. Its very character of detail is self-defeating. It is a sound maxim of logic and also of the common law of England that the enumeration of certain things implies the exclusion of those not enumerated. No man can foresee all the circumstances which may arise, nor all the resulting conditions of those which exist. The more *detail* is attempted the more are men drawn off from the habit of having recourse always to broad principles, while cases will ever be continually occurring to which no pre-ordained speciality of detail will apply. But again such is the overloading of the statute book which has grown out of this system, that men turn in despair from any attempt to know its contents; and instead of there being laws, few and plain, but certain and constant, there is a confused mass, endless, intricate, involved, contradictory, and ever changing, and consequently full of uncertainty and doubt.” For my own part I think that legislating upon the minute points which the honourable gentlemen wish to fix by this Bill gives them undue importance. Look, for instance, at such petty details as the fixing of a width for streets, and regulating the distances between gas pipes and water pipes.

The Honourable the ACTING ADVOCATE-GENERAL—These are all fixed by the Metropolitan Building Act, one of the most perfect Acts of the kind there is.

The Honourable Mr. FORBES said that may be, but there must be general principles for guidance on the subject, and if the honourable gentleman settles details, it may on occasion be found impossible to carry them out. Therefore, we may now be framing sections to which under certain circumstances it would be impracticable to give effect. As to the cumbrous sanitary regulations which now stand in the Bill, I think that too great caution cannot be taken in settling them, because they may be made very oppressive to the town.

The Honourable Colonel KENNEDY—It seems to me that the Honourable Mr. Forbes is quite out of order.

The Honourable Mr. FORBES—I had better put forward a motion. I therefore suggest that instead of Section 154 we substitute the following:—“That the Corporation

shall have full power to frame, make, or alter any such regulations as may be deemed necessary for the general conservancy of the town of Bombay, and until such regulations shall have been framed, made, or altered, the regulations embodied in Act II. of 1865 shall be held to be in force.”

The Honourable MR. TUCKER—By Section 2 of this Bill, the existing Municipal Acts are repealed, so that unless we alter that section, we cannot in this part of the Bill keep alive the building and conservancy regulations of the old Acts. The effect of such a measure would be to introduce the uncertainty and doubt which the authority the honourable member has read to us so very properly condemns.

His Excellency the PRESIDENT remarked that by one of the sections, the Commissioner might take possession of anybody's property for the purpose of making streets, and he should like to know if it was intended that such a power should fluctuate with a bye-law.

The Honourable MR. FORBES said he supposed that in such a case the Commissioner and the Corporation would be subject to the general law of the land, because one portion of a community would never be allowed to seize upon the property of another except for some powerful reasons.

The Honourable the ACTING ADVOCATE-GENERAL said if Section 154 and the subsequent sections were not retained, the Town Council would go on week after week debating upon the rules which should govern the city in its general conservancy. This motion by the Honourable Mr. Forbes was the most extraordinary and indefinite proposition he had ever heard put forward.

The Honourable MR. FORBES replied that he was afraid the honourable and learned Acting Advocate-General's imagination had again carried him away. He did not suppose that during the next twelve months more than one or two of the matters referred to in these sections would come up before the Corporation.

The Honourable MR. TUCKER—If the honourable member, after the expression of opinion he has heard, is not prepared to withdraw his motion, I beg to submit to His Excellency the President that under the rules the motion cannot be put. The principle of the Bill has already been decided upon, and it is that all these things should be regulated by the Bill, and therefore in seeking at this stage to overturn one of the principles of the Bill the Honourable Mr. Forbes is out of order, more particularly as at the second reading he never indicated any intention of adopting this course, nor has he given the notice which is requisite for any alteration affecting the principle of the Bill.

The Honourable the ACTING ADVOCATE-GENERAL—I quite agree with the Honourable Mr. Tucker. We should never succeed with any Bill if we were at liberty in considering the details to turn round and say that the greater part of it is utterly useless.

The Honourable MR. TUCKER—Certain irregularities took place on the second reading, when one gentleman wished to go into details; but now an attempt is being made to introduce another irregularity on the converse side of the question, as the Honourable Mr. Forbes wishes again to attack the principle of the Bill while we are engaged upon the discussion of details. I do not think this Council will agree to omit a large portion of the Bill merely because the honourable gentleman does not agree with a principle which has been already decided upon.

His Excellency the PRESIDENT—I take the same view as the Honourable Mr. Tucker. The subjects treated of in these sections are of infinite variety and importance, and though some might be regulated by bye-laws, yet the majority of them are proper subjects for legislation. I think that we should proceed to consider these sections in detail.

Mr. Forbes' position ruled to be out of order.

The Honourable MR. FORBES—I see that there is no prospect of my motion being carried, so I shall acquiesce in His Excellency's expression of opinion and withdraw the motion.

The motion was then withdrawn.

The Honourable MR. TUCKER said that as many improvements in travelling were being made, and as science might invent something in that way which was neither tramway nor railway, the words "or the like" should be inserted between "railway" and "without" in the eighteenth line of Section 153.

This suggestion was agreed to, and Section 153 as amended was agreed to and stands part of the Bill.

Section 154 became Section 155.

The Honourable Mr. MUNGULDASS said he supposed that the power to sell streets could only be exercised by the Commissioner with the sanction of the Corporation, and that the power to stop up the streets could only be exercised by the Commissioner under the same authority.

The power of the Corporation to sell their real property.

The Honourable Mr. TUCKER said he should certainly say that the Commissioner should not sell or stop up streets without the sanction of the Corporation.

His Excellency the PRESIDENT—Can the Corporation sell all their lands without the consent of Government?

The Honourable Mr. TUCKER replied that the Corporation could sell any lands it possessed except those regarding which there were restrictions placed by this or any other law, *e.g.*, the lands on which tanks and water communications now existed.

His Excellency the PRESIDENT—Then if there should be a deficiency in the rates, I suppose that the Corporation may increase their funds by selling their lands?

The Honourable the ACTING ADVOCATE-GENERAL said that the Corporation must have a power to sell their immoveable property when requisite.

The Honourable Mr. TUCKER repeated that such a power was necessary.

The Honourable Colonel KENNEDY remarked that he observed the Corporation had the power to shut up streets. This he thought was a considerable power to be left in their hands.

The Honourable the ADVOCATE-GENERAL said he thought it extremely desirable that the Corporation should be invested with this power to shut up streets, if they thought it necessary for the benefit of the town.

The Honourable Mr. MUNGULDASS said that the power was not likely to be exercised rashly, because the Corporation might probably have to pay very large sums to the owners of houses in compensation for the means of access to their houses being destroyed.

The Honourable Mr. TUCKER pointed out that Section 157 made provision for compensation to owners for damages to their lands or buildings, caused by acts of this description.

The Honourable Mr. FORBES said that His Excellency the President need scarcely fear regarding the power given to the Corporation to sell their real property, because unfortunately the Corporation possessed very little property of that description.

Sections 155 and 156 became Sections 156 and 157 and were agreed to and stand part of the Bill.

Section 157 became Section 158.

The Honourable Mr. BYTHELL said he thought the Commissioner should only be allowed to exercise the powers given to him in this section with the sanction of the Town Council, because surely the ratepayers ought to have a word in deciding whether or not these alterations should be made. In the Bill the decision on this point was left to the judgment of the Municipal Commissioner.

The Commissioner's complete powers under Section 158 objected to, and supervision by Town Council recommended.

The Honourable Mr. TUCKER thought that the power had very much better be left to one responsible person than to a Board like the Town Council or an assembly like the Corporation, where the personal interests of the members might influence the decision.

The Honourable Colonel KENNEDY thought so too, and approved of the section as it stood, because it only gave the Commissioner power to undertake what were purely executive duties.

The Honourable Mr. BYTHELL said that if a road were wanted from one place to another, this section gave the Commissioner power to say that it should go in a particular way, and he (the speaker) really thought that this was a matter in which the Corporation ought to have a voice. It was perfectly possible that a Commissioner appointed under this Bill might be a comparative stranger in Bombay, and it therefore stood to reason that the people themselves, who knew the city and its wants well, would be most likely to decide regarding the streets they wanted and how they should be laid out.

The Honourable the ACTING ADVOCATE-GENERAL thought that the Honourable Mr. Bythell was overlooking the fact that this section was meant to apply to the private owner dealing with his own land. Supposing that a man had some 20 acres of land on the Byculla flats and he wanted to let them out for building purposes, he could not do so without the sanction of the Commissioner, who was the best judge of where the roads should go, and accordingly he would go to the Commissioner, who simply had power to put a veto upon any proposition which he thought was not desirable, either because it would be injurious to the neighbouring property or would stand in the way of the proper conservancy of the town.

The Honourable Mr. MUNGULDASS—I believe that the private owners would prefer to have their claims put before the Town Council instead of the Commissioner alone.

The Honourable Mr. BYTHELL said he had not overlooked the fact mentioned by the Honourable the Acting Advocate-General, but he still held the same opinion that the people who were resident in the town, and representing the ratepayers, would be

better able to judge as to whether a proposed street would be a public convenience than the Commissioner—a man who might be only a very few months in the place when he took upon himself to decide whether and whither a street should be executed.

The Honourable the ACTING ADVOCATE-GENERAL believed that if the suggestion made by the Honourable Mr. Bythell were agreed to, the private owners would be hampered immensely.

The Honourable MR. TUCKER thought it would also put a number of matters of detail into the hands of the Council which they would never be able to dispose of expeditiously or satisfactorily.

The Honourable MR. BYTHELL said that this was a matter in which a dispute might arise only once in a year, and he mentioned that in England these matters came strictly within the province of bodies like the Town Council or the Corporation.

The Honourable MR. FORBES said that these private owners after having arranged with the Municipal Commissioner as to the width and level of streets, might afterwards hand them over to the Corporation to be maintained as a public street. He therefore thought that for this reason the Corporation should have a voice in the way indicated by the Honourable Mr. Bythell.

The Honourable Colonel KENNEDY said that the Corporation would not be bound to take the street over even though it were offered to them.

The Honourable MR. FORBES said he thought the Corporation would be bound to take the street if it were put into proper order.

The Honourable MR. NARAYAN agreed with the Honourable Mr. Forbes, and pointed out that under Section 158 the Commissioner was bound to take over the streets that had been completed according to his plans, even without the sanction of the Corporation.

The Honourable the ACTING ADVOCATE-GENERAL said that Section 158 did not compel the Municipal Commissioner to take over such a street, but simply gave him the power to do so.

The Honourable MR. FORBES said that the power of hampering the town with a new street should not be left in the hands of the Commissioner, who might first arrange with the private owner to make a certain street according to his own fancy, and then agree to take it over, although it would be the Corporation that would have to pay for its maintenance.

The Honourable MR. BYTHELL said he thought it clear from Sections 157 and 158 that if a private owner carried out the wishes of the Commissioner in respect of a street, the Corporation would be bound to take the street over. Now this was a power which the Corporation or the Town Council should alone have the right to exercise. He could not believe that it would hinder the Corporation or the Town Council from carrying on business if this power now given to the Commissioner were to be left under their approbation. He therefore moved that in line 12 the word "Commissioner" should be omitted and the words "Town Council" inserted, and that in line 20 "he think" should be made "they think"; also that in line 33 the words "by the Commissioner" should be omitted; that in line 48 the word "Commissioner" should be omitted and "Town Council" substituted; and also that in line 51 the word "him" be omitted and "they" inserted.

The Honourable the ACTING ADVOCATE-GENERAL said that the effect of these alterations would be that unless the Town Council and the Commissioner agreed, no one would have the power to arrange with a private owner, whose rights might thus be interfered with beyond all precedent.

The Honourable MR. BYTHELL said that with all due deference to the Acting Advocate-General, the power he sought was not without precedent, because precedents could be found in almost all the municipalities in England.

The Honourable MR. RAVENSCROFT intimated that he certainly should oppose the amendment, because it would make the Town Council interfere in matters which were purely executive.

The Honourable MR. FORBES said that the duties could scarcely be called executive altogether.

The Honourable MR. BYTHELL said that, as regards the matter of precedent alluded to by the Honourable the Acting Advocate-General, he should like to know if there was any precedent for a Corporation not having this power.

The Honourable MR. TUCKER—The Honourable Mr. Bythell asked for a precedent. If he has taken any interest in the debates in Parliament during the last session about matters of local sanitation, he would find a precedent; because he would discover that a strong feeling existed in England to take away from local boards the control they had to exercise rather in matters affecting the public health and security and to place it in the hands of a central authority, who would discharge these functions by means of a single but competent executive officer entrusted with large powers. There are many things which are far better left to the discretion of one competent and trustworthy man than to a board of men not possessed of equal skill, or influenced by so strong a sense of responsibility. The duties referred to in this section are matters of this description.

The Honourable MR. BYTHELL said that there was a strong opinion on the other side, and that was that the local board should possess greater powers than they had at present. He said it had been argued at the second reading of the Bill that the Corporation had full power over the Commissioner, because they could refuse to give him money for works unless they approved of them; but he now wished to point out that in Sections 157 and 158 the Commissioner could go on building new streets without asking the consent of the Corporation, which in consequence would very likely be led into great expenses.

The Honourable MR. TUCKER—The Commissioner could not get any money without the authority of the Town Council.

Some further discussion took place, and the motion having been put to the vote the Council divided:—

Ayes—4.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—6.

His Excellency the Honourable SIR
AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-
GENERAL.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.

The motion was lost.

The section was then agreed to and stands part of the Bill.

Section 158 became Section 159.

His Excellency the PRESIDENT thought that it was not desirable that the citizens should be compelled to make the kind of streets required by this section.

The Honourable Mr. TUCKER said that it would be injurious to the Corporation and to the public to allow imperfect or badly constructed streets to be made. The Corporation would be liable to take over these streets subsequently, and they might not repay the cost of maintenance.

The Honourable Mr. BYTHELL said that this section seemed designed simply to give power to the Municipal Commissioner to gratify his own private spite or to put an owner to an expense of a few thousand rupees more than were necessary. He objected to this power being left in the hands of one man, especially when there was no control whatever by the Corporation alluded to in these sections.

The Honourable Mr. MUNGULDASS said this was one of the old sections.

His Excellency the PRESIDENT said that his objection still remained the same, that too much expense was likely to be thrown upon the owners of property if the full requirements of this section were enforced by the Municipal Commissioner.

The Honourable Mr. TUCKER said the section had been found to work well without complaint in the past, and he considered that it might be allowed to pass now without alteration.

The Honourable Mr. BYTHELL did not agree with the Honourable Mr. Tucker, because he believed that there had been complaints about one man being put in a position to do as he liked in a matter of this kind without anybody having the power to prevent him. He understood that this Bill was meant to introduce a new and more satisfactory state of things, but, judging by this and other sections, he must have been mistaken.

The Honourable Mr. FORBES said that several Native Justices had frankly avowed to him that such was the power of the Municipal Commissioner, that on certain subjects in which he was likely to be interested they dared not vote according to their private feelings, and were therefore forced to stay away from Bench meetings because they knew that if they were to vote according to their conscience, the Commissioner, by the great power which he was invested with, might do much to annoy them.

The Honourable Mr. MUNGULDASS said he knew from experience that the section had worked oppressively, and he remembered having heard of an instance in which certain washermen had to undergo heavy expenses for putting a private street into such a state of repair as pleased the Commissioner.

The Honourable Mr. BYTHELL—Precisely. This is just what I thought. The Commissioner is invested with power to ride roughshod over the whole community and to defy the Corporation to interfere with him or his doings.

The Honourable Mr. RAVENSCROFT thought that in the sixth line the words "with the consent of the Town Council" might be inserted after "may."

The Honourable Mr. NARAYAN approved of some modification, but said it was quite necessary that somebody should have the powers mentioned in the section, otherwise landlords would refuse to keep the roads attached to their properties in good repair.

The Honourable Mr. BYTHELL mentioned that in many large towns in England the Corporation had the power of compelling owners of property to pave their streets, because doing so not only was to the advantage of the Municipality, but the property was also improved in consequence of the access to it being made better. He thought the Corporation ought to have power to compel owners to carry out improvements, or at all events some of those which were mentioned in this section; but he did not think that that power should be left absolute in one man. However just and upright any Commissioner might be, he was yet but human, and in a dispute with an owner his temper might give way and then he might use his power arbitrarily whether he was right or wrong as to the matter in dispute.

The Honourable Mr. TUCKER—This section is merely meant to give the Commissioner power to render these streets capable of being taken over as public streets. The law in respect of this matter has worked well for six years, and I do not think there is any good reason shown for altering it now.

The Honourable Mr. RAVENSCROFT thought the section as it stood now might be made to work unjustly, and he should like to see it modified. From the top of Cumballa Hill was a private road, largely used by the public, yet the Commissioner might compel the owner to keep up that road in first class repair for the good of the general public.

The Honourable Mr. TUCKER intimated that a road of the description mentioned by the honourable member ought to be kept in good order. He repeated that he did not understand why the Council should alter a law which had been in operation for upwards of six years without complaint. The isolated instance mentioned by the Honourable Mr. Munguldass, of which no particulars were known, was not a sufficient reason.

His Excellency the PRESIDENT moved that in lines 4 and 5 these words should be omitted—"paved, metalled, flagged, channelled, or sewered," and the following words substituted, "and drained;" also that in lines 10, 11, and 12, the following words should be omitted, "metal, pave, flag, channel, or sewer, the same in such manner and in such proportions," and the following words substituted, "and drain the same."

The motion having been put to the vote the Council divided:—

Ayes—8.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable A. ROGERS. "
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—2.

The Honourable H. P. St. G. TUCKER.
The Honourable the Acting ADVOCATE-GENERAL.

—*Carried.*

The Council then agreed to make the "proviso" read as follows:—"If any such street shall be levelled, paved, metalled, flagged, channelled, and sewered at the expense of the owners, to the satisfaction of the Commissioner, such owners shall have," &c.

Section 159 was then agreed to as amended, and stands part of the Bill.

Section 159 became Section 160 and was agreed to, and stands part of the Bill.

Section 160 became Section 161.

The Honourable Mr. MUNGULDASS said that under the existing Act the minimum ^{Alteration of the minimum breadth of streets.} breadth of public streets was fixed at 24 feet, and he could not see any good reason for raising the figure by this Bill to 36.

The Honourable Mr. TUCKER—Dr. Hewlett writes on this point—“The Metropolitan Act of 1872 fixes forty feet as the minimum width of a street, and surely air and light are as important in Bombay as in London.”

The Honourable Mr. FORBES thought this section should clearly come under the bye-laws, because it was a matter in which the Corporation might wish to make alterations as circumstances required, or according to the situation of the streets.

The Honourable Mr. TUCKER said that one object of the section was to discourage people from making too narrow streets, which were very objectionable from a sanitary point of view.

The Honourable the ACTING ADVOCATE-GENERAL concurred with the Honourable Mr. Tucker, and expressed his belief that if every street in the native town were as broad as Bhandi Bazaar and the other main roads leading to the Fort, the city would be much more healthy.

The Honourable Mr. MUNGULDASS moved that in line 4, “twenty-four” should be substituted for “thirty-six.”

The Honourable Mr. FORBES thought it would be pity to fix any minimum, because the action of the Corporation would be cramped.

His Excellency the PRESIDENT reminded the Honourable Mr. Munguldass that the addition of footpaths made a great difference in the space to be allotted to a street.

The Honourable Mr. TUCKER thought that the minimum width fixed by the section was desirable for roads which were intended for carriage traffic as well as for the use of foot passengers.

His Excellency the PRESIDENT thought that though footpaths were made in every street in Bombay, the natives would still continue to walk in the middle of the road.

The Honourable Mr. TUCKER said that he believed the reason why the existing footpaths had not been freely used was that formerly they were so stony and rough that for men with naked feet it was more easy and pleasant to walk on the road itself; but recent experience had shown that directly asphalt pavements were introduced, the natives were ready enough to use the footways.

His Excellency the PRESIDENT remarked that although the footpath on the road to Government House, Gunnesh Khind, was a remarkably good one, he found that the natives always walked in the middle of the road and not on the foot ways.

*The Honourable Mr. FORBES moved that the whole section should be expunged.

The Council divided on the Honourable Mr. Forbes' amendment:—

Ayes—3.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

Noes—7.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.

The amendment was lost.

The amendment of the Honourable Mr. Munguldass was next put to the vote, when it was carried by 7 to 3:—

Ayes—7.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—3.

The Honourable H. P. ST. G. TUCKER.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable E. W. RAVENSCROFT.

His Excellency the PRESIDENT, alluding to the stipulation that no steps or projection of any kind should extend on to the street, asked whether this would not prevent an owner from arching over portions of a street as was done at Bologna and other Continental cities, much to the comfort of pedestrians.

The Honourable Mr. TUCKER said he apprehended that with the assent of the Commissioner and Corporation there would be no difficulty in erecting such arcades as His Excellency referred to, but that no house-owner of his own motion could make projections on or over the public streets. The reduced width which the Council had now sanctioned for streets at the suggestion of the Honourable Mr. Munguldass would make the construction of arcades more difficult than ever, and he considered that the amendment that had just been carried was a retrograde step and would greatly retard the improvement of the city. He would suggest that after Section 161 the heading "Building Regulations" should be inserted.

The addition was agreed to.

Section 161 became Section 162, and was carried and stands part of the Bill.

Section 162 became Section 163.

The Honourable Mr. BYTHELL thought this was a section in which the Town Council ought to have power to supervize the actions of the Municipal Commissioner.

The Honourable Mr. MUNGULDASS believed that a majority of the Select Committee had given their consent to this section.

The Honourable Mr. TUCKER said that in the matters mentioned in this section, he considered the Town Council ought to have a voice, because sums of money might have to be paid away as compensation for damage to houses or buildings.

The Honourable Mr. BYTHELL proposed that in line 9 between the words "may" and "require" the words "with the consent of the Town Council" should be inserted.

The Honourable the ACTING ADVOCATE-GENERAL suggested that in the 17th line "Corporation" should be substituted for "Commissioner."

The amendments were agreed to, and Section 163 as amended stands part of the Bill.

Section 163 became Section 164, and was agreed to and stands part of the Bill.

Section 164 became Section 165.

The Honourable Mr. TUCKER said that Mr. Peile objected to the words "in or near any street," and Dr. Hewlett also wrote on the same subject as follows:—"This section contains those fatal words *in or near any street*, and in effect it would mean that no house at a greater distance than 100 yards from a street need *have any drain, cesspool* or anything to convey away or receive the wastage water. Surely this is not the intention of Government. *I hope* the words may be left out. This section also says 'and if there be such means of drainage within one hundred feet of any part of such house or building, the Commissioner may,' &c. This is the distance fixed in the wording of the old Act. Much harm has ensued, as it has led to the introduction of cesspools in crowded parts of the town. The distance asked for in the draft Act was 100 yards, and it is not, I submit, too great. The cost of constructing a drain of this length would be as nothing compared to the constant expense of cleansing a cesspool, to say nothing of the increased danger to health from a cesspool." The Honourable Mr. Tucker continued—I agree with Dr. Hewlett and the present Municipal Commissioner that the words in the second line "in or near any street" should be omitted, and I move an amendment to that effect. The Health Officer is also very desirous that to prevent the risk of life which now often occurs and for the improvement of the public health, there should be a much more complete set of building regulations than is provided in the Bill. On this point he writes—"Such building regulations as we—not theorists, but practical men of many years' experience—ask for, ought, I would humbly submit, to receive a due consideration from Government. The Legislature in England has for many years recognised the necessity for making regulations: 1st—With respect to the levels, width, and construction of new streets and the provisions for the sewage of such streets; 2nd—With respect to the structure of walls of new buildings for securing stability and the prevention of fires; 3rd—With respect to the sufficiency of the space about buildings to secure a free ventilation of air and with respect to the ventilation of buildings; 4th—With respect to the drainage of buildings, to water closets, privies, ash pits and cesspools in connection with buildings and to the closing of buildings, to parts of buildings unfit for human habitation and to prohibition of their use for such habitation. Surely these are matters which demand legislation in India as much as in England. Every year several lives are lost by houses falling, as I have, in my capacity as Coroner, more than once brought to the notice of Government, from faults of original construction and from the imperfect manner in which the wastage water pipes are fixed to the house. The Municipal Officers cannot interfere until the house appears to be in a dangerous state. Is nothing to be done to prevent this unnecessary loss of life? We have

done all we can do in representing the matter to the Government." As there can be no doubt (the Honourable Mr. Tucker continued) that at present loss of life constantly occurs in the rainy season from the falling in of houses in consequence of faulty construction, of which there have been recently some conspicuous examples, and as also it is certain that improved ventilation in the existing dwelling places of a large majority of the inhabitants of the city would be greatly to the benefit of the occupiers of those houses and their neighbours; I think that the remarks of the Health Officer, who has a practical knowledge of the evils which he desires to remedy, deserve the careful consideration of this Council. I am disposed however to concur with Mr. Peile that a great portion of the reforms which Dr. Hewlett so earnestly desires to see effected can be more conveniently provided for in bye-laws to be made from time to time by the Commissioner with the approval of the Corporation and Government, and I propose to add "building regulations" to the subjects upon which in a subsequent portion of the Bill the Commissioner is empowered to make bye-laws. I would propose to add at the end of this section the following words, "the proposed means of ventilation, the height of the building, the number and height of the floors, and the materials and thickness of the walls and roof."

The Honourable Colonel KENNEDY thought there were many houses in Bombay with large compounds attached, and it would be a pity to prevent building operations from being carried on in these in such manner as the owner pleased.

The Honourable Mr. TUCKER said that if building regulations were expedient, they should be applied to all buildings whether constructed within a compound or not.

The Honourable Mr. BYTHELL agreed with the Honourable Mr. Tucker.

The Council divided on the amendment :—

<i>Ayes—5.</i>	<i>Noes—5.</i>
The Honourable H. P. ST. G. TUCKER.	His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NUTHOOBHROY.
The Honourable the ACTING ADVOCATE-GENERAL.	The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.	The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.	The Honourable NARAYAN VASUDEVJEE.

His Excellency the PRESIDENT gave his casting vote in favour of the amendment, which was therefore carried.

The Honourable Mr. TUCKER then brought forward his other proposition for the addition of the following words to the section :—"the proposed means of ventilation, the height of the building, the number and height of the floors and the materials and the thickness of the walls thereof."

The Honourable Mr. MUNGULDASS said he thought that all the particulars which the addition required could not be supplied without the aid of a professional engineer. In many cases the houses would not be worth more than 1,000 or 2,000 rupees, and it would be a great hardship, he would even say tyranny, if householders were compelled to employ professional men to give such particulars about huts and small houses as the Commissioner required, and which particulars could only be given with the aid of professional men.

The Honourable Mr. TUCKER could not agree with the Honourable Mr. Munguldass, and said that a non-professional man could easily prepare the particulars that were re-

quired—in fact, any ordinary carpenter or mason could easily do what was necessary for a fee of two annas.

The Honourable Mr. NARAYAN was afraid that if the Honourable Mr. Tucker's suggestion were carried out, it would only prove the means of giving municipal underlings the opportunity for extortion.

The Honourable Mr. MUNGULDASS said he agreed with the last speaker and mentioned that already an owner had to pay four rupees for two printed forms simply intimating to the Commissioner that he was going to build.

The Honourable Mr. TUCKER said that of course these bye-laws would require to be carefully supervised, and among other things the fee just mentioned by the Honourable Mr. Munguldass, which appeared to be a very large one, would in all probability be reduced. It was one of the necessary conditions of residence in a large town that a man could not build according to his own pleasure to the injury of his neighbours, and in all great cities the regulation of buildings was found to be a *sine qua non*. It would be greatly to the advantage of the general public if the erection of houses on the plans often adopted at present should be put a stop to, as they were often unfit for human habitation and were one of the causes of the generation of preventible disease and greatly assisted its dissemination after it had been once brought into existence. Any improvement in the construction of houses would be of incalculable benefit to the community, and though these improvements must be introduced gradually and with consideration for the feelings of the people, they should not be altogether deferred.

His Excellency the PRESIDENT considered that regulations of this character might be necessary in the crowded parts of the town, but he did not see why the Commissioner should be required to interfere with the small huts and cottages in the suburbs or outlying parts of the island.

The Honourable Mr. TUCKER said that the object of these building regulations was to cause the adoption of a better kind of dwelling place than the people were content to use at present. If they were not to be applicable to the whole island, the present wretched huts, which were still scattered over parts of it, would multiply and increase. This, in the speaker's opinion, was not desirable.

His Excellency the PRESIDENT observed that he still thought that the particulars which it was proposed to add to the section would not be necessary in the parts of the island to which he had previously referred.

The Honourable Mr. NARAYAN mentioned that similar provisions in the Calcutta Municipal Act applied to the city and not to the suburbs.

The Council divided on the Honourable Mr. TUCKER's amendment:—

Ayes—6.

His Excellency the Honourable Sir
AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-
GENERAL.
The Honourable E. W. RAVENSCROFT.
The Honourable J. K. BYTHELL.

Noes—4.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.

—Carried.

His Excellency the PRESIDENT proposed that in line 6 after "writing," the following words should be inserted, "stating where such building is intended to be erected, and if required so to do by the Commissioner, shall furnish him," and that "and shall accompany such notice" should be omitted.

The suggestion was agreed to.

Section 165, as amended on the motion of His Excellency the President and the Honourable Mr. Tucker, was agreed to and stands part of the Bill.

The Honourable Mr. TUCKER then proposed that the following new section should be Section 166:—"If within thirty days from the delivery of the notice required by the preceding section, the Commissioner shall not signify his disapproval or require a plan and statement as foresaid, the person may proceed with the building, and in case the Commissioner shall require a plan and statement as aforesaid, the Commissioner may within thirty days after receiving the notice as aforesaid, signify his disapproval of the proposed levels or privies or any other matters required to be mentioned in the statement referred to in the preceding section, and may fix other levels and privies in lieu thereof, and may require the ventilation, drainage, height of floors, materials and thickness of the walls and roofs to be altered in accordance with any bye-law laid down under the provisions of this Act, and he may require the said house to be set back or forward for the improvement of the street as he may think fit."

The Honourable Mr. MUNGULDASS moved that if the section should be amended in the manner proposed, the word "thirty" in line 1 should be omitted and the word "fourteen" be inserted in its stead. He explained that in the former Act the figure had only been 14, and he did not think that there should be any alteration made now, especially to the extent of thirty days, as this would prove a source of great inconvenience.

The Honourable Mr. TUCKER said that thirty days had been fixed by practical experience as a reasonable time.

The Honourable Mr. BYTHELL thought thirty days was rather a long period for the Commissioner to withhold his consent.

The Honourable Mr. FORBES thought so too, especially when a clerk might decide the matter after an hour's investigation.

The Honourable Mr. TUCKER said that the Honourable Mr. Forbes' idea of the manner in which business should be transacted by the Commissioner was certainly a most extraordinary one, and that he (the speaker) considered that if any Commissioner delegated the exercise of the important power with which he was invested by this section to a clerk, he should not be allowed to hold office.

The Honourable Mr. FORBES thought that the duty of the Commissioner or the person acting for him would simply be to see that the plans met certain fixed rules.

His Excellency the PRESIDENT thought that "twenty" was a fair number.

It was then agreed that the word "twenty" should be substituted for "thirty" where it occurred. With this alteration the amendment of the Honourable Mr. Tucker was adopted.

Section 165 was expunged.

Section 166 became Section 167.

His Excellency the PRESIDENT suggested that in the first line "any" should be substituted for "such," that the words after "or" in line 4 down to and including "Act" in line 9 should be omitted, and that in lieu of such words the following should be substituted, "otherwise than in conformity with the provisions of this Act and the directions of the Commissioner as aforesaid."

The amendment was agreed to, and the section as amended stands part of the Bill.

Section 167 became Section 168.

The Honourable Mr. MUNGULDASS moved that the word "thirty" in line 8 should be omitted and the word "fourteen" inserted in its stead.

It was agreed to substitute "twenty" for "thirty" in line 8; in lines 5 and 6 to omit "shown on such plans as aforesaid," and substitute "mentioned in Section 165;" and in line 13 to omit "shown on such plan," and substitute "furnished by him."

The amendments were agreed to, and the section as amended stands part of the Bill.

No alterations were made in Sections 168 to 170.

Section 171 became Section 172.

The Honourable Mr. MUNGULDASS moved that the section be omitted, and the following section, 127 of Act II. of 1865, be inserted in its stead:—

"Whenever the Commissioner is satisfied that any huts or sheds, whether used as dwellings or stables, or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are, by reason of the manner in which the huts or sheds are crowded together, or of the want of drainage and the impracticability of scavenging, attended with risk of disease to the inhabitants of the neighbourhood, he shall cause a notice to be affixed to some conspicuous part of such huts or sheds requiring the owners or occupiers thereof, or at his option the owner of the land on which such huts are built, within such reasonable time as may be fixed by the Commissioner for that purpose, to execute such operations as the Commissioner may deem necessary for the avoidance of such risk. And in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the Commissioner may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as the Commissioner may deem necessary to prevent such risk. If such huts or sheds be pulled down, the Commissioner shall cause the materials of each hut or shed to be sold separately, if such sale can be effected; and the proceeds shall be paid to the owner of the hut or shed, or if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioner until the person interested therein shall obtain the order of a competent Court for the payment of the same. The Court of Small Causes for Bombay shall be deemed a competent Court for that purpose if such proceeds shall not exceed in amount the limit of its jurisdiction: Provided always that in case any huts or sheds existing at the time when this Act comes into operation should be pulled down under this section, by order of the Commissioner, or in pursuance of his notice, compensation shall further be made to the owner thereof, and the amount thereof in case of dispute shall be ascertained and determined as hereinafter provided."

Compensation to owners of huts
sought by Mr. Munguldass.

The honourable member said that his intention was to compensate poor owners of huts if the Commissioner's orders were to inflict hardship or loss on them.

The Honourable Mr. TUCKER objected to the amendment, and contended that the owners of such huts could have no proper claim for consideration, as they had infringed the law by omitting to give notice to the Commissioner.

The Honourable Mr. MUNGULDASS asked for compensation being extended to the owners of huts or sheds at the time of this Bill coming into operation. He thought this would be only fair, because the previous Act did not affect owners who had already erected their huts or sheds.

The Honourable Mr. TUCKER said that before the last Act came into force there was no law prohibiting the erection of huts without preliminary notice to the Commissioner, so the owners of huts existing when Act II. of 1865 came into operation were entitled to consideration, and it was accorded to them. Now the prohibition had been in force for seven years and it was not probable that any huts remained which existed before 1865, so it was not necessary to repeat the provision of the old Act in this Bill. The persons who since Act II. of 1865 came into force had built huts in defiance of the law were not entitled to any consideration.

His Excellency the PRESIDENT thought that if any huts which had been built before 1865 existed now they must be such wretched habitations that the Commissioner should have full powers to deal with them. This was a measure which might entail a little annoyance and hardship upon both people, but it would work ultimately for their good.

The Honourable Mr. MUNGULDASS withdrew his amendment.

Section 172 was then agreed to, and stands part of the Bill.

Section 172 became Section 173, and was agreed to and stands part of the Bill.

Section 173 became Section 174.

The Honourable Mr. TUCKER moved the omission of the words "in or near any street" in lines one and two, for the reason which he had given for the omission of the same words in a previous section. This alteration, he said, was recommended by the Health Officer and Municipal Commissioner.

The Honourable Mr. NARAYAN mentioned that if this were agreed to the cost of making drains "to the satisfaction of the Commissioner" would in many isolated cases exceed the whole value of the houses.

The Honourable the ACTING ADVOCATE-GENERAL thought there could only be a few houses in the native town that were more than a hundred yards away from a public drain.

The Honourable Mr. NARAYAN said that in many parts of Bombay houses were more than a hundred yards away from sewers or drains communicating with the sea, and although he thought that in such cases it would be quite fair to levy a reasonable expenditure upon the house-owner, yet he must object to the unlimited expenditure that might be imposed under this section.

The Honourable Mr. TUCKER said that Dr. Hewlett mentioned the case of a range of huts which were built in Colaba, for which no means of drainage were provided and which had become very offensive, yet the owner could not be compelled to do what was

necessary, because they happened to be beyond the distance prescribed by the previous Act. In the case of houses situated in large compounds, and which houses were not within a reasonable distance from a drain, all that the owner had to do was to construct a cesspool under the provisions of the next section.

The amendment was agreed to.

Section 174 became Section 175.

The Honourable Mr. TUCKER—Regarding this section Dr. Hewlett remarks—“ No provision is made for payment to the Commissioner for the cleaning of cesspools, but this was not considered expedient.” I suggest that after “ cesspool ” in line 10, the following words be inserted, “ to be constructed by such owner or owners ” and that the word “ made ” should be omitted. This was agreed to.

No alterations were made in Sections 175 to 178.

Section 179 became Section 180.

The Honourable Mr. TUCKER—Dr. Hewlett says regarding this section :—“ It is in my opinion absolutely necessary that greater details should be specified regarding the regulations of privies. In the first place they ought not to be in the words of this section ‘ attached ’ to a house. It is of the greatest importance that they be ‘ detached.’ 2nd—Their form and the material used in their construction ought to be such as is approved by the Health Officer. The insides of the privy shoots now in existence throughout the town are the resting places where the contagion of zymotic disease breeds. Instead of these shoots being composed of a glazed non-absorbent pipe presenting an even surface throughout its length, they are composed of absorbent uneven bricks laid in mortar. Urine falling on lime sets up chemical changes which are most injurious to health. It must be clear also that a dysenteric or choleraic stool thrown into one of these shoots from a privy on the upper storey of a house cannot reach the receptacle placed below without some portion of it remaining on the uneven sides. Here it undergoes putrefaction, and in doing so, disseminates disease. 3rd—The Health Officer should have power to order a receptacle to be placed below which would prevent the escape of urine, night-soil, and ablution water. I trust that Government will take the question of the site, the material for, and fittings of, privies into its earnest consideration. No other question can be of equal importance, for it embraces the comfort, health, and life of the people. If Government still decline to do so, I hope that the Commissioner may be empowered to make bye-laws for their regulation, although at the same time I beg to express my conviction that if this question is left to the Corporation, private interests will prevent this much-needed reform. I must also point out that the concluding part of this section throws the duty of causing additional privies to be constructed on the Commissioner, instead of making the person in default liable to a fine and a daily penalty for continuance of default.” I move that in line 6 the words “ attached to or ” be omitted.

The Honourable Mr. MUNGULDASS said that most of the houses in Bombay were built in such style as would not permit of the improvements desired by Dr. Hewlett being carried out. And moreover, a majority of the houses had no compounds attached in which isolated privies could be erected. He thought it would not be right to go the length of pulling down the old houses to carry out these improvements.

The Honourable Mr. TUCKER said the Honourable Mr. Munguldass had proved, by the facts which he had stated, how necessary it was that an alteration should be made in the existing state of things.

The Honourable Mr. MUNGULDASS said that if the Honourable Mr. Tucker's amendment were agreed to, the Council would practically be giving powers to one single person to do anything he might choose regarding private properties; in fact, the Commissioner might compel many owners to sell their properties. This section, he said, was a new one, and he thought that its provisions would work very harshly.

The Honourable Mr. ROGERS said that this was another of the cases in which discretion ought surely to be left to the Municipal Commissioner.

His Excellency the PRESIDENT asked the Honourable Mr. Munguldass if the working of this section would be attended with great hardship.

The Honourable Mr. MUNGULDASS replied that it would, and that the poorer classes would especially feel its incidence. He considered that if the power were given to a body like the Town Council, justice might be done; but so long as it was left to the discretion of a single individual, hardship might in a number of cases be the result.

The Honourable Mr. BYTHELL concurred to a certain extent with the Honourable Mr. Munguldass, and suggested that a power of appealing to the Town Council should be provided, because at present, apparently, appeals could only be heard by the Government of Bombay.

The Honourable Mr. TUCKER said he should oppose strongly any alteration in the section, because he considered that it would be better to leave the matters in the hands of the Municipal Commissioner, whose business it would be to make personal inspections and to enter into details which the Town Council could scarcely be expected to do.

The amendment proposed by the Honourable Mr. Tucker was then agreed to.

The Honourable Mr. TUCKER suggested that after the word "constructed" in line 10 and before the word "in" the following words should be inserted—"in such manner as may be prescribed by the bye-laws to be framed in that behalf."

The section was agreed to as amended, and stands part of the Bill.

Section 180 become Section 181,

The Honourable Mr. MUNGULDASS said that many owners had only one side of their houses on which there was any open space, and thus they would be compelled to make their privies open into the streets. He therefore thought that this section was rather stringent.

No alterations were made in Sections 180 to 185, except in line 12 of Section 184 in which the word "clean" was inserted after the word "repair."

Section 186 became Section 187.

The Honourable Mr. BYTHELL thought that the Commissioner should only be allowed to exercise the powers of making public sewers with the consent of the Corporation.

It was then agreed that in line 1 after the word "shall" the following words should be added "with the sanction of the Corporation."

The section was then agreed to as amended and stands part of the Bill.

Section 187 became Section 188.

The Honourable Mr. BYTHELL objected to the power being given to the Commissioner to repair and alter and discontinue sewers "as he might see fit," and suggested that in line 4 "may with the sanction of the Corporation" should be substituted for the words "as he sees fit."

The amendment was agreed to, and the section as amended stands part of the Bill.

Section 188 became Section 189, and was agreed to and stands part of the Bill.

Section 189 became Section 190.

The Honourable Mr. TUCKER wished to add between the word "into" and the word "any" in line 6, the words "or out from," because it has been brought to the notice of the Health Officer that people were in the habit of, so to speak, "tapping the main drain" for sewage, and of course this should not be done without the approval of the Health Officer or the Commissioner.

His Excellency the PRESIDENT thought that if these people would take all the sewage away, it would be a very good thing for the Municipality in its present condition.

The section as amended was agreed to and stands part of the Bill.

No alterations were made in Sections 190 to 195.

Section 196 became Section 197.

The Honourable Mr. MUNGULDASS moved that in line 6, "24" should be substituted for "36."

The Honourable Mr. TUCKER was opposed to this, and said that if sanitary officers considered that there should be more space for the circulation of air and if Bombay was to have streets of a tolerable width, it would never do to narrow them by permitting the indiscriminate projection of verandahs.

His Excellency the PRESIDENT remarked that in many Italian towns the streets were not so wide as in Bombay, and yet most of the houses possessed verandahs.

The Honourable Mr. FOBES said that he thought that verandahs should not be objected to, because they acted as so many sunshades.

The motion having been put to the vote the Council divided:—

Ayes—8.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCHROFT.
The Honourable J. A. FOBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—2.

The Honourable H. P. ST. G. TUCKER.
The Honourable the ACTING ADVOCATE-GENERAL.

—Carried.

The section was then agreed to as amended and stands part of the Bill.

Section 197 became Section 198 and was agreed to and stands part of the Bill.

Section 198 became Section 199.

The Honourable Mr. TUCKER—Dr. Hewlett says regarding this section:—"This most necessary section ought to be made compulsory on the Commissioner instead of a permissive power being given to him. We have had much trouble from this action having been neglected. It would probably be advisable to make the house-owners pay for the metal or porcelain number plates, and only those of pattern approved by the Commissioner should be allowed to be fixed."

The Honourable Mr. NARAYAN moved that the following words in lines 16 to 18 should be omitted—"and any owner or occupier who shall not at his own expense keep such number in good order after it has been put up."

The Honourable Mr. TUCKER could not see why a man should not be compelled to pay for what he had to do, and certainly every man in Bombay ought to number his own house.

After some conversation the section was amended as follows:—In lines 3 and 4, "names and numbers of streets" was omitted; in line 7, "or number" was inserted after "name"; in line 16 "of a house" was inserted after "occupier;" and in line 17 "such number" was omitted and "the number of the said house" substituted.

The section was agreed to as amended and stands part of the Bill.

Section 199 became Section 200.

The Honourable Mr. FORBES said very large powers were here, too, given to the Commissioner.

The Honourable Mr. TUCKER said it was true the powers were large, but the necessity for such powers had been clearly demonstrated, as repeatedly houses fell in and destroyed lives. There had been many recent instances, and the security of the public demanded the creation of authority of this kind.

The section was agreed to and stands part of the Bill.

No alterations were made in Sections 199 to 203.

Section 204 became Section 205. It was proposed that in line 10 "Corporation" should be substituted for "Commissioner."

The section was amended accordingly, and as amended stands part of the Bill.

No alterations were made in Sections 205 and 206.

Section 207 became Section 208.

The Honourable Mr. MUNGULDASS proposed that this section should be omitted and the following Section 123 of Act II. be inserted:—"Whoever, after this Act comes into operation, builds any wall, or erects, or sets up any fence, rail, post or other obstruction, or encroachment, in any public street, or deposits or causes to be placed or deposited any box, bale, or package of merchandize or any other thing in or over any open drain, sewer, or aqueduct along the side of any such street, shall be punished with fine which may extend to one hundred rupees, and the Commissioner shall have power to remove any such obstruction or encroachment; and the expense of such removal shall be paid by the person erecting or depositing the same, and shall be recoverable as hereinafter provided. Nothing herein contained shall prevent the Commissioner, with the concurrence of the Commissioner of Police, from allowing any temporary erections in any public street on occasions of festivals and ceremonies."

No alteration was made in this and in Sections 209 and 210.

Section 211 became Section 212.

The Honourable Mr. TUCKER—Dr. Hewlett says, regarding this section:—“ This section only applies to places which are dangerous to persons passing along a public street which by the interpretation clauses means a street which has been repaired out of municipal funds. This section will therefore not allow any action to be taken regarding dangerous places such as I frequently see as Coroner. Deserted quarry holes and wells full of water situated within private enclosures far from any public street and yet extremely dangerous to the inhabitants of houses living perhaps in the same enclosure. None of the by-lanes in Mahim are ever repaired by the Municipality, and yet there are many dangerous wells situated near them, which it will be impossible to get protected. For the prevention of accidents I hope Government will amplify this section. I regret that the section in the draft Act regarding the permission of the Commissioner being necessary for the purpose of digging wells and making excavations is omitted in the Bill. It is much needed, as much harm has already been done by persons excavating sand-stone in “many parts of the town. These excavations form unwholesome receptacles for all kinds of filth, and should not be made except under supervision.” The Honourable Mr. Tucker continued—I was myself quite astonished to learn the number of deaths caused last year by people tumbling into unfenced wells, quarries and other excavations, and I would suggest that if we leave out the words ‘passing along a public street or thoroughfare,’ in line 1, the section might then apply to all dangerous places. Most of us remember the terrible accident at Bandora which occurred less than two years ago, and the returns show that there is constant loss of life among the people from the unprotected state of wells, tanks, pits, quarries and other dangerous places near public thoroughfares. I propose that these words should be omitted.

The Honourable Colonel KENNEDY was opposed to the alteration.

The Honourable Mr. RAVENSCROFT agreed with the Honourable Mr. Tucker.

The Honourable Mr. MUNGULDASS and the Honourable Mr. NARAYAN thought that if the amendment were agreed to, it would result in an undue interference with private property.

The Council divided on the Honourable Mr. Tucker’s amendment:—

Ayes—2.

The Honourable H. P. St. G. TUCKER.
The Honourable E. W. RAVENSCROFT.

Noes—8.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCEL.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The amendment was therefore lost.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under Secretary to Government.

Puna, 18th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Púna, on Thursday, the 19th September 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHAY, C.S.I.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail.

The Council proceeded with the consideration of the Bombay Municipal Bill in detail.

The Honourable Mr. TUCKER asked the Council to reconsider Section 213, and said that he wished the word "public" taken out, because then there would be a better security for the general safety of the inhabitants of the island.

The Honourable the ACTING ADVOCATE-GENERAL approved of the amendment, and the Council agreed to it.

His Excellency the PRESIDENT mentioned that he had received a petition from the Managing Committee of the Bombay Association, asking the Council to consider several points in the Municipal Bill. He did not think that the Council should go back over the portion of the Bill which had been settled and reconsider the sections in connection with the criticisms of this Association; but he thought that as the subsequent sections came up, the remarks of the Association with relation to these sections could be considered at the same time. Regarding most of the sections in these building clauses, the Association desired that the action of the Municipal Commissioner and the Health Officer should be made subject to the Town Council or the Corporation. The Council, however, had already anticipated the Bombay Association to a considerable extent in this respect, the consent of the Town Council having been made necessary for a number of things which the Commissioner had previously been empowered to do without any check.

Section 212 became Section 213.

The Honourable Mr. FORBES thought that this was quite an unnecessary clause to put in the Bill, and said that if the Legislative Council were to regulate the Commissioner's conduct regarding dust boxes in streets, they might as well order brooms and so forth.

The Honourable Mr. TUCKER said, that considering that this section had been in operation for seven years, he did not think the Council needed to waste any time in discussing its suitability.

This section was agreed to and stands part of the Bill.

Section 213 became Section 214.

The Honourable Mr. TUCKER—Dr. Hewlett objects to the omission of the provisions of the existing Act on this point. The section alluded to by the Health Officer was left out simply because it was considered unnecessary. However if it would be to the advantage of the town, he would be very glad to see this section replaced in the Bill. He therefore proposed that Section 21 of Act II. of 1865 should become Section 215 of this Bill, and that the word “rags” should be placed before the word “rubbish” and that the word “Corporation” be substituted for “Justices.”

This was agreed to, and Section 21 of Act II. stands part of the Bill.

Section 214 became Section 216.

The Honourable Mr. FORBES objected to the Commissioner having power to fix the hours within which it should be lawful to move the night soil. He thought it would be quite as well to leave it to the Council to decide at what hours these duties should be undertaken by the Commissioner. At present the municipal carts went through Bombay at a very unpleasant time of the day, because it happened not unfrequently people going to and from the Fort were met at 10 o'clock in the morning, in the most frequented streets, by the municipal carts. He therefore begged to move that in line 2 after the word “may” the following words should be inserted, “with the approval of the Town Council.”

The Honourable Mr. TUCKER opposed the amendment, because this was a matter which should be left to the discretion of one person.

The Council divided on the Honourable Mr. FORBES' amendment :—

<i>Ayes</i> —3.	<i>Noes</i> —7.
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable J. A. FORBES.	The Honourable H. P. ST. G. TUCKER.
The Honourable J. K. BYTHELL.	The Honourable A. ROGERS.
	The Honourable the ACTING ADVOCATE-GENERAL.
	The Honourable COLONEL M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable NARAYAN VASUDEVJEE.

Section 215 became Section 217.

The Honourable Mr. TUCKER—Dr. Hewlett says that he would prefer a penalty inserted for the throwing of nuisances from windows.

The Honourable Mr. MUNGULDASS thought the penalty was not necessary, because it would not be possible to find out the particular person who might commit the offence referred to; and he certainly did not think that it would be fair to make the owner pay the penalty for an offence committed by some of his tenants.

The Honourable Mr. TUCKER said that the penalty should be imposed upon the head of the family if he did not point out the offender.

The Honourable Mr. BYTHELL suggested that the occupant of the house might be held responsible.

The Honourable Mr. TUCKER mentioned that during the late Mohurrum it was found that many people retired into houses and threw missiles from the windows at the police, and as the chief occupant of the house could not be held responsible, it was impossible to get at the offenders. Mr. Souter, the Commissioner of Police, was in favour of some regulations by which the owner or occupant of a house should be held responsible for any thing thrown from the windows of his house.

After some further discussion the alteration was not pressed.

His Excellency the PRESIDENT suggested that in line 9 between "any" and "sewer" the word "street" should be inserted.

This was agreed to, and the section as amended stands part of the Bill.

Section 216 became Section 218.

The Honourable Mr. MUNGULDASS considered that between "land" and "causes" in line 3, the word "wilfully" should be inserted.

The proposal was not supported, and the section was agreed to and stands part of the Bill.

Section 217 became Section 219, and was agreed to and stands part of the Bill.

Section 218 was then read and discussed.

The Honourable Mr. MUNGULDASS proposed that in lines 10 and 11 the words "in the opinion of the Commissioner after consulting the Health Officer" should be omitted. He (the speaker) certainly thought that the Commissioner should not be invested with this power to turn people out of their houses because he thought it was overcrowded or in a state prejudicial to health. In this case the Commissioner would be both prosecutor and judge, and an arbitrary, hasty man might work much mischief. In sanitary matters great differences of opinion occurred, and these were not questions to be left to the sole adjudication of one man.

The Honourable Mr. TUCKER thought that if any benefit was to result from interference in these matters, the powers must be entrusted to one competent and trustworthy man. In most cases immediate action would have to be taken, and a reference to any Board or assembly would possibly cause considerable evil: It was a question whether men's lives were of more account than the property of persons who constructed and let out for profit buildings unfit for human habitation. Half the town might be decimated while a Board was deliberating whether houses unfit for human dwellings should be put into a proper condition.

The Honourable Mr. BYTHELL remarked that the Corporation were allowed to appoint their own Health Officer, but were not given power to control his proceedings. He thought the large powers conveyed by this section should not be confided to any one man without check or supervision. The Commissioner might act hastily or in a moment of irritation refuse to listen to argument that ought to have weight with him, and considerable mischief might be done.

The Honourable Mr. TUCKER thought that it might be assumed that a magistrate would not impose a penalty unless a good cause for interference was established to his (the Magistrate's) satisfaction.

The Honourable Mr. MUNGULDASS—This might be so, but still a number of persons and their families might be turned out into the streets on account of some crotchet or whim of the Health Officer.

The Honourable Mr. NARAYAN VASUDEVJEE—The clauses in the existing Act on the subject of overcrowding and of the power of the Health Officer had often formed the subject of discussion in the Court of Petty Sessions. They were, however, not nearly so stringent as those intended to be conferred by the section before the Council. Under the Criminal Procedure Code the powers given to Magistrates in such matters were much more restricted, and the owner of property pronounced to be in a condition which constituted a nuisance was able to have the question of the justice of the Magistrate's order tried by a jury. Why should the inhabitants of Bombay be worse off in this respect than those in the Mofussil ?

The Honourable Mr. TUCKER—The Criminal Procedure Code has not yet been made applicable to the Presidency towns.

The Honourable Mr. NARAYAN—But surely in legislating for Bombay we should provide the same safeguards as have been found expedient in the Mofussil.

The Honourable the ACTING ADVOCATE-GENERAL—As no penalty can be imposed except by a Magistrate, there will be some supervision over the proceedings of the Health Officer and Commissioner in matters of this kind.

The Honourable Mr. MUNGULDASS—If the Health Officer certifies that the place is a nuisance and the Commissioner produces the certificate in justification of his acts, the Magistrate will not be able to refuse to impose a penalty.

The Honourable Mr. BYTHELL—It seems to be undisputed that in the Mofussil the act authorised by the section could not be done without due enquiry and a decision based on evidence, but it would seem that here the Commissioner might pull down dwellings and remove the inhabitants on the opinion of the Health Officer alone.

The Honourable the ACTING ADVOCATE-GENERAL said that the Commissioner could not impose a penalty; that can only be done by a Magistrate.

The Honourable Mr. BYTHELL—But the Commissioner may direct the pulling down of the house, and if the order be not obeyed, the person to whom the order is addressed will be liable to a penalty. These are not powers which should be entrusted to a single man. I propose that the section be omitted or that a power of appeal be given to the Town Council.

The Honourable Mr. TUCKER—There is nothing about pulling down the house in the section we are discussing. I think that the honourable member is confounding this with another section which has been already passed, and if so, he is scarcely in order.

The Honourable Mr. BYTHELL—According to the Section 200, if the Commissioner considers a house to be in a ruinous condition, he may take down, repair, or secure the same within three days after giving notice to the occupier to do so. There is therefore no confusion in my mind on the point. I would submit that I am not out of order in the remarks I have made. In assigning a reason for the grant of a power of appeal, I referred

to the power given by this and a preceding section, and I apprehend that I was quite in order in doing so.

The Honourable Colonel KENNEDY said he could not agree in the suggestions of the Honourable Mr. Bythell, he thought it was desirable that the executive power mentioned in this section should be left in the hands of two competent officers.

The Honourable Mr. FORBES thought that if two single officers were placed in the position this section sought to assign to them, the result would be extreme hardship and annoyance to the public.

The Honourable Colonel KENNEDY thought it would be safer to trust to two selected men than to a dozen or more of persons of less experience.

The Honourable Mr. RAVENSCROFT—I do not think it should be forgotten that Section 47 provides that in the event of a difference of opinion arising between the Commissioner and the Health Officer, a statement of the case must be laid before the Town Council, which shall decide in the matter, and the Commissioner cannot refuse to obey the decision so given.

The Honourable the ACTING ADVOCATE-GENERAL said that Section 47 gives a power of appeal in cases in which they differ.

His Excellency the PRESIDENT—But it does not meet the cases in which an occupier or owner desires to appeal when these officers agree.

The Honourable Mr. RAVENSCROFT thought that as the Health Officer and the Commissioner were appointed by different powers, the one by the Corporation and the other by Government, there would be no collusion between them, and it might be anticipated that the public interest would be properly looked after.

The Honourable Mr. MUNGULDASS said that, on the other hand, as the Health Officer was subordinate to the Municipal Commissioner, he would probably to a certain extent be under the influence of the latter.

The Honourable Colonel KENNEDY—But it is provided that the Municipal Commissioner must consult the Health Officer.

The Honourable Mr. ROGERS—But I do not think that, as this clause stands, the Municipal Commissioner is bound to consult anybody.

After considerable discussion,

The Honourable the ACTING ADVOCATE-GENERAL proposed that the section should be struck out and that after Section 219 there should be inserted in the Bill as Section 220, Section 144 of Act II. of 1865, omitting the words "in or near any street;" that, as Section 221 of this Bill, there should be inserted Section 145 of Act II. of 1865, substituting the words "5 A.M. and 7 P.M." for "sunrise and sunset;" that, as Section 222 there should be inserted Section 22 of Act IV. of 1867, omitting the words "Section 146 of Act II. of 1865 is hereby repealed," and "and the inhabitants shall consist of more than one family," and inserting after the words "lodgers or inhabitants," "or other inhabitants."

This amendment was agreed to, and Sections 220, 221, and 222 stand part of the Bill
Section 219 became Section 223.

His Excellency the PRESIDENT.—Should we not say here “the Commissioner, with the sanction of the Town Council?”

The Honourable Mr. MUNGULDASS proposed that this section should be omitted and the following Section 175 of Act II. of 1865 be inserted in its stead:—“When any private tank or low marshy ground, or any waste or stagnant water, being within any private enclosure, appears to the Commissioner to be injurious to health, or to be offensive to the neighbourhood, the Commissioner shall require, by notice in writing, the owner of the said premises to cleanse or fill up such tank or marshy ground, or to drain off or remove such stagnant water; and if the said owner shall refuse or neglect to comply with such requisition during eight days from the service thereof, the Commissioner, his officers, and workmen shall enter into the said premises, and do all necessary acts for all or any of the purposes aforesaid, and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided.”

The Honourable Mr. TUCKER would not object to the addition proposed by His Excellency the President, because matters of this kind involved expenditure. He could not, however, approve of the motion to substitute the section in the existing Act for the one in the Bill.

The Honourable Mr. MUNGULDASS would not press his amendment.

In line 9, between “may” and “by,” “with the sanction of the Town Council” was inserted, and the section as amended was agreed to and stands part of the Bill.

Section 220 became Section 224. In line 1, between “Commissioner” and “is” “with the sanction of the Town Council” was inserted, and the section was agreed to and as amended stands part of the Bill.

The Honourable Mr. TUCKER—I may mention that Dr. Hewlett desires the introduction of a section here to compel the Corporation to provide places for the disinfection of infected clothes and vehicles for the carriage of infected persons, as well as proper lodging for such persons. He would also enact penalties for infected persons who entered public conveyances without giving notice, or for the fumigation and purification of rooms which had been occupied by infected persons. All these things would be advantageous, but the Select Committee considered that the provision of disinfecting chambers and vehicles for the use of infected persons might be left to the Corporation, and that the time had not come for the attachment of penalties to acts of the character specified. It is but right, however, that the Council should know the opinions of the Health Officer on this subject.

Provision for places for the disinfection of infected clothes and vehicles suggested by Health Officer.

His Excellency the PRESIDENT mentioned that he had just received a letter from England, stating that at home Dr. Hewlett's report on the sanitary condition of Bombay had attracted much attention and received great commendation.

The Honourable Mr. TUCKER thought there could be no doubt that Dr. Hewlett had done a great deal for the improvement of the city. His earnestness and unremitting exertions had done much to influence the natives of Bombay to attend to sanitary requirements.

Section 221 became Section 225.

The Honourable Mr. TUCKER—Dr. Hewlett says :—“ I very much regret the alteration made in the Bill from the wording of the section as submitted in the draft Act. The section as it stands at present is very bald and imperfect—blood bones and offal are not boiled, nor are rags, until after they may have done incalculable mischief by having been stored. Storage of bones as well as of the other articles and the mode of manufacture of each requires regulation. Again, dammer is boiled or rather heated in many parts of the native town where there is most valuable property. I constantly receive complaints from house-owners regarding the boiling of dammer, but I am unable to take action, as the Magistrates say this is not dangerous to life or health, although it may be to property. From the wording of this section the storing of explosive or combustible materials is not forbidden, unless either offensive or unwholesome smells arise from them. A man may therefore store any quantity of dynamite, gunpowder, kerosine oil, &c., on the ground floor of a house. Surely this cannot be the intention of Government. The washing and drying of wool is named, but not that of hair or cotton, as it should be. I would hope that the wording of this section may be altered to that submitted in the draft Act, as it is one that was drawn up with the greatest care and was based upon the practical experience of our wants, extending over many years. I must also mention that in my opinion power ought to be given to the Commissioner to refuse to allow the erection of mills or factories in localities where they are likely to prove nuisances. Three new cotton spinning and weaving mills are in course of erection at Tardeo, where four other mills are clustered. Vast volumes of smoke are emitted from their chimnies, to the great annoyance of residents on Cumballa Hill. It is extremely probable that other mills will be established in this district as there is no law to empower municipal officers to refuse their assent to an arrangement which they know will eventually prove a great nuisance.”

After some discussion, various alterations were made in the section, which after being amended reads thus :—“ The owner or occupier of every place within the city used for any of the following purposes—viz., for melting tallow or sulphur, or for boiling or storing offal, blood bones, or rags, or for washing or drying wool or hair, or as a soap house, dyeing house, oil boiling house, tannery, brick, pottery, or lime kiln, sago manufactory, distillery or other manufactory or place of storing hides, fish, horns, skins, from which either offensive or unwholesome smells arise, gunpowder manufactory, manufactory of fireworks, place of storing explosive or combustible materials, or of any place which is used for any purposes which are calculated to be dangerous to life or health or property, shall within three months,” &c.

Section 222 became Section 226.

The Honourable Mr. NARAYAN—This is altogether a new section, and I propose that it be omitted, as I know it will press very heavily upon persons who keep horses or cattle for hire, and others.

The Honourable Mr. TUCKER—These stables may become a great nuisance, and should be brought under regulation.

The Honourable Mr. NARAYAN—My own idea is that the Municipality wish this section introduced, because they desire to build stables and force people to occupy them.

The Honourable Mr. RAVENSCROFT could not believe this.

The Honourable Mr. TUCKER—We cannot allow collections of buffaloes or other cattle to exist in crowded parts of the town, and this matter must be regulated in some

way. It would be much for the benefit of the inhabitants generally if these cattle-keepers and milk-sellers were collected in a place where they would not be a nuisance to the neighbourhood.

The Honourable Mr. NARAYAN—This section is simply meant to compel these owners to occupy places built by the Municipality. Now, if a man has a good stable and keeps it in good order, I cannot see any justice in compelling him to go into the municipal stables. Why should the Council not adopt the section of the old Act, which states that if a person keeps a place in a filthy state he shall be fined? If the Commissioner has the power of withholding licences, the owners or occupiers of stables will be compelled to go into the municipal stables, otherwise they will not get a licence to carry on their trade. These municipal buildings may be let at fancy rates, because of course the Municipality with this power in the hands of the Commissioner may charge as they choose. The Municipal Commissioner has already got land from Government for this particular purpose of erecting stable accommodation, and if the property is not used for that purpose, it must revert to Government. This is the reason of this objectionable section.

His Excellency the PRESIDENT—How would it do to say that if a man has a proper stable he shall not be disturbed?

The Honourable Mr. NARAYAN—That would suit my purpose exactly.

The Honourable Mr. RAVENSCROFT mentioned the case of the stables of horse dealers in the Bhendy Bazaar, Byculla Road, and elsewhere, and remarked that if the Commissioner were to suspend a licence to these horse-owners, a great deal of property would be rendered useless.

The Honourable Mr. TUCKER said he did not suppose that the occupiers of the stables mentioned by the Honourable Mr. Ravenscroft would be refused licences. The Municipal Commissioner must be trusted with some discretion in these matters.

The Honourable Mr. NARAYAN—I know that the proceedings of the Municipal Commissioner have been very arbitrary in getting the present Crawford Markets filled.

The Council divided on the Honourable Mr. Narayan's amendment :—

Ayes—3.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable H. P. St. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. K. BYTHELL.

The amendment was therefore lost.

His Excellency the PRESIDENT raised a question as to the meaning of the word "private use," and

The Honourable the ACTING ADVOCATE-GENERAL proposed that in line 5, the words "other than for private use" should be deleted, and the following words inserted after "animals," "which are let out on hire or the produce of which is made an article of trade."

These alterations were agreed to.

The Honourable Mr. FORBES remarked that the penalty was most enormous.

The Honourable Mr. TUCKER said that although the maximum fine which could be inflicted was high, the determination of the amount was left to the discretion of the Magistrate.

The section was passed as amended and stands part of the Bill.

Section 223 became Section 227, and was agreed to and stands part of the Bill.

With regard to Section 224 His Excellency the PRESIDENT considered that it was not required, seeing that the Commissioner had power already to cancel, revoke, or withhold licences. He therefore suggested that it be struck out.

This was agreed to.

Section 225 became Section 228 and was agreed to and stands part of the Bill.

Section 226 became Section 229.

The Honourable Mr. TUCKER—Regarding this Dr. Hewlett says—“By the addition of the words to reduce as far as may be practicable, the smoke arising from such furnaces, a very wide door is opened to litigation. This section, as it at present stands, will be a dead letter.” The words objected to by Dr. Hewlett were put in, because it has been ascertained that it is not possible at present to make these furnaces consume all their own smoke. Dr. Hewlett’s suggestion in another place that the Commissioner shall have power to prevent the erection of more factories in the city of Bombay, seemed worthy of consideration. The multiplication of these establishments will be in time a great nuisance.

The section was agreed to and stands part of the Bill.

No alterations were made in Sections 227 to 230.

Section 231 became Section 234.

The Honourable Mr. TUCKER—Dr. Hewlett says :—“I think distinct power should be given in this section to the Commissioner to levy certain fees from the dealers and butchers, such as fair fees, standing ground fees, slaughter fees and carrying fees.”

No alteration was made in Section 232 which became Section 235.

Section 233 became Section 236.

The Honourable Mr. MUNGULDASS proposed that in Section 233 between the words “shall” and “feed” in line 1 be inserted “wilfully,” and in line 3 the word “animal” be omitted, and the words “milch she-ass, she-goat, cow, and she-buffalo” be inserted.

After a brief discussion these amendments were withdrawn, and the section was agreed to and stands part of the Bill.

No alterations were made in Sections 234 to 237.

Section 238 became Section 241.

The Honourable Mr. TUCKER—Dr. Hewlett says :—“I think the Commissioner should have power to make bye-laws for the management of all public markets.”

The Honourable Mr. NARAYAN—I think that the word “commodities” in line 3 is very vague, and I propose that the words “meat and fish” be substituted for it, because I think that the restriction should only be placed upon markets for articles that are likely to putrify.

His Excellency the PRESIDENT said that this was a section which the Bombay Association considered ought to be placed under the sanction of the Town Council.

The Honourable Mr. BYTHELL wondered why "new private markets" should be so objectionable that their erection was not to be permitted.

The Honourable Mr. MUNGULDASS believed that the prohibition of erection of private markets was simply an indirect means of doubling taxation, because the people could not get the benefit of competition if municipal markets alone were to be allowed a monopoly. Besides this, the inconvenience caused to many people was very great, because, although living in remote localities from the municipal markets, they had to go perhaps three or four miles before they could get their wants supplied.

The Honourable Mr. NARAYAN mentioned that at present the finances of the Municipality were not in such a position as would enable them to supply convenient markets in different parts of the city.

His Excellency the PRESIDENT remarked that he observed the Municipality drew Rs. 19,000 a year from the Crawford markets, and possibly it might be a very good speculation if the Municipality were to build more throughout the city.

The Honourable Mr. NARAYAN agreed with his Excellency, but said that until these markets were made it was hardly fair to compel people to go possibly five or six miles a day for the articles they required to get from the markets.

The Honourable Mr. MUNGULDASS thought it would be very bad policy if the Council were to decide that the Municipality should have a monopoly, the effect of which would be that consumers would be compelled to pay enhanced prices for the articles sold in the municipal markets.

The Honourable Mr. BYTHELL considered that it might safely be left in the hands of the Corporation to decide whether certain districts should be supplied with markets. He therefore proposed that after "shall" in line 4, the following words should be inserted, "except with the sanction of the Corporation," and that in line 9, "Town Council" should be substituted for "Commissioner."

The Honourable Mr. TUCKER said he would not oppose this alteration.

The amendments were agreed to, and the section as amended stands part of the Bill. Section 239 became Section 242.

The Honourable Mr. BYTHELL—I propose in lines 9 and 10 to add the words "Town Council" after "Commissioner."

The Honourable Mr. TUCKER—I shall oppose this, as I consider the draining of markets, &c., to be an executive matter, which might well be left to the Commissioner.

The motion having been put to the vote the Council divided :—

<i>Ayes—4</i>	<i>Noes—6</i>
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable J. A. FORBES.	The Honourable H. P. ST. G. TUCKER.
The Honourable NARAYAN VASUDEVJEE.	The Honourable A. ROGERS.
The Honourable J. K. BYTHELL.	The Honourable the ACTING ADVOCATE-GENERAL.
	The Honourable Colonel M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.

The amendment was lost.

The section was agreed to and stands part of the Bill.

Section 240 became Section 243 and was agreed to and stands part of the Bill.

Section 241 became Section 244.

The Honourable Mr. TUCKER—Dr. Hewlett writes:—“No provision is made in this section to punish the sale of adulterated food or drink. Milk, the principal food of the young, is commonly sold in this city with a large amount of water added to it. The Magistrate refuses to convict for such addition, holding that water is not unfit for human food. I think a section should be added providing that every person who shall sell or offer for sale any article of food or drink which is adulterated or not pure, shall be liable on conviction to the penalty provided by Section 272 of the Indian Penal Code, and that in Section CCXII. after the words ‘unfit for food or drink,’ the words ‘or that has been adulterated’ should be added. I also think that another section such as the following is required: ‘In case any article of food or drink which has been sold to a purchaser as human food shall be proved to the satisfaction of a Magistrate to have been adulterated or unfit for human food, the party who shall have sold the same shall be liable to the penalty provided by Section 273 of the Indian Penal Code, although no such seizure of the same may have taken place as hereinbefore mentioned, and the Magistrate may at his discretion order the purchase money to be refunded.’ And in the Interpretation clauses I would hope that the words articles of food or drink may be defined as including not only all alimentary substances, whether solids or liquids, but also all eatables or drinkables whatsoever, including medical drugs or articles usually sold as medicines. I am of opinion that it would be a very good thing if this adulteration by water could be stopped.”

His Excellency the PRESIDENT mentioned that in Madras recently the Madras Club prosecuted a milkman for this offence, and he obtained a sentence of imprisonment.

The Honourable Mr. TUCKER said that there had been decisions to a contrary effect in some of the High Courts, so he feared the ruling would not be upheld if appealed against. This section as it stands does not go as far as Dr. Hewlett wishes, but it was settled after considerable discussion in the Select Committee, and I do not propose any alteration.

The section was agreed to and stands part of the Bill.

The Honourable Mr. TUCKER proposed that after this section the following heading should be placed, “special sanitary exigencies.”

This was agreed to.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under-Secretary to Government

Puna, 19th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Púna on Friday, the 20th September 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

Affirmation of office taken by the Chief of Meeruj. The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN took the affirmation of office and declaration of allegiance to Her Majesty.

Bombay Municipal Bill considered in detail. The Council then proceeded with the consideration of the Bombay Municipal Bill in detail.

Section 242 became Section 245.

The Honourable Mr. NARAYAN said that a good deal had been said about the necessity of the Commissioner having certain powers, because in emergencies his action would require to be immediate, but if this were so, the Commissioner, in regard to this section, need not be compelled to obtain the previous sanction of the Governor in Council before taking measures in the case of a violent outbreak of epidemic disease. If an action were really emergent, he should not be trammelled by this specification. He suggested that the words "Governor in" in line 7 should be omitted, and the word "town" substituted.

The Honourable Mr. TUCKER said he appreciated the objections of the Honourable Mr. Narayan, and thought that the obligation on the Commissioner should only exist when epidemic diseases were threatened, and not actually present.

"Or threatened" was inserted after "visited" in line 2, "unusual and violent" was deleted in line 4, and "prevent" was inserted between "to" and "meet" in line 9.

The section was agreed to as amended and stands part of the Bill.

Section 243 became Section 246 and was agreed to and stands part of the Bill.

Section 244 became Section 247.

The Honourable Mr. MUNGULDASS thought it would be better to allow the Town Council or Corporation to have a voice in the sanctioning of new places for the disposal of the dead. The Town Council were likely to be more interested in such matters than the Commissioner.

The Honourable Mr. TUCKER could not see how the Town Council should be more interested in good management than the Commissioner. He thought that no alteration should be made in the section.

His Excellency the PRESIDENT was afraid that it would not be expedient to leave it absolutely in the power of one man to say whether or not there should be a burial ground. People had strong ideas on the subject of burial grounds ; and it might be more satisfactory to agree to the suggestion of the Honourable Mr. Munguldass.

The Honourable Mr. TUCKER—Then we might say that the power to grant or withhold sanction should be subject to the sanction of the Town Council.

His Excellency the PRESIDENT—I think it ought to be “subject to the sanction of the Corporation,” because it is a large question indeed, in which many people would be interested.

The Honourable Mr. TUCKER—I think that the larger the body, the worse it would be. Sixty-four persons discussing a matter like this might make it a party or race dispute, and they would be likely to forget that the whole interests of the town were concerned.

The Honourable Colonel KENNEDY approved of “Town Council.”

The Honourable Mr. BYTHELL—I think that scarcely any more important matter than this could come before the Corporation, a special general meeting of which could be called at any time when an emergency arose. I do not think the Commissioner should be allowed to have all this power left in his hands.

The Honourable Mr. TUCKER—Would the honourable gentleman wish this to become a party fighting question between the different races of people ?

The Honourable Mr. BYTHELL—What I mean to say is that if 64 people in the Corporation are not able to decide what should be the best site for a cemetery, or whether a cemetery was required in any particular place, no one can decide.

Between “empowered” and “at,” the words “with the sanction of the Town Council” were inserted.

Section 247 was agreed to and stands part of the Bill.

Section 245 became Section 248.

THE Honourable Mr. NARAYAN—It seems to be unjust to inflict a penalty upon any person attending what under this section would be an objectionable funeral. To protect themselves from the serious consequences involved in this section, it would be necessary for those attending funerals to demand an inspection of the licence at the time of the burial, a proceeding so rude that no gentleman would resort to it. Surely it cannot be supposed that any such proceeding would ever be resorted to. I have to propose that the words “any person so making any vault, or grave, or so interring or exhuming or assisting or attending at such making or interment or exhumation” in lines 13 to 16 of Section 245 be omitted,

and the following words substituted for them:—" whoever shall bury, burn, exhume, or expose, or cause, permit or suffer to be buried, burned, exhumed or exposed, any corpse in any vault, grave, burial or burningground, or place for the exposure of the dead, opened, made or formed without such licence, or contrary to the terms thereof."

His Excellency the PRESIDENT thought that, the words "or attending" were not necessary.

The Honourable Mr. TUCKER thought they must have found their way into the Bill by mistake, and he had no objection to their removal.

His Excellency the PRESIDENT asked if it were intended that an absolute penalty of Rs. 500 should be inflicted upon any person doing the things prohibited by this section.

The Honourable Mr. TUCKER said it was intended that, to prevent any of the offences being committed, a very heavy penalty should be inflicted.

His Excellency the PRESIDENT said he thought it would be advisable to alter the last three lines of the section to read as follows, "or assisting at such making or interment or exhumation, shall be liable to a penalty not exceeding five hundred rupees for each offence."

This was agreed to, and the section as amended stands part of the Bill.

Section 246 became Section 249.

The Honourable Mr. NARAYAN—I think it would be expedient that in a matter of this kind affecting large sections of the community, no steps should be taken in shutting up burial or burning grounds without the concurrence of the Corporation, especially as in the following section the obligation of providing funds for new burial places is imposed upon the Corporation. In the case of the Parsee community this provision will afford them no relief whatever, because their religion precludes them from using any Towers of Silence which are not constructed exclusively from contributions by their own community. With the Mahomedans the consequence of any interference with their burial places without the concurrence of their representatives in the Corporation will be disastrous. I will therefore move that the words "the Corporation and of" be introduced between the words "of" and "Government." The new Code of Criminal Procedure provides that in the case of a nuisance created even by a private individual, the order for its removal shall not be absolute or arbitrary. The Imperial Legislature recognises the right of the subject to be heard and to show cause against the order, and to demand the appointment of a jury to try whether such order is reasonable or proper. For want of such a precaution, a proclamation issued by the Municipal Commissioner, with the sanction of Government, for closing Hindoo burning grounds at Tank Bunder and Colaba, some eighteen months ago, remains to this day a dead letter. When these grounds were being closed, I pointed out the injustice and hardship that would be inflicted upon the people, and the late Municipal Commissioner very properly withdrew the prohibition. It may not be out of place for me to mention that in 1864 Sir Cecil Beadon, the then Lieutenant-Governor of Bengal, being persuaded that a certain Hindoo burning ghat at Nintollah, in Ca'cutta, was dangerous to the health of the neighbourhood, ordered it to be closed. The inhabitants memorialized the then Secretary of State, the Right Honourable Sir Charles Wood, now Lord Halifax, who ordered the restoration of the ghat and animadverted upon the inex-

pediency of initiating any measures calculated to create dissatisfaction amongst the masses of the people. I submit, Sir, that when the Council is taking any measures affecting large sections of the people, it is not too much to expect it to take the representatives of the people into its confidence.

The Honourable the ACTING ADVOCATE-GENERAL was afraid that if the amendment of the Honourable Mr. Narayan were carried, it would induce the different sections of the community to dispute hotly about their particular burying ground, and each section would look with jealousy about the privileges it fancied that another was receiving. Parsees, Mahomedans and Hindoos would debate about the burial grounds of the Christians and *vice versa*.

The Honourable Mr. NARAYAN—But surely there will be a sense of justice somewhere—in Jews, Mahomedans, or Parsees, as well as in anybody else—whereas at present the people will have no voice in the matter at all. All that the Commissioner has to do, as the Bill stands at present, is to send up a report to Government which may act summarily without consulting anybody but the Commissioner.

The Honourable Mr. TUCKER thought that there had been no instances in the past of summary procedure being taken by Government.

The Honourable Mr. NARAYAN—There is the instance which I have already mentioned. When it was proclaimed that the burning grounds at Colaba and Tank Bunder should be shut up, I waited personally upon Mr. Crawford and represented the injustice that was about to be committed, and the consequence was that he withdrew the orders he had issued.

His Excellency the PRESIDENT said he did not think there was any clause in the Bill empowering the Commissioner to enter into any private burying or burning ground.

The Honourable Mr. TUCKER said that there was a general power given to the Commissioner to enter into any property for the purposes of the Act.

After some further conversation,

The Honourable the ACTING ADVOCATE-GENERAL took the section into consideration, and then submitted it to the Council in the following shape:—

CCL:—“ If upon the evidence of competent persons and after personal inspection, the Commissioner shall be satisfied that any place used for the disposal of the dead is in such a state that it is or may be dangerous to health, or that any church or other place of public worship is or may be dangerous to health, he shall report the same to the Town Council, and it shall be lawful for the Commissioner with the concurrence of the Town Council to issue a certificate to the above effect, and it shall be lawful for the Governor in Council, upon the receipt of such certificate and after due inquiry by him, to issue a declaration that any such place or church or other place of public worship as aforesaid shall be closed. The said certificate and declaration shall be published in the *Government Gazette*, and in one or more of the public English and in two Vernacular newspapers published in Bombay, and a copy of such certificate, with a translation thereof in the Marathi and Guzerathi languages, shall in the case of a place for the disposal of the dead, be affixed on some part of the said ground or place, and after the expiration of two calendar months from the date of such publication, it shall not be lawful to dispose of or permit or

suffer any corpse to be disposed of in, upon, within, or under the place, ground, or place of worship to which the certificate and declaration relate; and whoever, after due publication of such certificate and declaration as hereinbefore provided, disposes of, or causes, permits or suffers any corpse to be disposed of contrary to this enactment, shall be punished with fine which may extend to one thousand rupees for each offence. Provided always that in the event of any places for the disposal of the dead being closed under the provisions of this section, the Corporation shall, with the sanction of Government, provide out of the Municipal fund such fitting places to be used for the disposal of the dead as may be required in place thereof."

The Honourable Mr. TUCKER said that he thought this section should be brought under the "bludgeon" clause. It was necessary that more burying space should be provided for the community, and it should be left to Government to see that the Corporation did its duty in respect of providing sufficient burial accommodation.

The Honourable Mr. MUNGULDASS considered that this was a matter in which Government need not interfere. The Corporation would provide such additional burial grounds as may be necessary, and if they did not, public opinion would soon compel them to do so.

The Honourable Mr. NARAYAN thought it was quite unnecessary for Government to interfere.

The Honourable the ACTING ADVOCATE-GENERAL said he had modified the liability of the Corporation in the proviso, so that they were only required to provide burial accommodation in the event of places for the disposal of the dead being closed under the provisions of this Bill.

The section as amended was agreed to and stands part of the Bill.

Section 247 became Section 250.

The first six lines and a portion of the seventh down to and including "and" were omitted. The first three lines read thus—"At every such place used for the disposal of the dead there shall be a police officer and other person duly appointed by the Commissioner, who shall enter in a register," &c.

The section was agreed to as amended and stands part of the Bill.

In proposing the omission of Section 248, the Honourable Mr. Munguldass said he thought this was an attempt to tax indirectly the burial and burning grounds and places for the exposure of the dead, for this section empowered the Health Officer to insist upon the managers of these places to employ competent registrars to be approved of by the Health Officer, and the managers of these places were to pay their salaries! He did not see for what other purpose this section was framed—because, up to this time, a policeman had been always kept at these places and he got printed forms of the register (supplied to him by the Health Officer) filled up by the chief mourner, and in case of the mourner not knowing how to write, the policeman had to write for him. Now if the Corporation or the Health Officer wanted to employ professional men instead of policemen, there could be no objection; but if they insisted upon the manager of these places paying for the expense of the same, it would be nothing less than taxing dead bodies, which, according to Hindoo religion, was most disgusting and an interference with their religion.

The Honourable Mr. TUCKER said that the provisions of this section were necessary in the interests of proper registration.

The Honourable Mr. MUNGULDASS said that up to this time the registration had been done by the people, but it now seemed as if the Government desired to throw a new burden on them.

The Honourable Mr. TUCKER said that the former registration was very bad indeed, and this section was intended to secure a more perfect system of registration.

The Honourable Mr. NARAYAN thought that the Corporation should incur the expenses of registration.

The Honourable Mr. TUCKER considered that the Corporation should not be compelled to bear this burden, but that every race should look after its own burial grounds.

The Honourable Mr. NARAYAN submitted that every burning and burying ground in the city was under the management of the Municipality, and under this Act the Commissioner possessed power to regulate them.

The Honourable Mr. TUCKER said that if people desired to keep up burying grounds as private property, they ought to bear the burdens incident to the privilege. The Honourable Mr. Narayan and the Honourable Mr. Munguldass apparently wish that the Hindoo community should have the rights of owners, and yet have none of the responsibilities.

The Council divided on the amendment of the Honourable Mr. Munguldass :—

<i>Ayes</i> —8	<i>Noes</i> —3
The Honourable A. ROGERS.	His Excellency the Honourable Sir
The Honourable MUNGULDASS NUTHOO- BHOY.	AUGUSTUS ALMERIC SPENCER.
The Honourable Colonel M. K. KENNEDY.	The Honourable H. P. ST. G. TUCKER.
The Honourable E. W. RAVENSCROFT.	The Honourable the ACTING ADVOCATE- GENERAL.
The Honourable J. A. FORBES.	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable J. K. BYTHELL.	
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	

The amendment was therefore carried.

The Honourable Mr. RAVENSCROFT—The question now remains, who should pay for the protection of these grounds.

The Honourable Mr. NARAYAN—I think that the Corporation should. Already Hindoo burning grounds are not looked upon by the Municipality as private properties because water and light are supplied to them free of charge.

The Honourable the ACTING ADVOCATE-GENERAL—Are rates not levied upon them ?

The Honourable Mr. MUNGULDASS—No.

The Honourable the ACTING ADVOCATE-GENERAL—Where is the section in this Bill that exempts them ?

The Honourable Mr. NARAYAN—This Council surely would not rate burial places for municipal purposes. Surely, that would be carrying rate-paying too far.

The Honourable Mr. TUCKER—Burial grounds are charged for in England.

The Honourable the ACTING ADVOCATE-GENERAL—I do not see that there is any law to prevent the Municipal Commissioner levying a rate on all burial grounds.

Section 249 became Section 251.

The Honourable Mr. NARAYAN—In legislating for the masses of the community care should be taken that no morbid feelings of squeamishness are permitted to interfere with the religious usages of the people. Among the Hindoos a corpse is carried with the face open, the rest of the body being well covered. When therefore the Council has to deal with some four hundred thousand Hindoos in Bombay, it would be manifestly unjust to interfere with the custom which has prevailed from time immemorial. I propose to omit the words “and concealed from public view” in lines 52 and 53. The corpse of a widow only is carried with the face covered. It must be remembered that this Council has no independent power to pass any law affecting the religious customs and usages of the people.

The Honourable Mr. TUCKER—I do not think that carrying bodies about the streets is a religious rite.

The Honourable Mr. NARAYAN—But it is a religious custom.

The Honourable Mr. TUCKER—Do the “Rules and Regulations” which the honourable gentleman refers to apply to customs?

The Honourable Mr. NARAYAN—They distinctly refer to “customs and usages.”

The Honourable Mr. TUCKER—But decency is a thing which we have power to look after. Many years ago I saw in this very town of Puna a corpse being carried through the streets absolutely naked. I am happy to say that the ideas of the people seem to have improved since that time; but nevertheless, there is a possibility of such a sight recurring.

The Honourable Mr. MUNGULDASS said he would bear out the Honourable Mr. Narayan, that it was the custom amongst the Marathee portion of the Hindoo community that if any female died whose husband was alive her corpse must be carried without covering the face, and any interference on the part of the authorities in this matter would be considered by Marathee Hindoos as an interference with their religious rights and usages.

His Excellency the PRESIDENT said that the words “decently covered” would meet the requirements of decency.

The words “and concealed from public view” were omitted, and the section was agreed to as amended and stands part of the Bill.

No alterations were made in Sections 250 to 252.

Section 253 became Section 255 and Schedules G and H therein alluded to were agreed to after the following alterations were made:—“Race or” was inserted before “caste” in Schedule “G,” and the last line in Schedule “H” was made to read “race or caste.” The section was agreed to and stands part of the Bill.

No alterations were made in Sections 254, 255 and 256.

Section 257 was altered to Section 259.

His Excellency the PRESIDENT said that, regarding this section, the Bombay Association considered it would be the means of imposing great hardship upon the people.

The Honourable Mr. NARAYAN said that he thought it was too much to expect a medical practitioner to attend at the office of the Registrar and give information in respect of the several particulars required by Schedule H. He considered the old section much more reasonable, and he proposed that the present section in this Bill should be omitted, and that there should be substituted for it Section 215 of Bombay Act II. of 1865 amended as follows :—

“ Information of the several particulars required by Schedule H to this Act annexed concerning the death of every person dying in the city shall be given in writing if the informant can write, otherwise orally, to the policeman or other person appointed to receive it at the place of burial, burning, or exposure, as the case may be, by some one of the persons present at the death or in attendance in the last illness, or, in case of disability, or default of all such persons, by the undertaker or other person conducting the funeral, and every one of these may be required thus to give or cause to be given the information, and to attest its correctness to the best of his knowledge and belief by the signature of his name, designation, and residence. Every policeman or other person whose duty it shall be to receive information at the funeral places concerning deaths, shall truly register the same, and shall every morning render or cause to be rendered at the office of the Commissioner of Police the completed and signed register made by him during the preceding twenty-four hours. The Commissioner of Police shall immediately on receiving all the reports of the preceding day transmit them to the Municipal Commissioner, to be embodied according to districts in English form in his register book, and to be reduced to such tabular forms as may be most useful for sanitary and other purposes. Any person who shall refuse or neglect to give any information which it is his duty to give under this section, shall be liable to a penalty not exceeding one hundred rupees for each offence.”

The Honourable Mr. TUCKER said that what was wanted was that information should be supplied to the Registrar by a skilled and competent man if possible. He, however, quite agreed that the section required some amendment, but he was not prepared to go the length of the Honourable Mr. Narayan. He would not insist upon the medical practitioner attending at the office of the Registrar.

The Honourable Mr. RAVENSCROFT agreed with the Honourable Mr. Tucker and mentioned that many poor people died without having the benefit of medical attendance.

The Honourable Mr. TUCKER thought that if the medical practitioner were omitted, the duty should be thrown upon the next of kin.

His Excellency the PRESIDENT said that this was one of the recommendations of the Bombay Association.

The Honourable Mr. TUCKER said that it was difficult to see why advantage should not be taken by the Municipality of the services of a medical man if he were in attendance on a person who had died. This was always what was done in England.

The Honourable the ACTING ADVOCATE-GENERAL remarked that it appeared to him that Mr. Hope had this clause framed in accordance with the practice under the English law.

The Honourable Mr. MUNGULDASS said that this section was most objectionable. It would be a great injustice and oppression to medical practitioners to be compelled to wait

upon the Registrar, and it was also unjust to compel the chief relation of the deceased to do the same within 24 hours. As regards Hindoos, it would be utterly impracticable, because a Hindoo was prevented by his religion and social custom from going out of the house or putting on his turban for some days after the death of his parents or such other near relations.

The Honourable Mr. RAVENSCROFT said that it appeared to him that the only way to get correct registration was to compel the policeman at a place of burning or burial to obtain a certificate from the people attending the body.

The Honourable Mr. NARAYAN said that this was done at present, people attending funerals having to fill up certain certificates which were afterwards taken by the policeman to the Registrar.

The Honourable Mr. TUCKER thought that information regarding a death should be given to the Registrar within twenty-four hours.

The Honourable Mr. NARAYAN said that an orthodox Hindoo was not permitted to leave his house for ten days after a death had taken place in it, excepting when he accompanied the corpse to the burning ground; therefore it would be a hardship to compel a next of kin to depart from a custom which was regarded as somewhat sacred, by going specially to the house of the Registrar.

His Excellency the PRESIDENT said that in that case perhaps it would be the better plan to get the information at the burial place where the certificate was delivered to the policeman.

The Honourable Mr. RAVENSCROFT said he had no doubt whatever that the only place at which full and correct information could be got was the burying ground.

After some further discussion,

The Honourable the ACTING ADVOCATE-GENERAL suggested an amended clause to the effect that, the medical practitioner or any person in attendance during the last illness of any person dying in the city should furnish in writing to the Registrar of the district within forty-eight hours a certificate containing the particulars mentioned in Schedule H attached to this Act, and that in case of there being no such medical practitioner in attendance at the last illness of the person deceased, then some member or relation of the family, or some person resident with the deceased in his lifetime, or the undertaker or other person conducting the funeral, should within the said time attend personally at the office of the Registrar of the district in which the deceased person resided, and give the information to the Registrar to the best of his or her ability and belief of the several particulars required by Schedule H. Any person who should refuse or neglect to furnish required certificate or attend at the Registrar's office or to give any information which it should be his duty to give under this section shall be liable to a penalty not exceeding Rs. 100 for each offence.

The Honourable Mr. NARAYAN—I prefer my own amendment to the Honourable the Acting Advocate-General's section, by adopting which you simply inflict upon a man who loses his relatives the hardship of going to the Registrar's office, even though that might be miles away from his house. In such an hour of affliction I think it would be unjust

to impose such an irksome duty upon any man. The clause of the old Act which I propose is as nearly perfect as I could imagine.

The Honourable Mr. RAVENSCROFT concurred with the Honourable Mr. Narayan, and mentioned that it seemed to be thought that a Registrar was always bound to be in his house. Thus a man might be compelled to go several times to a Registrar's office before he could get his duty off his hands.

The motion having been put to the vote the Council divided :—

<i>Ayes—7.</i>	<i>Noes—4</i>
The Honourable A. ROGERS.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable H. P. St. G. TUCKER.
The Honourable Colonel M. K. KENNEDY.	The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable E. W. RAVENSCROFT.	The Honourable J. K. BYTHELL.
The Honourable J. A. FORBES. "	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	

—Carried.

Section 215 of Bombay Act II. of 1865 as amended was then agreed to and stands part of the Bill as Section 259.

Section 258 became Section 260.

His Excellency the PRESIDENT remarked that this section would come under the bludgeon clause.

The Honourable Mr. NARAYAN did not think this section was just, and mentioned that formerly the expense of taking a census was borne in equal parts by the Municipality and Government.

The Honourable Mr. BYTHELL said that this section seemed to provide for the Municipality taking a local census as well as a general census.

His Excellency the PRESIDENT said that if the Municipality wanted a local census in addition to the general one, it would have to pay for it.

The Honourable Mr. TUCKER said that of course the Corporation could order a census under this section if they choose ; but he agreed with His Excellency the President that if the enumeration was distinct from the general census and was for their own purposes, they would have to pay for it.

The Honourable Mr. BYTHELL said that apparently if the Government of India ordered a general census, the Corporation would have no voice in the matter and would be compelled to make a census whether they required it or not.

His Excellency the PRESIDENT asked the Honourable Mr. Tucker if it was intended that this section should apply to a general census of all India.

The Honourable Mr. TUCKER replied that it would if the Government of India and the Municipality agreed that there should be a census.

His Excellency the PRESIDENT—But supposing that they do not agree ?

The Honourable Mr. TUCKER—Then it would be a matter of negotiation between the Government of Bombay and the Corporation, and the Government of Bombay would be the instrument by which the wishes of the Government of India will be carried out.

The Honourable the ACTING ADVOCATE-GENERAL—The section only authorizes the taking of a census by the Municipality, when the different authorities concerned shall have agreed that a census is to be made.

The section was then agreed to and stands part of the Bill.

No alterations were made in Sections 259 to 264.

Section 265 became Section 267.

The Honourable Mr. FORBES thought the Commissioner's power in this section should be subject to the sanction of the Town Council.

The Honourable Mr. TUCKER did not think that this was necessary.

The Honourable Mr. FORBES then moved that in line 1 the words "with the sanction of the Town Council" should be inserted between "may" and "from."

The Council divided on the Honourable Mr. Forbes' amendment :—

Ayes—7.

The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB
PUTWURDHUN.

Noes—4.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable E. W. RAVENSCROFT.

After clause B the following clause was inserted as clause C :—"For the regulation of buildings in the matters directed by this Act." Clause C. became Clause D., and so on.

The section was agreed to as amended and stands part of the Bill.

Section 266 became Section 268. On the motion of the Honourable Mr. Munguldass the following alterations were agreed to :—In line 1 "and the Town Council" was inserted between "Commissioner" and "by," in line 3 "them" was substituted for "him," and in line 5 "they think" was substituted for "he thinks."

The section was agreed to as amended and stands part of the Bill.

Section 267 became Section 269. In line 2 "and Town Council" was inserted between "Commissioner" and "under."

The Honourable Mr. TUCKER proposed that for the sake of uniformity in all the sections, lines 5, 6 and 7 should be altered to read as follows :—"Solely to the officers or servants of the Corporation subordinate to the Commissioner shall come into operation until," &c.

The amendment was agreed to and the section as amended stands part of the Bill.

No alterations were made in Sections 268 to 274.

With regard to Section 273, which became Section 275, His Excellency the President mentioned that the Bombay Association objected to this clause because it thought that on principle the power to repeal bye-laws should be vested in the same body that possesses such authorities to make bye-laws.

The Honourable Mr. TUCKER said that it was very necessary that such power should be left with Government, so that it might correct any mistakes which might occur.

The Honourable the ACTING ADVOCATE-GENERAL said that the principle which the Bombay Association seemed to seek to lay down was that this Council, though they may legislate to-day, ought never to legislate hereafter.

Section 275 became Section 277.

The Honourable Mr. NARAYAN thought that in line 19, and between "may" and "from," "subject to the sanction of the Town Council" should be inserted.

The Honourable the ACTING ADVOCATE-GENERAL said that this had been purposely omitted in the Select Committee, because it would be observed that it was only temporary occupation which was referred to, and if the Commissioner could not make his own arrangement regarding offers which the parties wished to be executed at once without applying to the Town Council, these offers might be lost.

The section was agreed to and stands part of the Bill.

Section 276 became Section 278.

The words "or presented" were inserted after "given" in line 4; "or presented to" was inserted between "on" and "the" in line 7; "or presented" between "served" and "or" in line 11, "or presented to" between "on" and "such" in line 22; and "or presented to" between "with" and "some" in line 23.

The section was agreed to as amended and stands part of the Bill.

Section 277 became Section 279. In line 4 "or presenting" was inserted between "given" and "by," in line 12, "or presenting" was inserted between "giving" and "the," and in line 19 "or presented" was inserted between "served" and "by."

No alterations were made in Sections 278 to 282.

• Section 283 became Section 285. In line 6 "5 A.M." and "7 P.M." were substituted for "sunrise" and "sunset."

The section was agreed to as amended and stands part of the Bill.

Section 284 became Section 286. Line 3 was altered to read as follows:—"Other than Sections 228 and 285."

The section was agreed to as amended and stands part of the Bill.

No alterations were made in Sections 285 to 292.

Section 293 became Section 295.

The Honourable Mr. NARAYAN wished that "with the sanction of the Town Council" should be inserted between "may" and "direct."

The Honourable the ACTING ADVOCATE-GENERAL said that it was expedient that the Commissioner should have the power of prosecuting in simple cases without having to apply to the Town Council.

After some discussion the matter dropped, and the section was agreed to and stands part of the Bill.

No alterations were made in Sections 294 to 300.

Section 301 became Section 303.

Suggestion to allow the Municipality to purchase their own debentures.

The Honourable Mr. NARAYAN suggested that the Municipality should be allowed to invest in their own debentures which they were prevented from doing by the present law.

The Honourable Mr. TUCKER said that there could be no objection to the Corporation buying up their own debentures and cancelling them, if they could obtain them at a price at which it would be advantageous to do this; but they could not purchase their debentures and substitute them for other securities for the purpose of forming a reserve fund, as such a course would be a practical annihilation of any fund of the kind which they might be required to keep up. No deposit of municipal debentures would be any protection to the municipal creditor.

The section was then agreed to and stands part of the Bill.

Sections 302 and 303 became Sections 304 and 305, and were agreed to and stand part of the Bill.

Section 304 was omitted, and the following sections prepared by the Honourable the Acting Advocate-General were added to the Bill :—

CCCVI.—“ This Act shall come into operation from a date hereafter to be declared and notified by the Governor in Council in the *Government Gazette*, and it shall be lawful for the Governor in Council, in order to bring into operation this Act for the year 1873 by notice in the *Government Gazette*, to declare the day before which the payment of the municipal rates as provided by this Act shall qualify a person to be appointed a member of the Corporation and to vote at the election of any such members, and to fix the time for electing, nominating, and appointing the members and officers of the Corporation and the Town Council, and also to fix the date upon which the Municipal Commissioner shall lay before the Town Council an estimate prepared by him of the proposed expenditure of the Municipality for the year 1873, and to issue any other notifications that may be necessary to bring this Act into operation for the year 1873, and subject as aforesaid the provisions of this Act shall take effect for the purpose of enabling the Corporation and the Town Council to manage the municipal affairs and municipal revenues during the year 1873, and in the event of all the members of the Corporation and of Town Council not being elected, nominated, or appointed, on or before a day to be fixed and notified as appointed by the Governor in Council, it shall be lawful for the Governor in Council to authorise the Corporation and the Town Council to proceed for the year 1873 with the management and consideration of the municipal affairs and revenues in the same manner as if all the members and officers of the Corporation and Town Council had respectively been elected, nominated, and appointed under this Act :

Provided that any Budget which may be fixed by the Bench of Justices under the provisions of (Bombay) Act II. of 1865 for the year 1873 shall continue to be in force until a new Budget is settled under the provisions of this Act, and it shall be competent for the Corporation to be created by this Act to adopt the said Budget if the said Corporation shall think it expedient to do so."

CCCVII.—"This Act shall be in force for a period of three years from the date referred to in the preceding section, and it shall be lawful for the Governor in Council from time to time to extend, by a notification to be published in the *Government Gazette*, the period for the operation of this Act for such term or terms as he may think fit."

The Act to be in force for three years from the date referred to in the preceding section.

CCCVIII.—"This Act may be cited for all purposes as 'the Bombay Municipal Act of 1872.'"

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under-Secretary to Government.

Puna, 20th September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Puna on Saturday, the 21st September 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. St. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The Bombay Municipal Bill considered in detail.

The Council proceeded with the consideration of the Bombay Municipal Bill in detail.

The Honourable Mr. TUCKER observed that there was one very important point to be considered. It was plain now that this Bill if passed could not come into operation till 1873, it must therefore be decided what effect should be given to the Budget for 1873, which will be settled by the Corporation of the Justices for the present year. He would ask the Advocate-General whether under the Bill as it stands the new Corporation could carry out the Budget settled by the Justices or would be bound to proceed to fix a new one.

The Corporation to accept the Bench of Justices' budget if they choose.

The Honourable the ACTING ADVOCATE-GENERAL said that on the Act coming into force, the Corporation of Justices would be abolished, and the new Corporation would be required to prepare its own Budget.

The Honourable Mr. TUCKER said that he considered it was scarcely desirable to have a second Budget for 1873, and he thought a proviso might be inserted at the conclusion of the Bill, directing that the new Corporation should adopt the Budget of the Bench of Justices for 1873.

The Honourable the ACTING ADVOCATE-GENERAL said that if the Budget for 1873 were passed by the Bench of Justices before the Act became law, the Commissioner, on the Act coming into operation, may submit to the new Corporation the Budget settled by the Justices, and it would remain with the Corporation to consider and adopt that Budget if it choose. But of course acts which had already been done to carry out the Bench of Justices' Budget could not be set aside by the new Corporation.

His Excellency the PRESIDENT—So that all contracts will hold good ?

The Honourable the ACTING ADVOCATE-GENERAL—Certainly.

His Excellency the PRESIDENT—Then the honourable gentleman considers it quite clear that as the Bill now stands, the Corporation may reconsider the Budget of the present Justices ?

The Honourable the ACTING ADVOCATE-GENERAL—Yes; I think so. The old Budget of the Justices will practically be defunct when the new Corporation comes into power. Under this present Act the Commissioner was bound to bring up the Budget for the current year before the 1st January. If the present Act does not receive the assent of the Governor-General until after that date, of course some other date will be fixed when the Commissioner may bring up the Budget to be framed under the new Act for 1873. The Corporation may have the Bench of Justices' Budget placed before it, and after altering or amending or adding to it as they think fit, it will be the Municipal Budget for 1873.

The sections which were added at the end of the Bill were then read over, and received the assent of the Council.

His Excellency the PRESIDENT—Before we go further, we might take up the objections of the Bombay Association to the different sections. Their first objection is regarding the qualification necessary for candidates. We have already reduced the qualification to Rs. 50. The matter referred to in their third paragraph has also been discussed by the Council.

The Honourable Mr. TUCKER—Your Excellency may have to go through the whole Bill again if we now proceed to consider in detail the objections taken by this Association to those portions of the Bill which had been discussed before the receipt of their memorial. It is contrary to the practice of this Council to go back again over sections that have been passed, save in certain exceptional circumstances. Most of the objections of the Association have been already raised in the Council and fully discussed.

His Excellency the PRESIDENT—I am pledged to take the course I am now pursuing, because on the motion for the second reading I said that the Bill might be gone on with without delay, and that objections to the details could be heard afterwards.

The Honourable Mr. TUCKER—There must be other alterations made in the Bill, and I think it would be better to adhere to the usual practice of this Council and to postpone any further consideration of details that may be deemed necessary till the motion for a third reading comes on. It is a point of order however, the decision of which rests with your Excellency.

His Excellency the PRESIDENT—It was said that no new arguments could be brought against this Bill which had not already been raised in this Council, and I am exceedingly glad to find that this has been for the most part true. There is little which has not received the most patient consideration during the ten days we have sat here, and my reason for wishing to go back and consider any objections of the Association which have not been already debated upon, is that we may show the public that we have been willing to consider all the objections which they themselves have raised. I therefore rule that we should now proceed to reconsider those sections to which their objections more particularly apply.

His Excellency the PRESIDENT—The Association say that the objection which they took in paragraph 2 of their memorial applies with great force to the qualification of electors,

and they think that if the qualification fixed by the Bill is adhered to, the elections will consist chiefly of the house and land owning class, to the exclusion of a large majority of occupiers.

The Honourable Mr. BYTHELL—By omitting the wheel tax as a qualification, we exclude nearly every European from taking a place in the Corporation.

The Honourable Mr. TUCKER—Sir, I personally have always been very desirous to do anything which would make the better educated of our citizens eligible for election or appointment as members of the Corporation, and in the Select Committee we discussed several ways of creating an educational test, but found some objections to all that were suggested. I shall be very glad to support any measure which can be brought forward to give the more educated and more intelligent classes of citizens a place in the representation. It was at one time suggested that a certain knowledge of the English language should be made requisite in every candidate for election, but it was thought that in the present state of education in Bombay, this test might exclude many who would be otherwise competent to sit in the Corporation, and there was the difficulty of finding any way of ascertaining the candidate's acquirements, which was free from objection. I see that the present French Government in creating Legislative assemblies in their colonies and dependencies have insisted on a knowledge of the French language as a qualification for membership; and it was thought at one time that we might have introduced such a test, but there was a difficulty in arranging how it should be applied and in fixing upon any person who should be entrusted with the duties of declaring the fitness or unfitness of a candidate. The objection of adding the wheel tax to the list of rates, contributions to which qualify, is that it would make eligible for election a large class of ignorant persons, and that it is a tax leviable in arrear and constantly fluctuating in accordance with the number of vehicles and animals kept up.

The Honourable Mr. FORBES—As this Bill stands, we are excluding, I think, the class of Bombay citizens which would be most useful to the citizens. I mean the European community. Professional men, men living at clubs and so forth, will be excluded, even though their intelligence and their power of usefulness to Bombay are undeniable.

The Honourable Mr. TUCKER—If these gentlemen are very anxious to take a share in the management of the public affairs of the city, they can easily qualify by living in separate houses and paying occupiers' rates.

The Honourable Mr. BYTHELL—A man may have many reasons for not taking a house of his own and he would not probably care to make the sacrifice of leaving his club just to get the privilege of being an elector of the Bombay Municipality. Even on grounds of economy many Europeans may prefer not to qualify themselves for paying these taxes.

The Honourable Mr. TUCKER—The qualification is only £5 a year, something less than five rupees a month.

The Honourable Mr. FORBES—It may be much more than that if the man has to take a house at a long rent and furnish it.

The Honourable Mr. TUCKER—If the European gentlemen referred to did not care to adopt the necessary means of obtaining a qualification which was quite within their reach, they could hardly complain if they were not admitted into the Corporation. I should

certainly desire to see many of this section of the community in the Corporation, and if a fair proportion were not chosen by the rate-payers and the Justices, Government would have the power to restore the equilibrium by selecting their nominees among the Europeans. It was principally for this reason that I desired that Government should have the nomination of one-third of the members instead of one-fourth as has now been allotted. The Municipal Commissioner fears that as the late census shows more than half the 640,000 inhabitants are Hindus, that that class will obtain a large preponderance in the representation, and that Mahomedans, Parsees, Portuguese, Jews, and Armenians, as well as Europeans, may not be able to get a fair proportion of their numbers elected. If the rate-payers and the Justices should return a large majority of Hindus, it will remain for Government to rectify the balance by confining its selection to the other races. With regard to houses taken in the name of mercantile firms, it will be easy to arrange that the house should stand in the name of a member of the firm in the municipal books, which would make one member at least of each firm an occupying rate-payer and eligible for election.

The Honourable Mr. FORBES—I pointed out that virtually three-fourths of the Europeans who pay wheel tax would be excluded from the Corporation, and do I understand the Honourable Mr. TUCKER to say that these persons will be eligible for nomination by Government.

The Honourable Mr. TUCKER—Not unless they contribute fifty rupees annually to the rates. Practically they will have no real difficulty in obtaining this qualification if they desire it. As the Bill now stands, the rate-paying qualification applies both to the nominees of Government and the elected of the rate-payers and Justices.

The Honourable Mr. BYTHELL—It may be easy, but at the time of an election the European will be excluded from taking any part in the proceedings, if he have not paid a year's rates. Therefore, even though he takes a house, he will not get electoral privileges through it for a whole year or more.

The Honourable Mr. TUCKER—That will be no real hardship to him.

The Honourable Mr. BYTHELL—But it may be to the Corporation and the city generally, since his valuable services will be lost to them.

The Honourable Mr. FORBES—I think it is one of the worst features of the constitution proposed by this Bill, that what may be considered the most intelligent class in the community will be to a great extent excluded.

His Excellency the PRESIDENT—It is laid down as a principle of the Bill that no one shall have a right to deal with the funds of the Municipality who shall not have paid municipal rates, and it now seems to be a question whether this Council shall open the way into the Corporation to certain people merely because they pay a tax which is not a municipal rate.

The Honourable Mr. BYTHELL—Many of these European gentlemen pay much more for wheel-tax than Rs. 50 per annum, and I think that that should be made a fair ground for securing electoral privileges.

The Honourable TUCKER—It has been pointed out that to make the wheel-tax a qualification would admit the class of persons who let out vehicles on hire as candidates.

for election, and I consider that it is not desirable that ignorant persons, such as buggy-wallas and cab-owners, should obtain seats in the Corporation.

The Honourable Mr. BYTHELL—It is a matter entirely of opinion whether the respectable portion of the community who pay wheel-tax should be excluded merely because a certain number of ignorant persons might obtain a qualification if that tax were added to the section.

The Honourable Mr. TUCKER—I confess that I have been agreeably surprised to find the Honourable Mr. Forbes advocating that something should be done to make the more intelligent and better educated classes of the community eligible for election without a rate-paying qualification. As I had always understood that the cry of the rate-payers, who proceeded in procession last year to the Town Hall with flags and banners to signify their approval of the views expressed by the honourable member in the Bench of Justices, and who afterwards on the honourable gentleman's departure for Europe crowned him with roses and desired to drag his carriage to the Bunder, was that none but rate-payers should have a voice in the management of the affairs of the city, it was to meet these supposed views that a rate-paying qualification was made compulsory in this Bill, but I shall be glad to support any honourable member who will propose an educational qualification which may be free from objection in addition thereto.

The Honourable Mr. FORBES—I may say that I never took part in any such procession as the honourable gentleman has described, nor have I any knowledge that such a procession took place.

The Honourable Mr. TUCKER—I think that there are some gentlemen here who can bear me out in saying that the honourable gentleman's supporters did assemble in the Town Hall in the manner I have described—at least it was so reported in the public journals of the day—and that the main object of their demands was the representation of rate-payers and a rate-paying qualification.

The Honourable Mr. FORBES—I beg to state that I never pledged myself in any way to an exclusive rate-paying qualification, and that I played no part in the meeting to which the honourable gentleman refers, and witnessed no procession such as he describes.

The Honourable Mr. TUCKER—I have not the reports of the honourable gentleman's speeches in the Bench of Justices to refer to; but I think that if they are examined it will be found that the honourable member's views have undergone a change—of which I do not complain, but which, on the contrary, I am glad to acknowledge.

The Honourable the ACTING ADVOCATE-GENERAL—I think we are departing from the matter before us. The question is whether the wheel-tax shall be one of the qualifications. This matter has been already debated and a majority of the Select Committee of this Council came to the conclusion that the principle laid down in Section 4 should stand. I therefore think that it is very undesirable to renew this discussion now, because we cannot very well have anything new said upon the subject. The rate-book has not been drawn out to show how many people will be affected by the exclusion of this wheel-tax, and we do not know as a fact whether any hardship will be inflicted upon any class of the community by this exclusion. Seeing that at the third reading it would be fully open to any member of the Council to bring up the subject, I certainly would ask your Excellency to remit the further discussion of it to the third reading of the Bill. By that time the Honour-

able Mr. Bythell may have statistics prepared to show how many and who will be affected by the wheel-tax being left out as an electoral qualification.

The Honourable Mr. BYTHELL—If we are to admit the principle just laid down, then I submit that it will be a waste of time to go through this petition.

His Excellency the PRESIDENT decided to go on with the consideration of the Bombay Association's memorial. The next point, he said, which the Association raised, was the dividing of the city into wards.

The Honourable Mr. MUNGULDASS submitted that a clause should be added to the Bill in conformity with the wishes of the Bombay Association.

The Honourable Mr. TUCKER—The elections are to be regulated by rules to be hereafter made by Government, and the statements of the Association can best be considered when those rules are finally settled. So far as representation is concerned, the Bill introduces an entirely new experiment, and great care will be taken in framing the rules to make the election proceedings as simple and plain as possible.

His Excellency the PRESIDENT—The Association next want the reporters of the press to be allowed to be present at meetings of the Town Council and Corporation.

The Honourable Mr. TUCKER—As far as the Corporation is concerned, the admission of the public under certain restrictions will be provided for in the bye-laws. The Town Council will not be a deliberative assembly but a board of direction, and the presence of the public at their meetings would be embarrassing and impede the transaction of business. It would be altogether unprecedented for the managing committee of an institution to hold its proceedings in public, and no good reason has been shown for such an innovation on the ordinarily recognized practice.

The Honourable Mr. MUNGULDASS—The reporters of the press have always been allowed to be present at the meetings of the Bench of Justices.

The Honourable Mr. TUCKER—The honourable gentleman is confusing two things which are quite distinct. Apparently he thinks that the Town Council is the Corporation. It is proposed to enact in the bye-laws that the public will be admitted to the meetings of the Corporation subject to conditions which recent occurrences at the meetings of the Bench of Justices have been shown to be absolutely necessary.

The Honourable Mr. MUNGULDASS said that at the time of the third reading of the Bill he would give notice of such amendments of some of the sections complained of by the Bombay Association as would in his opinion be an improvement on the present provisions.

His Excellency the PRESIDENT—Up to the eighth para. of the petition the matters mentioned have been settled after discussions by the Council. In the eighth para. they object to Section 18, and say that the Corporation should have power to frame regulations for the conducting of Corporation meetings. The section has been already modified by the Council. The matters alluded to in paras. 9 and 10 have also been fully discussed. The Association next refer to the various powers given to the Municipal Commissioner in respect of buildings, the removal of huts, &c.; but every one of these matters we have also discussed, and the sanction of the Town Council has been made essential to a number of the acts the Commissioner is authorized when to do.

The Honourable Mr. FORBES—This concession has been granted only in very few cases.

The Honourable Mr. TUCKER—If the honourable gentleman takes the trouble to go over the different sections, he will probably find that alterations in this direction have been made in many more instances than he imagines. If we have made any fault at all, I think we have given the Corporation and Town Council too much power to interfere.

The Honourable Mr. FORBES—The Association next object to Sections 40 and 41. I think that what they say, that these sections place the Town Council and the Corporation entirely at the mercy of Government, is correct.

The Honourable Mr. MUNGULDASS admitted that as regards Section 42, the Corporation were invested with power of dismissing the Municipal Commissioner if forty of their number should consider it necessary to do so.

His Excellency the PRESIDENT—The Association next think the salaries of Health Officer and Executive Engineer too high. These matters have been fully discussed already.

The Honourable Colonel KENNEDY said that Captain Tulloch had to take leave to England last year, and the reason was that his health had been ruined in the service of the Municipality on the surveys in connection with proposals to increase the water supply. He was so very ill that he had to be carried on board the vessel, and this officer, whom the Association now wanted to dismiss, deserved every possible consideration at the hands of the Municipality.

His Excellency the PRESIDENT remarked that as the Executive Engineer's appointment would expire in six months, it was not worth while interfering with present arrangements. The Association objected to the proviso in Section 16, by which a whole flat was made assessable if only a portion were occupied.

The Honourable Mr. TUCKER—I referred this matter to Mr. Peile, and he says that houses let out in single rooms and chawls are not brought under this section. The section applies only to cases where the whole of a floor or certain parts of a floor are let out in sets of apartments containing two or three rooms occupied as separate domiciles.

The Honourable the ACTING ADVOCATE-GENERAL—This section was one of those the consideration of which was reserved.

The Honourable Mr. MUNGULDASS—I give notice that at the third reading I will move that the whole of the section be struck out. I know a chawl or a range of rooms is often let out as shops or godowns to separate tenants. If one or two only are occupied, the owner will have to pay house-tax, police and lighting rates on the whole range on each floor.

The Honourable Mr. TUCKER—These shops which the Honourable Mr. Munguldass alludes to must, I should think, be in reality separate tenements.

The Honourable Mr. MUNGULDASS said he knew from personal experience in regard to his own property that what the Honourable Mr. Tucker stated was not the fact. Shops, godowns or habitable apartments on the same floor are not treated as separate tenements.

The Honourable Mr. BYTHELL—In a place like the piece-goods bazaar, the whole of the shops must be paid for.

The Honourable Mr. TUCKER remarked that if the Honourable Mr. Munguldass had been paying in the manner he mentioned for what was in truth a chawl, he ought to have

taken legal advice. He (the speaker) understood from Mr. Peile that chawls were not ordinarily treated under the clause.

The Honourable Mr. MUNGULDASS—I know, from personal experience, that each floor in a chawl is assessed separately.

His Excellency the PRESIDENT—The next point the Association allude to is the assessment of Government property, but we need not again enter into this subject, as we have fully discussed it. The matters referred to in paragraphs 23, 24 and 25 have also been discussed. Section 130 is objected to by the Association, who quote General Marriott's Committee that "the recovery of occupiers' rates from owners during the non-occupancy is indefensible."

The Honourable Mr. MUNGULDASS—Can any member of Council show one instance of occupiers' rates being recovered from empty houses in any civilised community in Europe or even India?

His Excellency the PRESIDENT said that the matter should be considered on the third reading. The Association objected to Section 104.

The Honourable Mr. NARAYAN—General Marriott's Committee recommended that municipal taxes should be levied on vehicles, horses, or ponies belonging to Government.

His Excellency the PRESIDENT—The Association do not approve of Sections 118, 146, 160, 191, 192, 193, 205, 206, 217, and 247.

The Honourable Mr. TUCKER—All the objections taken by the Association are repetitions of what we have heard in the Council over and over again.

The rest of the paragraphs of the Bombay Association's petition were alluded to, and the Council then went on to the consideration of the preamble and the first three sections.

Section 1 was agreed to and stands part of the Bill.

The Honourable Mr. TUCKER—Regarding the word "street" in Section 2, Dr. Hewlett objected to the exclusion of certain words which had been originally entered in the section, but has been excluded by the Select Committee.

The Council agreed to insert "square" after "street" in line 24.

The Honourable Mr. NARAYAN said that "feet" should be substituted for "yards" in line 45.

The Council divided on the Honourable Mr. Narayan's amendment:—

Ayes—3.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATTYA SAHIB
PUTWURDHUN.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCE.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. K. BYTHELL.

The motion was lost.

The Honourable Mr. TUCKER—Regarding “what are to be deemed nuisances,” Dr. Hewlett writes:—“In each successive English Act pertaining to public health, the Legislature has wisely amplified such illustrations for the guidance of Magistrates. If the wording of the present Bill becomes law, it will be almost impossible for the Health Department to appear in Court to prosecute the perpetrators of a nuisance without the assistance of a lawyer, as the present wording opens out the widest field for legal quibbles and special pleading. I earnestly trust that Government will be pleased to re-insert the illustrations given in the Amended Draft Act, as I am certain that they are absolutely necessary. These additions are—‘All noxious or offensive emanations, all rank or noisome vegetation, all water and refuse from factories, places of trade or manufacture, from slaughter-houses, markets, bazaars, from land, houses, out-houses, kitchens, stables, huts and sheds of all descriptions. Any animal, vegetable or mineral matter, fluid or solid, which is or may be offensive or injurious to health. Any land, pool, ditch, tank, well or receptacle for fluid, pond, quarry hole or low ground, or any water or stagnant water or any gutter, water-course, privy, urinal, cess-pool, sewer, drain or ashpit, any structure whether of wood, mud, masonry or metal so kept that it is or may be offensive or injurious to health. Any animal so kept that it is or may be offensive or injurious to health. Any accumulation or deposit which is or may be offensive or injurious to health. Any factory, workshop, or workplace emitting smoke, or not in a cleanly state or not ventilated in such a manner as to render harmless as far as practicable; any gases, vapours, dust or other impurities, generated in the course of the work carried on therein that are or may be injurious or dangerous to health, or so over-crowded while work is carried on as to be prejudicial or dangerous to the health of those employed therein.’ It will be observed that the last illustration copied from the Public Health Act of 1866 has been added, as there is in this city no Act for the general regulation of factories or bakehouses. I would also wish to add another illustration from the same Act. “Any house or part of a house so over-crowded as to be dangerous or prejudicial to the health of the inmates.” I propose that the words “or property” should be inserted after “health” in line 78.

The proposal was agreed to.

After “mules” in line 82, “deer, sheep,” were inserted.

In line 111, “or due to” was inserted between “of” and “the,” and after “of” in line 115, “or due to” was inserted.

Section 2 as amended was then agreed to and stands part of the Bill.

No alterations were made in Section 3.

The Council then proceeded to the consideration of what sections should be brought under the operation of Section 40.

It was agreed that the provisions of the section should be made applicable to Sections 86 and 93.

The Honourable Mr. NARAYAN considered that Section 93 should not be brought under Section 40. Government had sufficient protection in having the maximum house-rate to resort to.

The Honourable Mr. TUCKER—If certain money is never absolutely needed, this clause will be quite innocuous.

The Honourable Mr. NARAYAN—I think it will be very arbitrary.

The Honourable Mr. TUCKER—It is as well to have it though we may not use it. “Fast bind, fast find.”

The Honourable the ACTING ADVOCATE-GENERAL—There is no good in saying that Government shall be empowered to do certain things if powers are not also given to provide means.

The Honourable Mr. NARAYAN—Under similar powers the Municipality has already been saddled with an enormous debt.

The Honourable Mr. TUCKER moved that Section 96, relating to the supplementary rate, be added after Section 93.

The motion was put to the vote and carried by 7 to 3.

It was agreed that Sections 138, 142, 145, 189, 246 and 250 should also be brought under Section 40.

The Council then considered and passed the preamble and title, and His Excellency then proposed that the third reading of the Bill should take place on as early a date as would suit the convenience of the Council, and after some discussion the third reading of the Bill was fixed to take place on Tuesday, the 15th October.

The Honourable Mr. TUCKER—I beg to give notice that at the third reading of this Bill I shall move that the duty on cotton shall not be raised or altered from time to time. An argument has been used against this duty of 4 annas per candy to the effect that our proceeding was but the thin end of the wedge, and that more burdens would be placed on cotton; but the motion of which I now give notice will meet this objection. I also beg to give notice that at the conclusion of the third reading of this Bill I shall introduce the Vaccination Bill.

His Excellency the President then adjourned the Council.

JOHN NUGENT,

Acting Under-Secretary to Government.

Puna, 21st September 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Puna on Tuesday, the 15th October 1872, at noon.

PRESENT :

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHAY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable Sir JAMSETJEE JEJEEBHAY, Bart., C.S.I.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

Affirmation of office, &c., taken by Sir Jamsetjee Jejeebhoy.

The Honourable Sir JAMSETJEE JEJEEBHAY took the usual affirmation of office and declaration of allegiance to Her Majesty.

His Excellency the PRESIDENT—Before proceeding to the business of the day, I would call the attention of the Council to two petitions which we have received regarding the Municipal Bill since our last sitting. Shortly after the last meeting of Council a memorial was sent to the Government from the Rate-payers Association of Bombay. We also have more recently received a memorial signed by several inhabitants of Bombay. With reference to this memorial, the Secretary will read a communication which has reached him this morning.

Petitions and memorials regarding Bombay Municipal Bill presented to the Council.

Mr. NUGENT (Acting Secretary to the Council) read a letter which had been received from certain persons, stating that they had signed the latter-mentioned memorial through misrepresentations.

His Excellency the PRESIDENT—We have also received a memorial from the Chamber of Commerce. These petitions will lie on the table for the consideration of the members of the Council, and we can proceed with the list of business appointed for this day's sitting.

The Honourable Mr. TUCKER—Sir,—It does not ordinarily happen, when a Bill has reached the stage of progress to which this Municipal Bill has advanced, that the member in charge of it, and upon whom devolves the duty of moving the third reading, is called upon to make any lengthy observations either with

Mr. Tucker's remarks preliminary to moving the third reading of the Bombay Municipal Bill.

reference to the principles or the more prominent details of a measure which has been so far considered by the Council. But there are special circumstances connected with this Bill which, perhaps, render it necessary that I should, to a certain extent, deviate from the usual practice, and make a few preliminary remarks, which otherwise I should not have been disposed to make, as the Council has already so fully discussed and deliberated upon every section of the Bill as it now stands. The proposed legislative enactment is so important and comprehensive, deals with so many subjects of material consequence to the future well-being of one of the most populous cities in Her Majesty's dominions, affects so many interests, and has excited so much attention and has called forth such an accumulation of hostile but discordant opinions, that it may be well, before we proceed further, to review some of the principal objections which have been taken to it, and to examine whether they are reasonable and rest upon any solid foundation. This is the more necessary, because the exigencies of the situation have compelled us to proceed with the consideration of the details of this Bill before receiving the full expression of the opinions of the different sections of the community who will come under the operation of the Bill. These opinions have found utterance in the various memorials and petitions which have been received by Government since the second reading of the Bill, and also in the leading articles and correspondence of the public journals published in the English or Native languages. There have also been meetings of the Bench of Justices, of the Chamber of Commerce, and of the Bombay Association, at which resolutions have been passed and speeches made, indicative of dissatisfaction at particular portions of the Bill, and of the insufficiency of the measure as a whole, and I have also received several unofficial communications on the subject. I in no way regret the rigorous criticism to which the Bill has been subjected in or out of this Council—in fact, I invited this criticism, and I trust that it has had a beneficial effect in modifying many of the details of the Bill, and in improving its form and shape. Fortunately, in the new members who have been added to the Council since the first introduction of the Bill, the public have found excellent exponents of the popular sentiments entertained by different classes of the citizens with respect to the measure, so that most of the objections put forth in the various petitions, representations, and memorials which have reached the Council, have been raised and discussed both in the Select Committee and by the Council itself when considering the Bill in detail, and alterations have been made in the direction indicated by many of the objectors. Apparently we have not satisfied the extreme views entertained by any of the sections of the opposition who hold conflicting and irreconcilable opinions upon many points; but we have made numerous and liberal concessions to each class of opponents, and have only resisted where it would seem clear that the interests of the entire community would suffer if further concessions were made. We are even now prepared, with respect to the qualification of representatives, the supplementary rate, and other matters which I shall hereafter mention, to make further alterations, to remove some of the objections which we consider to have most weight, and I think we are not open to the charge of undue obstinacy which has been preferred against the local Government and against myself especially. Now to turn to the particular objections. First comes the Chamber of Commerce. Their main objection is to the duty upon cotton, and to the imposition of additional burdens upon the trade of the place. Although the arguments advanced in the debates in the Chamber have not convinced me that Transit Duties under certain exceptional circumstances, and with certain limitations, are not a legitimate source of taxation to meet

such an exigency as has arisen, in consequence of the insufficiency of the municipal income to provide for the urgent wants of the town, or that the imposition of a small duty of 17*d.* per ton would, under the peculiar circumstances of the trade, have any appreciable effect upon it, or that the dealers in the article would not receive ample compensation in consequence of the abolition of all inland transit duties, which has been already carried out, and in the other benefits now enjoyed by the trade, yet I regret to state that a communication has been received from the Viceroy, which His Excellency the President will mention hereafter, which renders it inexpedient that we should persist in including cotton in the list of dutiable articles, and it has therefore been resolved, with great reluctance, on my part I must admit, to omit this commodity from the schedule of Town Duties. In deference to the views of superior authority, therefore, the part of the Bill to which the Chamber of Commerce so much objects will disappear. The next objection which I am about to notice, appears to me to carry with it its own refutation, and to be altogether unreasonable. It was brought prominently forward at the meeting of the Bench of Justices in a sensational speech made by a distinguished member of an eminent firm of solicitors, and, to my surprise, has found support in some of the organs of public opinion. It is that it will be an insult to the citizens of Bombay if the members of the Town Council are placed under the same special laws and restrictions which are now applicable to all the public servants of the Crown. As these gentlemen are to be entrusted with important public functions, and to be invested with considerable powers over the rest of the community, and as they are to be remunerated for the performance of their duties, there would seem to be *primâ facie* no reason why they should be placed in a different position to other public servants, or granted an immunity which the highest executive or judicial authorities in the land cannot claim; and it seems preposterous to call it an insult to the gentlemen who may find seats in the Town Council, that they should be placed in the same position in this respect as the members of this Council and as all judges and magistrates and other official magnates throughout the empire. The clamour which has been raised on this account recalls to my mind a scene I once witnessed from the visitors' gallery in the House of Commons, in one of the debates which took place with respect to the Acts passed in 1860 or 1861 with reference to India. It was proposed by some member that the restrictions upon trading and the receiving of presents, which had been placed on the Covenanted Servants of the East India Company, should be removed. To this it was answered, that the removal of these restrictions would give facilities for corruption and other malpractices, and the statement was received with a cheer from the whole House, and the proposal was at once negatived. I trust that any motion which may be made in this Council to free the members of the Town Council to be created by this Bill from the restrictions imposed on all public servants, and which are necessary for the future well-being of the community, will meet with a similar reception here. I next come to the two most prominent objections which find a place, not only in the memorials from the Rate-payers and the Bombay Associations, but also in the petition from the assembly of citizens which was held at Sunkersett House. I mean the general mistrust of the Corporation shown in the scheme of administration fixed in the Bill, and the inadequacy of the powers given to the Town Council. Both these charges have been made and met in this Council, and, it appears to me, are founded on a misconception of the real character of the measure and a want of sufficient acquaintance with the details of the Bill. The extent of the powers given to the Town Council are shown by one of the papers which lie upon the table. It exhibits clearly the different matters in which the Town Council is empowered to control the action of the Commissioner. I shall leave it

to other members to call attention to the details of this statement, and I would only once more repeat, that the Bill gives to this Council complete financial control, and that it will be impossible for the Municipal Commissioner in future to construct unauthorized works, or to enter upon a career of extravagance if the Town Council exercise due vigilance and are ordinarily careful and diligent in the discharge of their particular functions. The fear I entertain is not that they have too little power but too much, and that they may be able to hamper the action of the Commissioner without corresponding advantage. On the other point it seems to me hardly fair to accuse the Government of mistrust, when it is willing to give so large an instalment of self-government to the town. This charge had some foundation when the Bill was in the form in which it was first introduced; but since the alterations which have been made in it by the Select Committee and the Council, it is really baseless. As I have said before, Government have only reserved to itself such power of intervention as could not be abandoned without absolute danger to the State. Mention is also made of the excess of power which has been given to the Municipal Commissioner, but if the Bill be closely examined, it will be found that he has only been given independent power in those executive matters which are better left to the will of one competent man than made to depend on the judgment of a large number of persons, who would not have the same knowledge or means of ascertaining the actual state of facts, and would be liable to be influenced by many other considerations than those which should be of the first importance, viz., the public health and safety. There is another proposal that an appeal should lie from the acts of the Commissioner to the Town Council, but this, so far from being a benefit to the town, would, in my opinion, be the very reverse. The Town Council would not be so competent a body for the adjudication of the various matters on which the Commissioner is called upon to decide and take action as a man of the character and qualifications whom it is designed to appoint as Commissioner under this Bill, and the interests of the citizens will be far safer and better cared for by leaving undivided responsibility on such questions with one competent person, trained in the administration of public affairs, than with a Board of Direction such as the Town Council will be. It is not my intention to take up the time of the Council by noticing *seriatim* all the objections which have been brought forward and have been more or less answered in the course of the long discussions which we have already had; but I may call attention to the fact that there is considerable resemblance between the representations of the Bombay and the Rate-payers Associations and the resolutions of the Bench of Justices, and that it may be gathered that they all emanate from one and the same set of persons, viz., the so-called reform party in the Bench of Justices, which is more particularly represented in this Council by the Honourable Mr. Forbes. The Sunkersett House petition comes from a different section of the community, who appear to hold very different views as to the requirements of the city. They apparently put forward the view of the owners and occupiers of house-property, and are represented in this assembly by the Honourable Mr. Narayan Vasudevjee and to a certain extent by the Honourable Mr. Munguldass, whose sympathies extend to both of these divisions of his countrymen. Notwithstanding the conflicting character of their views, it appears to me that this the latest petition more accurately represents the real views of the bulk of the inhabitants of the city than any other representation which has been made, and it would seem from it that a great deal of the agitation which has taken place during the last year, has arisen more from the desire of a large and influential class to escape from some of the burdens of taxation which now fall somewhat heavily upon them, rather than from an urgent demand for re-

representative institutions which have been sought for not so much for their own sake, but rather as the instrument by which a particular end was to be obtained. This is more or less admitted in the petition to which I refer, and it is to be regretted that the admission was not made at an earlier date. Though I am unable to assent to many of the statements which have been put forward on the part of the house-owners of Bombay as to the incidence of the rates which are at present imposed on the owners and occupiers of houses, yet I am willing to acknowledge that, in the present state of house property in the island, the pressure of taxation does fall somewhat severely on house-owners, and I should be glad to extend to this class of persons some substantial relief. We have already fixed the minimum of the house-rate at one per centum less than the rate which is now being collected in Bombay, and we have reduced the maximum from ten to eight per centum. We have also given to the Municipal Commissioner power to grant exemption to the poorest class of occupants. I shall be willing, if the Council approve, to go still further and to reduce both the maximum and minimum house-rate one per centum; but if this be done, it will be necessary to provide some additional income for the Corporation. A reduction of one per centum on the house-rate would cause a loss to the Municipal Fund of about one lac and thirty thousand rupees annually, and as cotton is to be excluded from the Town Duties, it will be difficult to make up this sum. By the increase of duties which has been already made, and the new tax on Fire Insurance Companies, the deficit by a diminution of one per cent. on the house-rate will be nearly supplied; but additional income is urgently wanted by the Municipality, and it was intended to provide it by the duty upon cotton. To make up for the surrender of that duty, it will be necessary to increase other duties, and an addition of two annas per gallon to wines and spirits is proposed by the Honourable Mr. Narayan Vasudevjee, to which might be added some further augmentation in the duty upon ghee. The additional duty on spirits and wines will press hardly on the consumers of light clarets and other cheap wines, which are now heavily taxed, in the shape of customs and municipal duties, and it will be for the Council to consider carefully whether we should impose these duties and reduce the minimum house-rate. As the house-owners will be so largely represented in the Corporation, it is not likely that any rate in excess of the minimum rate will be often sanctioned, and so we must consider how the administration could be carried on if the house-rate should be practically reduced to four per centum. The proposal to consolidate the rates is one that has been recommended in England, and for which good arguments can be advanced; but it has not been adopted yet at home, and it is too late now for us to consider such a proposal or the further suggestion to levy a license or income-tax on those inhabitants who do not contribute to the house-rate. Undoubtedly the introduction of a license tax under proper regulations would tend to equalize the pressure of taxation, and so would a Municipal Income-tax. But we could not introduce a Municipal Income-tax without the special permission of the Government of India. Nor have we at the present moment sufficient facts before us to enable us to decide in what way a perfectly equitable distribution of taxation could be effected. As the good government of the city materially increases the value of real property within its limits, it is right that the owners of such property should bear a considerable proportion of the burden of municipal taxation, and in England it is thought that the rates upon houses should be divided equally between owner and occupier. If the minimum house-rate be reduced one per cent., the nominal rates upon owner and occupier will be equal: but without further information, it would be impossible to say whether the distribution would be in reality equal, and after giving this amount of sensible relief to the

house-owners, it would be as well to allow the present scheme of taxation to remain as it stands, leaving further adjustments for the future. I may mention that from the time when the idea of altering and consolidating the present municipal law was first seriously taken up, it was never proposed to revise the entire fiscal system of the town, and that the present Bill was not prepared with that object. It was intended only to repair and reconstruct those portions of the existing law which had been found on trial to be defective and work badly. It was intended to maintain the existing system with such modifications and improvements as experience had shown to be requisite, but no radical change in the fiscal system was contemplated, or further investigation would have been ordered to ascertain the preliminary facts necessary for a reorganization of that system. The outcry was for economical management so as to prevent an increase of taxation, but till recently I certainly never understood that it was an entire remodelling of the fiscal system that was sought for. Nor do I think that any occasion for so extreme a measure has been shown. If so great a change should in truth be needed, of which I entertain great doubts, the Corporation to be created by this Bill will be a proper body to take up the matter and to make such representations as will enable Government to judge of the propriety of such a revision as is now demanded in the interest of the house-owners. I would point out that it is proposed to give further relief to this class and to house-occupiers by the amendment of which I have given notice with regard to the supplemental rate. It will now be left to the Corporation in the case of a deficit in any particular year, to meet that deficit either by a reduction in the proposed expenditure for the following year, or by an increase of any rate, tax or duty which they will have the power to increase under the provisions of the Act, and therefore, if there should ever be any need to make up a deficiency, the burden of the exigency will not fall on the house-owners and house-occupiers alone, unless it should seem to the Corporation that the necessary funds should be raised by an increase of rates rather than of other taxes. The matter will be left to their discretion, and as the house-owning interest will be amply represented in the Corporation, the payers of owners and occupiers' rates are not likely to be the sufferers. It appears to me that a great deal of unfounded alarm has been raised about this supplemental tax, which will never be needed if the Corporation show ordinary prudence in fixing their expenditure and in their estimate of their ways and means, and so far from this provision in the Bill being an incentive to extravagance as asserted, it will, on the contrary, I feel convinced, be a direct inducement to frugal and careful management. The knowledge that any annual deficit cannot be tided over by loans, and must be at once provided for either by immediate reductions of expenditure or recourse to increased taxation (a measure which will always be unpopular) will tend to make the Municipal Executive Officers cautious in their estimates, and ensure vigilance on the part of the Corporation in the regulation of the Budget. I have also given notice of an amendment by which the owners of chawls or lodging houses or sets of godowns will be allowed a certain remission of rates to cover the risk of a portion of these rooms being unoccupied. It seems to be admitted by the public writers on the subject that it is proper that some reduction of rates should be made with regard to such buildings, and I consider that this will be an equitable and simple way of settling the matter. It will be seen then that we have spared no effort to mould and adapt the Bill to meet such objections as appear to be substantial and reasonable, and that we have only refused to accede to alterations which would change the whole structure of the measure, and would cause it to fail in securing the objects for which it was intended. It is a tentative measure, in the nature of an experiment which is to be tried for three years, and at the expiration of that period it can be altered or set aside,

if it prove to be unworkable, and that it does not effect the purposes for which it has been framed. Although we have not been able to go to the extremes desired by any section of the community who have expressed decided opinions on the character of the legislation required, yet we have gone far in the direction in which the majority have wished us to move, and I trust that on further reflection and consideration, the members of the Council who are still dissatisfied with some portions of the Bill, will be content with what they have received, and leave to time to show the correctness or the incorrectness of their views, or the soundness or unsoundness of the considerations which have influenced the action of Government. The financial condition of the Municipality has been placed on a healthy basis, and a liberal instalment of self-government is offered to the citizens of Bombay. It will surely be wiser and more reasonable to accept what has been given and to see how the new project will work, than to prolong the present state of uncertainty, and to leave the administration of the city under a law which has been found to be defective in some points, and has been loudly condemned by those who now seem disposed to do what they can to ensure its continuance. Inasmuch, Sir, as the notices of amendment which have been made will render it necessary for us to go into further consideration of the details of the Bill before the motion for the third reading is finally put to the Council, I think that I have said enough at the present moment to induce honourable members to ponder well upon the important issues which we are now called upon to decide, which will materially affect the welfare of a large and populous town, and I trust that we may be able to lay aside all party spirit, and be influenced only by considerations of what is best for the future welfare of the 650,000 persons for whom we are called upon to legislate.

His Excellency the PRESIDENT—With regard to what the Honourable Mr. Tucker has mentioned with respect to the proposed Town Duty upon cotton, I may explain that since the Council last met I wrote to the Governor-General to ask whether he entertained objections to such a duty being imposed. I received an answer a few days ago, and have the Viceroy's authority for saying that though he would not go the length of positively disallowing the Bill on account of the presence in it of the tax on cotton, yet he entertained serious objections to the tax. The Government of India, he says, consider the tax a transit duty, and such duties have been prohibited in the Municipal Bills for other places in India, because they would be opposed in principle to the policy pursued with regard to independent Native States, the rulers of which had been requested to abolish transit duties in their territories. After this strong expression of opinion from the Governor-General, I think this Council will agree with me as to the propriety of removing cotton from the schedule of Town Duties. I think that our best course now as regards the business before us is to proceed with the amendments according to the numerical order of the sections to which they refer.

The Honourable Mr. BYTHELL—Sir, I beg to move that after the words "lighting rates" in line 19 of Section 4, the words "the taxes on carriages and animals" be inserted. It will be remembered that I proposed this amendment on the second reading, and that it was lost. I now introduce the subject again because I think that it must be the object of Government to get as large a choice as possible in nominating their own mem-

Amendments proposed before the third reading of the Bombay Municipal Bill.

Mr. Bythell desires payment of wheel-tax to be a qualification for admission to the Corporation.

bers for the Corporation, and also because it must be the object of Government to allow the rate-payers as good a choice as they can get in selecting their representatives. There can be no doubt of the fact that this clause as it now stands will preclude Government from nominating, and the ratepayers from electing, Europeans who live in Clubs, or who may be living, four or five together, in one house registered in the name of only one of them. I understand that there are 280 Europeans in Bombay paying wheel-tax, and only 150 could be qualified if this section is carried as it now stands. I shall not trouble the Council with any further remarks, but merely hope that my motion will be adopted.

The Honourable Mr. NARAYAN—Before the motion of the honourable gentleman is put to the Council, I consider that it would be well to go into a few statistics of the wheel-tax. In 1870 there were 8,263 persons who paid this tax. It may be difficult to ascertain the number of carts or carriages for which each person paid the tax, but it is noticeable that the number of the different kind of public vehicles as shown in the Municipal Returns was :—Labour carts, 5,641 ; public hackeries, 511 ; private do., 75—6,227 ; hack buggies, 580 ; hack four-wheeled carriages, 47—627. Sum total, 6,854. Now, the question is whether it would be desirable to admit the owners and drivers of these carts and buggies into the constituency for the sake of the handful of Europeans mentioned by the Honourable Mr. Bythell.

The Honourable Mr. BYTHELL—Do they pay Rs. 50 a year each ?

The Honourable Mr. NARAYAN—Most of them do, because the majority pay taxes on two or three vehicles.

The Honourable Mr. TUCKER—We have already considered this subject twice in the Council as well as in the Select Committee, and the real objection to the measure is the fluctuating character of the contributions to this tax, and the fact that it would give a qualification to a large number of ignorant and incompetent persons as well as to the limited number of intelligent Europeans who would become eligible for election or nomination if this alteration were made. I should have been glad to enlarge the field of selection so as to admit more freely the class of representatives whom Mr. Bythell thinks will be excluded—but I cannot agree to the means by which he seeks to attain that end. In the first place, I am inclined to think that the honourable member has somewhat exaggerated the difficulties that will stand in the way of Europeans who desire to qualify. An amendment which is to be made to the clause about the rating of houses let out in sets of apartments or flats will make persons who live in clubs and chambers liable to occupiers' rates, and therefore bring them within the scope of the qualifying section. The Honourable Mr. Narayan also has given notice of an amendment to add Fellows of the University to the list of persons eligible for election, and if this is agreed to—and I shall offer no objection to this amendment—I think we shall have provided, as much as can possibly be done, for the admission of the more intelligent portions of the European community into the Corporation. Any European who is anxious to get a qualification has only to go into a house and pay a sum of less than Rs. 5 a month as occupiers' rates to secure a qualification, and if he has not public spirit sufficient to do this, I do not think that we need feel any regret at his exclusion. If he prefers to live in hotels and these rooms in clubs in which he will not be liable to be rated as an occupier of chambers, I think he will have no just cause of complaint at his exclusion from the Corporation.

Mr. Tucker objects to the proposal, because of the number of ignorant persons, such as buggy-wallas, which would be qualified.

The Honourable the ACTING ADVOCATE-GENERAL—I shall object to this amendment, because I think that if we agree to it we shall get an enlarged body of ignorant persons as candidates for election, and although we might get a small and valuable addition by including some of the Europeans who at present will be disqualified, yet I do not think these would be sufficient to leaven the mass of buggy drivers, owners of vehicles, and bullock carts, who would also be admissible to the Corporation. We cannot forget that a man having a certain number of buggies, carts, or horses, would have the same right to stand upon the candidates' platform as the Byculla Club resident or the sharer in a house on Malabar Hill. The statistics of the Honourable Mr. Narayan are quite sufficient to condemn this amendment, and I therefore, although regretting that many Europeans may possibly be excluded, will support the section as it stands.

The Honourable Mr. RAVENSCROFT—This subject has been already discussed on the motion of the Honourable Mr. Bythell, and as I cannot see that he has brought forward any additional arguments or shown any new facts, I shall vote against his proposal.

The Honourable Mr. BYTHELL—I have given statistics to show the limited number of Europeans who will be eligible. What more could the honourable gentleman wish?

The Honourable Mr. RAVENSCROFT—But I think these statistics have imparted very little additional information to this Council, and I do not think there is any better reason for making the alteration now than when it was proposed before. If any additional arguments against the amendment are required, I think they are to be found in the figures quoted by the Honourable Mr. Narayan.

The Honourable Colonel KENNEDY—This being avowedly an experiment in representation, I think it would be better to start with a small but intelligent body. Therefore I agree with the Honourable Mr. Mayhew that it would be inadvisable to agree to this amendment, which would be sure to introduce a large and ignorant body into the constituency.

The Honourable Mr. FORBES—I apprehend that if the Honourable Mr. Bythell's amendment were carried, the number of persons who should be entitled to election would not be very great after all, and as to the body of ignorant persons that has been made so much of, I think that it might be well to trust to the electors, because this Council cannot suppose that these electors would deliberately choose an ignorant and uneducated man to represent them—or that if two men, one intelligent and the other a buggy-wallah, presented themselves for election, the latter would be chosen. I cannot imagine the electors of Bombay preferring buggy-drivers and ignorant men to enlightened Europeans or Natives, because I do not think they could be so lost to all sense of what is becoming and due to their own interests.

The Honourable Mr. NARAYAN—But the honourable gentleman is forgetting that if buggy-wallahs obtain the franchise, they are likely to return to the Corporation persons belonging to their own fraternity.

The Honourable Mr. BYTHELL—As regards the Honourable Mr. Narayan's statistics, I do not think that they prove so much as he thinks. He has produced no figures to show how many people paying the wheel-tax pay a large enough sum to qualify them to be elected, and I do not think that we can correctly infer that the insertion of my amendment would have the effect of putting all these buggy-drivers, who may not be paying the necessary Rs. 50, upon the register. As it is, even though my amendment were carried, I

think it is very probable that buggy proprietors if they own vehicles as largely as the Honourable Mr. Narayan thinks they do, are already paying, on their stables and their houses, sufficient rates to qualify them for being electors or elected. I have introduced this amendment, not with the idea of increasing the electoral constituency, but with the idea of giving the Government of Bombay the means of getting hold of the best men as their nominees. Regarding what the Honourable Mr. Tucker has said—that if a man has not public spirit enough to take a house in order to pay Rs. 5 a month—

The Honourable Mr. TUCKER—It will be less than Rs. 5.

The Honourable Mr. BYTHELL—In pressing this point, I think that the honourable gentleman has misunderstood me. A man might be willing enough to serve in the Corporation, and in the month when Government would appoint him it might be found that he had not paid rates for the twelve months ending the previous September. This would make it necessary for Government to look about for three or four months before the time for nominating members of the Corporation, or they might find the very men they wanted were not qualified to act. I do not think that the question of public spirit can be entertained in the matter at all, because whether or not a man wished to become a nominee, his non-payment of rates for the previous long term would disqualify him.

The Council divided on the Honourable Mr. BYTHELL's amendment :—

Ayes—2.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

Noes—8.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEHOY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB.

The amendment was therefore lost.

The Honourable Mr. TUCKER moved that the words “and supplementary rate”
The supplementary rate. authorized to be levied under this Act in lines 20 and 21 of Section 4 should be omitted. This alteration, he explained, was intended to have reference to another amendment of which he had given notice on Section 96.

The amendment was agreed to.

The Honourable Mr. NARAYAN moved that a proviso be added to the end of Section 4 in these words—“Provided that Fellows of the University of Bombay shall be deemed qualified to be appointed members of the Corporation in any of the ways hereinafter provided, notwithstanding that they may not be qualified as aforesaid.” He considered that this was an amendment which would commend itself to the Council without remark.

Fellowships of the University of Bombay to be deemed a qualification for admission to the Corporation.

The Honourable the ACTING ADVOCATE-GENERAL approved of the amendment.

The Honourable Mr. TUCKER also favoured the amendment, because while it would increase the number of persons eligible for election, it would enable the city to obtain the services of many intelligent men possessing a high order of qualification.

The Honourable Mr. ROGERS thought that this alteration would remove many of the objections of the Honourable Mr. Bythell.

The Honourable Mr. BYTHELL—Only to a very small extent.

The amendment was agreed to.

His Excellency the PRESIDENT could not approve of Section 5 as it stood, because he thought it would be unnecessary and confusing to have an election every year. He moved that lines 7 and 8 should be struck out and part of line 9 down to "sixteen" should be omitted, and that the remainder of the section from "eight" in line 15 should be omitted, and the following words substituted, "and the like nomination and election shall be made at the same periods at recurring intervals of two years."

The periods at which elections and nominations for the Corporation shall be made.

The Council approved of the amendment, which was agreed to.

The Honourable Mr. NARAYAN moved that "persons" should be substituted for "rate-payers" in line 2 of Section 6. The alteration, which was verbal, was a consequence of the addition made to Section 4, and it was agreed to.

The Honourable Mr. TUCKER moved that the words "of this Act" be inserted in line 11 of Section 6 after the words "Section 4."

The amendment was agreed to.

The Honourable Mr. NARAYAN proposed that the word "persons" be inserted in place of the word "rate-payers" in line 3 of Section 7.

His Excellency the PRESIDENT suggested that the word "appointed" should be substituted for "elected" in line 4.

Both amendments were agreed to.

The Honourable Mr. TUCKER moved that the words "to be" be inserted in line 2 of Section 9 after the word "continue."

The amendment was agreed to.

His Excellency the PRESIDENT suggested that the proviso in Section 8 should be omitted—that is, from and after the word "years" in line 5, down to and including "only" in line 9.

This amendment was agreed to.

The Honourable Mr. TUCKER moved that the words "of this Act" be inserted in line of Section 13 after the words "Section 35."

The amendment was agreed to.

The Honourable Mr. TUCKER moved that the words "and for providing at the close of the year a cash balance of not less than one lakh and a half of rupees" be inserted in line 12 of Section 35 after the word "expenditure." This alteration was necessary to carry out the provisions of Section 39, and to make it clear

The Corporation to have a lakh and a half to go on with at the beginning of each year.

that the Corporation must always see that they have a lakh and a half to go on with at the beginning of each year.

The amendment was agreed to.

The Honourable Mr. TUCKER proposed that the words "of this Act" be inserted in line 3 of Section 37 after the words "Section 35."

The amendment was agreed to.

The Honourable Mr. TUCKER moved that "one lakh and a half" be substituted for "one and a half lakhs" in line 9 of Section 39.

This amendment was agreed to.

The Honourable Mr. TUCKER moved that the figures "187" in line 10 of Section 40 be omitted, and "189" be substituted.

The amendment was agreed to.

The Honourable Mr. ROGERS proposed that the word "or" in line 12 of Section 44 be omitted, and that the words "and shall be removed" be inserted before the word "by" in the same line. He considered that this would make the intention of the Council clearer with regard to this clause.

The Honourable Mr. TUCKER asked the Honourable the Acting Advocate-General whether the words of Section 42 as they were then standing would support the interpretation that the Municipal Commissioner could not be removed excepting by the vote of two-thirds of the Corporation. One of the petitions contained an interpretation to this effect, but he thought that it would be scarcely necessary to consider it, because the words seemed to indicate quite clearly that Government could dismiss him upon a day's notice, if that were considered necessary.

The Honourable Mr. BYTHELL thought that the section showed clearly enough that Government could at once dismiss the Commissioner for any of the reasons mentioned in the section.

The Honourable Mr. MUNGULDASS begged to move that the words "and with the confirmation of Government" in line 15 of Section 44 be omitted.

The Honourable the ACTING ADVOCATE-GENERAL concurred with the Honourable Mr. Tucker.

The Honourable Mr. MUNGULDASS, in support of his amendment, said—The amended bill confers on the Corporation the right of selecting and appointing the Executive Engineer and Health Officer, and by the amendment made by the Council on the 13th of last month, the right of dismissing the Municipal Commissioner, the highest officer to be appointed by Government, has been vested in the Corporation. I therefore submit that the Council should be consistent and should carry out the same principle in regard to these subordinate officers, and that the restriction placed on the power of the Corporation to remove the Executive Engineer and Health Officer should be withdrawn by omitting from Sections 44 and 45 the words "with the confirmation of Government." This restriction, if retained, will practically nullify the power proposed to be given to the Corporation to.

It is desired and agreed to that the Corporation should be given power to dismiss the Health Officer and Executive Engineer independent of confirmation by Government.

remove these subordinate officers who are to be appointed by it, because it will always be in the power of Government to interpose its authority by declining to sanction the removal of these officers whenever the Corporation might desire to dispense with their services.

The Honourable Mr. ROGERS did not approve of the amendment, because, while 40 out of 64 votes were necessary for the dismissal of the Commissioner, 20 votes would be sufficient to dismiss either the Executive Engineer or Health Officer, because the quorum for a special general meeting was only 30, and of this number, two-thirds could dismiss either of the officers named.

His Excellency the PRESIDENT—The Executive Engineer and Health Officer are the officers appointed by the Corporation, which should have the power of dismissing them, if that course were deemed to be necessary.

The Honourable Mr. BYTHELL concurred with His Excellency.

The Honourable Mr. TUCKER thought that, considering that the salaries now fixed for the Health Officer and Executive Engineer were not calculated to attract the best class of men, it was not expedient to make the dismissal of these officers too difficult a matter. He was therefore in favour of the amendment proposed by the Honourable Mr. Munguldass.

The word "or" was omitted as proposed by the Honourable Mr. Rogers, and the amendment of the Honourable Mr. Munguldass was agreed to.

The Honourable Mr. Rogers moved that the word "or" in line 12 of Section 45 be omitted, and that the words "and shall be removed" be inserted before the word "by" in the same line.

The Honourable Mr. MUNGULDASS proposed that the words "and with the confirmation of Government" in lines 14 and 15 of Section 45 be omitted.

The word "or" was omitted, and the amendments proposed by the Honourable Mr. Munguldass were agreed to.

The Honourable Mr. MUNGULDASS proposed that the words "member of the Town Council" in line 1 of Section 51 should be omitted. In supporting his proposed amendment he said—I do not consider it advisable to make gentlemen of such position and influence as ought to be encouraged to accept the office of members of the Town Council for a small honorarium liable to the indignity of being prosecuted and punished for a number of offences specified in chapter 9, and particularly in Sections 161, 162, 163, 164, 165, 166, 167, 168, 169 of the Indian Penal Code. I therefore ask the Council to omit the words "member of the Town Council" which occur in Section 51, because this provision is calculated to deter respectable gentlemen from giving the Town Council the benefit of their services, on account of their being in constant fear of evil-disposed persons annoying and harassing them with criminal prosecutions. Moreover, I do not see the necessity of making Town Councillors specially amenable to the penal clauses of the Code, simply because it is desirable to prevent them from being concerned in contracts made with the Corporation, as due provision is made with that object in Section 53 of the Bill, which makes the act a penal offence punishable with fine or imprisonment for a term extending to one year.

It is desired to exempt Town Councillors from the sections of the Penal Code to which public servants are liable.

The Honourable Mr. TUCKER—A member of the Town Council might be guilty of other derelictions of duty besides engaging in contracts. For instance, he might take a bribe to exert his influence to cause a particular person to be appointed Health Officer or Engineer, or he might be corrupt in other matters. Does the honourable gentleman consider that Town Councillors are to enjoy the power conferred upon them by this Act and not to be subject to the responsibilities and penalties to which other public servants similarly situated are liable?

The Honourable Mr. MUNGULDASS—Members of the Corporation may receive gratifications from the Health Officer or Executive Engineer, and is this Council prepared to put all the members of the Corporation under the Penal Code? The simple object of this clause, as I understood it, was to prevent the members of the Town Council from being concerned in contracts, and if it is meant for any other object, I contend that the Corporation also should be included in this section, because bribes may be offered to the members by unscrupulous persons desirous to be appointed Health Officer or Executive Engineer.

The Honourable the ACTING ADVOCATE-GENERAL—I cannot at all agree with the Honourable Mr. Munguldass. It is manifest, if the honorable member looks at the words “Municipal officer or subordinate officer,” that this Section is intended to make every person who receives money for services rendered to the Corporation amenable in the same way, and for the same reasons, as if he was a public servant and came under the penalties of the Code. No doubt it is an indignity to be prosecuted at any time, but the indignity consists more in the act which causes the prosecution than in being brought before a judge or jury. So long as certain acts are held to be criminal in public servants by the Penal Code, it is right that those acts should be punishable when committed by the officers of the Municipality, and I can see no reason for exempting a Town Councillor from this liability which would not apply to any other officer in the service of the Municipality.

The Honourable Mr. TUCKER—I had hoped that the remarks which I made in my opening speech would have induced the honourable member not to persist in this proposal. He appears to think that persons who are not called upon to devote their whole time to public duties are exempt from the frailties which are incidental to all public servants and to all human beings, and that regulations and restrictions which are found necessary in the case of the highest officers of the State are not wanted in the case of the Town Councillors, who will be elected or nominated under this Bill. So inconsistent is my honourable friend, that though he wishes to convert the Town Council into a quasi-judicial tribunal to hear appeals from the acts and orders of the Municipal Commissioner, yet he would exempt these Councillors from the restrictions which are imposed on all the Judges and Magistrates in the land. A more unreasonable and a more unwise proposition I cannot imagine, and till I saw the honourable gentleman's amendment on the paper, I could not have supposed that any member of this Council could be found who would seriously advocate such an exemption. I have observed, however, that in the discussions on the Bill, the honourable gentleman has more than once taken up the untenable position that persons may enjoy the benefits arising from a particular state of affairs without being subject to the responsibilities which attach to such a condition. For instance, in the debates with respect to the regulation of burial grounds, he wished certain classes of persons to have all the rights of owners, but to be free from all the obligations which the possession of those rights entailed. As I cannot agree with the honour-

Mr Tucker's remarks in opposition to Mr. Munguldass's amendment.

able gentleman that these Town Councillors will be superior to the ordinary weaknesses of humanity, I cannot assent to their exclusion from this section, which merely sets forth plainly the state of the law respecting the members of this new body, who would, I believe, be liable under the existing law to the penalties for misconduct applicable to public servants, even if there had been no express declaration of their liability in this section.

The Honourable Mr. MUNGULDASS—I do not at all agree with the Honourable Mr. Tucker, who seems to forget that the services which are to be rendered by these Town Councillors will be given to the Municipality almost for nothing. If the honourable gentleman wants the best men for the Town Council, they will only come for the honour of the thing or from motives of public spirit, and not for the paltry sum of Rs. 30 weekly ; and if this section is passed as it stands, I am afraid that, so far at all events as the native community is concerned, the Municipality will not get the services of the best men.

His Excellency the PRESIDENT—One impression made on the mind of the honourable, gentleman might, I think, be removed. He says that this section may expose the members of the Town Council to malicious prosecutions. In regard to this, could we not have a provision to the effect that no prosecution shall be commenced except under the authority of the Municipal Commissioner, or some person authorized by him ?

The Honourable Mr. TUCKER—The Honourable Mr. Munguldass fears the Municipal Commissioner more than any one else.

The Honourable Mr. MUNGULDASS—That plan might work well in other matters, but not in this, because the Town Council are supposed to keep the Municipal Commissioner in order.

The Honourable Mr. FORBES—Supposing this section were expunged, would members of the Town Council who committed any of the offences here alluded to not be amenable still to the Penal Code ?

The Honourable Mr. TUCKER—I consider that they would. The courts would hold them to be public servants, but to prevent any doubt on the point, they have been included in this section.

The Council divided on the amendment of the Honourable Mr. Munguldass :—

Ayes—1.

The Honourable MUNGULDASS NUTHOOBHOY.

Noes—11.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable Colonel M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The amendment was therefore lost.

In line 17 of Section 58, officers was made officer.

The Honourable Mr. TUCKER moved that the word "tax" be substituted for the word "rate" in line 14 of Section 66.

The amendment was agreed to.

The Honourable Mr. NARAYAN proposed that the minimum and the maximum house-rate mentioned in Section 69 be reduced from five and eight to three and five per cent. respectively. He said—

Taxation on house-owners. Although very reluctant to have to bring the question of the incidence of taxation upon house property again before the Council, I should fail in my duty were I to allow this opportunity to pass without urging upon your Excellency's notice the injustice which the present Bill seeks to perpetuate. When discussing Section 86 at the second reading, I pointed out what I considered to be the glaring inequalities of the present fiscal system, and I shall not now take up your time in recapitulating the various considerations I then submitted to this Council. It is clear to me that the principle contended for, that the occupiers' rates generally fall upon occupiers in Bombay, is a myth. From the report of General Marriott's Committee, of which Mr. Hope was a member, it is perfectly clear that the tenants of only 2,500 out of 21,000 houses in Bombay pay the occupiers' rates. Section 101, which imposes upon the house owners the obligation of paying occupiers' rates on chawls or ranges of buildings, further reduces the number of tenants in all Bombay paying occupiers' rates to 472. I submit that it is not expedient, for the sake of these 472 properties, to impose upon the Municipality the cumbrous system of recovering house-rate and occupiers' rates paid by the same individuals separately, involving the issue of nearly 136,000 bills. As the owners and occupiers' rates are paid for the most part by the house-owners, it would simplify matters if the rates were consolidated, and the whole recovered from the owners. As far as it concerns those who pay both kinds of taxes, it would be inflicting no hardship upon them to make all these rates payable by them in one consolidated rate. If any pains were bestowed upon ascertaining the actual incidence of the occupiers' rates, it will be found that there is no foundation in fact for the assertion that the owners recoup themselves for the outlay they incur for those rates. I submit to your Excellency that we ought to look closely under the surface, and not be deceived by the simple designation of these taxes. Because they are styled occupiers' rates, it does not necessarily follow that they fall upon the occupiers. It behoves us to examine how they affect the people in reality. I make no apology for quoting the words of a noted writer on English taxation—"It is said that there is no use in inquiring into the incidence of taxation; that taxes have always been imposed in a rough and ready manner, without looking narrowly into the comparative burdens which they impose; and that such scrutiny is too minute for the dignity of statesmanship. But no inquiry into details is beneath the dignity of statesmen if it affects the well-being of a people, or is likely to introduce greater justice and fairness into the Financial Government of the country." I find Sir Seymour Fitz Gerald had directed his attention to the question of the incidence of taxation, for when discussing the Provincial Budget in April last year, he said that the taxation which is levied here already, is felt to be of almost crushing severity, and nothing would justify increased taxation except an absolute and inevitable necessity, which we could not by any possibility meet by any other mode. In asking therefore to reduce the minimum and maximum house-rate to 3 and 5 per cent. respectively, I do not wish to be misunderstood. I am willing to allow that as house property derives the greater share of the benefits from

local conveniences and improvements, that it should bear a comparatively larger portion of the burden of municipal taxation. But this is no reason for exempting altogether all

Mr. Narayan proposes the abandonment of occupiers' rates and the imposition on house-owners of one consolidated rate.

other classes of property from contributing their fair quota towards the municipal expenditure of the city. I would even urge the expediency of doing away with the occupiers' rates altogether, and of imposing a consolidated rate at the minimum of 6 or the maximum of 8 per cent. Surely an income tax of 6 or 8 per cent. on house property ought to satisfy those who complain that the owners of house property wish to shift their just burdens upon the shoulders of the rest of the people.

The Honourable SIB JAMSETJES JEJEEBHOY—I have much pleasure in endorsing the views of my honourable friend Narayan Vasudevjee. There can be no doubt that our fiscal system was among the chief, if not the chief, cause of all the discontent and dissatisfaction which has prevailed in the minds of the people, and has produced a large amount of distress and misery among

It is suggested that consideration of the Bill should be postponed, in order that inquiries be made into the incidence of taxation in Bombay.

them. This is one of the most important things which it was necessary the Bill ought to have grappled with. In the first instance the people, for whose benefit the Bill has been framed, do not feel satisfied with it. It does not give the people what would be far more acceptable to them than even representation, namely, a relief from the pressure of taxation. It contains no provision tending to a readjustment of the fiscal system which I fear has been the cause of incalculable mischief and misery. I do not desire to speak in favour of this or that faction, but it is admitted on all hands that the weight of taxation presses heavily, too heavily, upon only one class of property, namely, houses and lands, and that an equalization of the rates among the different classes of the community, and a distribution of the imposts among other kinds of investments would go far to enlist the sympathies of the people in favour of the Bill. I would suggest for the consideration of the honourable mover of the Bill, whether it would not even now be useful to have the Bill referred once more to a committee with a view to the fiscal system being remodelled and recast.

The Honourable Mr. ROGERS thought that the Honourable Mr. NARAYAN's proposal would involve an alteration in the principle of the Bill, and he could not therefore give it his assent. The constant increase of houses in Bombay showed that investments in house property were not such bad things as had been alleged.

The Honourable Mr. TUCKER—I agree with the Honourable Mr. Rogers that the suggestion to consolidate the rates and to place them at a reduced amount entirely upon house-owners would be an alteration that would affect the principle of the Bill, and I have already pointed out that at this stage of the discussion

Mr. Tucker opposes further delay, and argues in favour of house taxation.

no such proposal could properly be entertained. I regret that the honourable mover of the present amendment did not tell us more plainly at the second reading that it was not representative institutions that the Town wanted, but merely a diminution and re-distribution of taxation. If it had been understood at an earlier period that this was the real want of the bulk of the community and not only of the house-owning interest, inquiries might have been instituted which would have enabled this Council to go into a question of so much nicety and difficulty, but at this, the eleventh, hour it is hardly reasonable to expect that this Council will go back and discuss points

which may well be left for the consideration of the Corporation hereafter. I confess I should require very strong and unimpeachable testimony to convince me of the correctness of the assertion that the occupiers' rates now all fall on the house-owners. Such a fact would be contrary to the experience of other countries, and would be an exception to the ordinary relations between house-owners and house-occupiers. In England it is asserted that all rates on house property eventually come out of the pockets of the occupier, and this would appear to be the natural order of things except when long tenancies have been created prior to the imposition of the rate, the terms of which cannot be altered by the house-owner in consequence of the imposition of the rate. It is not to be supposed that house-owners are not subject to the same influences as other persons who deal in other commodities, or that they will not do their utmost to recover from the consumer of the commodity in which they deal, *i.e.*, the occupier, the tax placed on their houses; and if their hands are not tied by permanent arrangements, or unless the supply of houses should far exceed the demand, they are pretty certain to be successful in their attempt, as under ordinary circumstances they will demand and obtain an increase of rent that will cover the amount of the tax. Now although in the present condition of Bombay I am ready to admit that the supply of the better class of houses, *viz.*, those occupied by Europeans and the more wealthy classes of the native community, is in excess of the demand, and that consequently the rents of such houses have fallen, and the owners thereof may not be in a position to recover from their tenants the whole of the house-rate; yet, I apprehend that this is only a temporary state of affairs, and that it is limited only to the best class of residences and offices. There is no reason to suppose that the same abnormal state of affairs exists with reference to the dwelling places of the middle and poorer classes of citizens, and I confess that I am unable to credit that the house-owners do not recover a great portion, if not the whole, of the occupiers' rates from their tenants. I observe that the members of this Council who represent the house-owing interest only state that the house-owners pay the occupiers' rates to the Municipality. This they may possibly do, but I cannot and do not believe that they do not recover the great bulk of these payments from their tenants. The best refutation of the house-owners' arguments is the one mentioned by the Honourable Mr. Rogers, *viz.*, that building operations have been going on actively in Bombay ever since Act II. of 1865 became law, and that even during the last year, houses, large and small, have been springing up in all quarters of the island. Every one who can use his eyes may convince himself of this fact, and I should like to know how this state of things can be accounted for, if the effect of the present system of municipal taxation has been to make investments in house property such bad speculations as they are now represented to be. Persons who bought houses at the exaggerated prices current in the share-mania times have undoubtedly suffered losses, but these are not to be ascribed to municipal rates. The rate levied upon occupiers under the existing law, and which will be continued under the Bill, is precisely the English house-tax, which has been praised by Mr. Stuart Mill as one of the best and fairest methods of imposing an income-tax. In Section 6, Chap. III., Book V. of Mill's Political Economy (Third Edition), I find that that eminent writer says :—

“In so far as it falls on the occupier, if justly proportioned to the value of the house, it is one of the fairest and most unobjectionable of all taxes. No part of a person's expenditure is a better criterion of his means, or bears, on the whole, more nearly the same proportion to them. A house-tax is a nearer approach to a fair income-tax, than a direct assessment on income can easily be; having the great advantage, that it makes spontane-

ously all the allowances which it is so difficult to make, and so impracticable to make exactly, in assessing an income-tax: for if what a person pays in house-rent is a test of anything, it is a test not of what he possesses, but of what he thinks he can afford to spend. The equality of this tax can only be seriously questioned on two grounds. The first is, that a miser may escape it. This objection applies to all taxes on expenditure; nothing but a direct tax on income can reach a miser. But as misers do not now hoard their treasure, but invest it in productive employments, it not only adds to the national wealth, and, consequently, to the general means of paying taxes, but the payment claimable from itself is only transferred from the principal sum to the income afterwards derived from it, which pays taxes as soon as it comes to be expended. The second objection is that a person may require a larger and more expensive house, not from having greater means, but from having a larger family. Of this, however, he is not entitled to complain; since having a large family is at a person's own choice: and, so far as concerns the public interest, is a thing rather to be discouraged than promoted."

I am therefore unable to acknowledge that the occupiers-rate is a bad form of taxation as asserted by the Honourable Mr. Narayan. It is a rate assessed on the rent which each person pays for the tenement which he occupies, which is, as Mr. Mill states, a very fair criterion of his income or means of living, reaches nearly every one, and can only be evaded by misers and a few others. I can see no reason whatever for the total abolition of this rate, and I must say that I regard with great suspicion the offer of the house-owners to bear a 6 per cent. house-rate, if the police and lighting-rates are abolished. It is not usual for any class of persons to solicit the imposition of additional burdens on themselves to relieve another class, and I am unable to give the house-owners of Bombay credit for so much generosity and self-abnegation. I imagine that these shrewd persons, who are wise in their generation, see that they will ultimately be able to throw the greater part of the house-rate on the occupiers, and hence this present proposal which is more liberal in appearance than in reality. It is just that occupiers should contribute to the rates, and it seems to be the generally accepted opinion in England that the rates on real property should be equally divided between owners and occupiers. This will be roughly done, if we assent to a reduction of the minimum house-rate to 4 per cent., which I have already expressed my willingness to do, and also to fix the maximum rate at 7 instead of 8 per cent. To this extent I am prepared to go, but no further, and before this concession is made, it is necessary that we must come to some understanding as to how the loss which will be occasioned to the Municipal treasury can be supplied. A diminution of 1 per cent. in the house-rate is equivalent to one lakh and thirty thousand rupees. This would have been covered by the town duty on cotton, but that has been abandoned. It has been estimated that by the increases already made in other town duties Rs. 1,14,000 additional revenue will be raised, and this sum, with Rs. 12,000, the

Mr. Tucker suggests, however, to make certain reductions in favour of house-owners, and that the deficiency thus created should be made up from other sources.

estimated realization from the tax on Fire Insurance Companies, will nearly cover the deficiency which will be occasioned by a reduction of 1 per cent. on the house-rate. This would make an apparent equilibrium, but it must be remembered that we have been informed by the Municipal Commissioner that some additional income is imperatively called for to meet requisite expenditure, and also that in the Budget which is about to be submitted to the Justices for the present year, a 6 per cent. house-rate has been calculated. If the new Corporation is to make a fair start, it is absolutely necessary that some additional income should

be placed at their disposal. As it is too late now to bring forward any new tax, the only means of doing what is required will be to increase some of the town duties, and I mentioned before that the only items which we could well increase were wines and spirits and ghee, both of which are in a certain sense luxuries.

The Honourable Mr. MUNGULDASS—I deny that ghee is a luxury. It is a necessary of life.

His Excellency the PRESIDENT—We all get to consider certain articles necessary after we have consumed them for some time.

The Honourable Mr. TUCKER continued—If the honourable members of this Council are prepared to impose additional duties on the articles I have named, we may then relieve the house-owning class in the manner I have suggested; but it will be necessary, as a preliminary step, to negative the substantive amendment of the Honourable Mr. Narayan, and to throw out of consideration the wider proposals which he has indicated rather than brought forward, and which have been supported by the Honourable Baronet Sir Jamsetjee Jejeebhoy. I stated before that it was now too late to enter upon the discussion of any radical change of our fiscal system, which had never been contemplated.

The Honourable Mr. FORBES—I am disposed to support the amendment of the Honourable Mr. Narayan, but I do so upon the ground that it is calculated to reduce taxation, and not on the ground that I think this taxation should be taken off the shoulders of this particular class of the community who now bear it and placed upon another class, or that some branch of trade should be saddled with a tax to make up for the deficiency. I think that there can be no doubt that the 8 per cent. maximum limit which has now been fixed for the house-rate is a standing menace to all persons intending to invest in house property, which therefore must be injuriously affected in its value. If there is no early prospect of this maximum being put in force, I do not see that it is desirable to retain so large a margin between what is actually now in force and what purchasers of house property may be liable to hereafter. I quite agree with what the honourable member Sir Jamsetjee has suggested, that it would be desirable even at this late stage of these proceedings, to have further inquiry into the incidence of taxation in Bombay: but I may say that I am, in this matter also, influenced by different motives from the honourable member, and I agree with his suggestion, because I think that for some time past the taxation in Bombay has been most oppressive. Nothing has astonished me more during this meeting of Council than hearing it twice asserted by the Honourable Mr. Tucker that this pressure of taxation has not been previously urged upon the attention of Government. I believe that the main cause of the excitement which has prevailed of late years in Bombay has been caused by the extreme oppressiveness of taxation. Rents and furniture have been frequently distrained, and I am sorry to hear that this is still necessary in order to wring from the citizens the amount necessary for the Municipality, and that thousands of distress warrants have to be issued every year. Nothing can be more oppressive than this, and of the Honourable Mr. Tucker looks into all the petitions which have been sent to Government he will find that in each of them the severity of taxation is prominently mentioned.

Mr. Forbes supports Mr. Narayan's amendment, and is in favour of Sir Jamsetjee's suggestion to delay the Bill.

The Honourable Mr. TUCKER—Does the honourable gentleman mean the present petitions or previous ones?

The Honourable Mr. FORBES—I mean all the petitions during the last regime. The earliest memorial on the subject that I recollect was one brought forward in 1870 at a large meeting of the Bench of Justices, praying against the continuance of this severe taxation, and Dr. Dallas then brought the subject of this memorial prominently forward. Certainly, I think this was the beginning of the movement which has resulted in the bringing of this very Bill before the Council. Ever since this memorial, the ratepayers have unceasingly agitated the subject, and I do not think that among all their representations there is one in which the severity of taxation has not been referred to and complained of. No doubt it was also mentioned that the power of controlling the Municipal Commissioner was defective, but the great reason for complaining of that was because it resulted in extravagant expenditure. I look upon the present as a favourable opportunity for limiting this serious evil of heavy taxation. The best course would be for Government to consider the just and reasonable claims which the Municipality have upon Government, claims which amount to a very large sum, and to meet the interest on which the Municipality will, I believe, have to find funds next year to the extent of $7\frac{1}{2}$ lakhs of rupees. With regard to the quotation which the Honourable Mr. Tucker made from an English author—

The Honourable Mr. TUCKER said that it was Mr. Stuart Mill.

The Honourable Mr. FORBES continued—Well, the remark which Mr. Mill makes about a man's house being the best measure of his means to pay taxes is not so applicable to this country as it is to England. Many men who have plenty of money in Bombay live in very wretched habitations in the native town, and the remarks about misers are certainly more applicable to the Marwaree community in Bombay than to any community which can be found in an English town. I think, therefore, that the idea of devising some means which would lead to the taxing of this class of persons more fairly than the present house-tax, would be most desirable and would lead to the very best results.

His Excellency the PRESIDENT—Before this discussion goes any further, I would point out that we appear to be wandering from the Honourable Mr. Narayan's specific amendment, which is to reduce the minimum and maximum house rate 2 per cent.; but we have been discussing a proposal to postpone the further consideration of the Bill and to remand it back to the Select Committee or refer it somewhere else (I do not know which is desired), for reconsideration of the incidence of the existing system of taxation. As there is no definitive proposal on this head before the Council, I consider that we are somewhat out of order in discussing such a suggestion.

The Honourable Mr. TUCKER—With your Excellency's permission, I would like to make one word of explanation with reference to the remarks of the Honourable Mr. Forbes. I never meant to imply that there had not been a general impatience of taxation. There is no doubt that there has been a desire to escape taxation altogether by all descriptions of persons, but I never understood that the present fiscal system was objected to by any but the house-owners, and I had supposed that this class of proprietors and the trading classes were at direct issue as to the advisability of having recourse to direct or indirect taxation to supply the Municipality with funds. I am unable to call to mind at the present moment all that has been written or said since the agitation regarding Municipal affairs was going on, but I have always supposed that it was economical management and representation that the so-called reformers clamoured for, and not for a revision of the fiscal system. The desire now exhibited by the honourable gentleman for delay and further enquiry is in marked contrast

to the state of his feelings at the time of the second reading of this Bill, when he spoke so feelingly of the injury done to the citizens by the unavoidable delay which had taken place in the preparation of the Bill, and when he wished this Council to substitute for the present measure a short Act altering the Municipal constitution, and leaving Act II. of 1865 otherwise untouched. He was then as anxious for speedy legislation as he is now for retardation, and he never hinted at a revision of taxation, but was willing to accept the system inaugurated in 1865. I would put it to the honourable gentleman and to the Council whether his present line of action is consistent with his previous policy.

The Honourable the ACTING ADVOCATE-GENERAL—The remarks which your Excellency has made as to the erratic character of the present discussion were certainly much needed. I find it difficult to know whether I should address myself to the observations of the Honourable Mr. Narayan, or to the proposition which has been put forward in the shape of a serious suggestion by the Honourable Sir Jamsetjee, and which has been spoken to and supported by the Honourable Mr. Forbes. Before we go into the matter of the Honourable Mr. Narayan's motion, I should like to know whether there is any earnest desire on the part of this honourable Council that the Bill should be remitted to a committee. It would be futile to discuss this Section 69 from the Honourable Mr. Narayan's point of view if the views expressed by the Honourable Baronet are to take a substantive shape, because of course Section 69 would be remitted back along with the other sections. I feel some hesitation as to whether I should answer the Honourable Mr. Narayan or the Honourable Sir Jamsetjee first, because both of their propositions have, so to speak, been made at the same time.

The Honourable Mr. ROGERS—I understand that His Excellency has already ruled that the only motion before the Council is the one moved by the Honourable Mr. Narayan for the reduction of the rate.

His Excellency the PRESIDENT—Certainly I think that this ought to be disposed of first.

The Honourable the ACTING ADVOCATE-GENERAL—I think it would be very desirable to know whether there is any intention to press an independent motion of the kind indicated by the Honourable Sir Jamsetjee, because I think that in the order of things the larger motion, which must include the lesser one of the Honourable Mr. Narayan, should come up for consideration first.

The Honourable Colonel KENNEDY—It seems to me that the Honourable Sir Jametjee was simply speaking to the third reading.

The Honourable Mr. NARAYAN—Sir Jamsetjee simply says that his vote on the third reading of the Bill will be influenced by the result of this discussion, and I think that His Excellency has already laid it down that it would be better for the Council to consider all the amendments before the motion for the third reading should be proceeded with.

The Honourable the ACTING ADVOCATE-GENERAL—Taking it upon this basis, I shall now make a few remarks regarding the motion of the Honourable Mr. Narayan. The Honourable Mr. Forbes, in supporting the Honourable Mr. Narayan, has referred to what has been a very common topic of remark in this Council since the second reading, but

The Acting Advocate-General opposes Mr. Narayan's motion.

which was very little indeed referred to in Select Committee. I refer to the matter of the numerous distress warrants. Now up to the present time I have always been under the impression that these distress warrants represented the actual amount of distress simply and literally, and not merely so many signatures on so many pieces of paper issued, not for the purpose of distraint, but put forth in the same way, and sent contemporaneously with the notice of demand—issued, that is, not for the purpose of being put in force, but simply that the people might know there was a power of distraint.

The Honourable Mr. NARAYAN having here interrupted the Honourable the Acting Advocate-General, the latter gentleman said that he would represent to the honourable member that such sudden interruptions are annoying, and that they disturb the current of thought in a speaker's mind and prevent the clear conveyance of his ideas, and then continued—Regarding these distress warrants, I would repeat that this is a matter in which I think there has been great misunderstanding, because several honourable members have been misled by incorrect information supplied to them. I have learned to my surprise from the Municipal Commissioner that the nine thousand distress warrants of which we have heard so much, do not represent actual distraints levied, but were merely a means adopted by the Municipal authorities to expedite the collection of the Municipal rates, and that the number of cases in which any goods were attached or sold amounted only to sixty-nine. The Council will

Exaggerated statements of the number of distress processes. therefore see that there has been a great deal of exaggeration in the tales we have heard of the distress suffered by the unfortunate rate-payers. Instead of 9,000 persons whose goods have been seized or sold by the Municipal Executive, there were only 69. It is notorious that there are many inhabitants of Bombay who are reluctant to comply with pecuniary demands till they are absolutely compelled. This has been exemplified by the conduct of the shareholders of companies, upon whom calls are made, who invariably plead inability to pay till the final orders are issued by the Courts, and then immediately produce the money; and the fact that many rate-payers were reluctant to pay till threatened with warrants is an indication of the habits of the people rather than a proof that the persons against whom the warrants have issued were incapable of meeting the demand. I think that the honourable gentlemen who have relied so much on this tale of the distress warrants must admit that it is delusive. I therefore cannot support the Honourable Mr. Narayan's amendment. I would however consent to a reduction of one per cent. on the maximum and minimum house-rate as the Honourable Mr. Tucker has suggested, if the Council consider it desirable to afford some relief to the house-owners and are willing to vote an increase of certain town duties, which will then rendersafe the financial position of the Municipality. With regard to another suggestion of the Honourable Mr. Narayan—that is, the proposal to make a consolidated rate—I think it is altogether untenable. I am one of those who believe that persons about to invest in land or houses always make their calculations in respect to the value of the investment by looking into the nature of the property, its situation, and to the contingent outgoings to which it may be subject. I do not believe that any house-owner who has invested money in houses or lands since 1865 has failed to take into account, in making the purchase, all the burdens that may be imposed upon this description of property under Act II. of 1865. If this be so, how can a person so-situated now say that he is worse off than other investors? House-owners who acquired their property prior to the period to which I refer may, no doubt, be sufferers, because they invested their money in property when it was extremely dear, and at a price which it could not now realise. But neither under the existing nor the present Bill is the assessment of house property perma-

nently fixed. It varies from time to time, and is laid upon the yearly or biennial income realized from property. If it is over-assessed one year, it is always open to the house-owner to go to the Commissioner to re-assess it in accordance with the changed circumstances. To refer to the depreciation of prices and of the returns from house property as an argument for the reduction of the house-rate seems to me an entire fallacy. In such a state of circumstances the thing to be done is to obtain a revision of assessment, which the Commissioner is sure to make if the general condition of the place has materially affected the property. In this manner there is always a remedy of some sort at hand to save the house-owner from the consequence of any fall in the value of his property. I think that this desire to weld the house-tax and the occupiers' rate into one, is a mere snare and delusion to induce this Council to abandon a system of taxation, that has been in use ever since this Municipality has been established. I shall certainly oppose the Honourable Mr. Narayan's proposition standing as it does, but if he modifies it in the manner I have indicated, I shall be happy to give it my support.

The Honourable Mr. FORBES—Do I understand the honourable gentleman to say that he would support a reduction of one per cent. upon the maximum?

The Honourable the ACTING ADVOCATE-GENERAL—Yes, I will agree to a reduction of one per cent. on maximum and minimum.

The Honourable Mr. ROGERS—With regard to the proposal to reduce the rate, I am disposed to concur in the course suggested by the Honourable Mr. Tucker, viz., to make a one per cent. reduction in the house-rate. When we took up the consideration of this Bill, we never thought that it was intended we should examine and reconstruct the whole fiscal system of Bombay, and I consider that one of the main reasons why we gave way to the popular demand for representation—whether it was got up by a few reformers or not I cannot say—was that the new Corporation, which should consist of a considerable number of the representatives of the people, would form a good body to correct any inequalities that might be found to exist in the distribution of taxation among the different classes of the community, and that after full deliberation they might come to us with definite propositions for an amendment or alteration of the present fiscal system. Certainly it is too late to bring forward now such a proposal as the one mentioned by the Honourable Sir Jamsetjee when the Bill is about to be read a third time.

His Excellency the PRESIDENT—What has fallen from the Honourable Mr. Rogers coincides with what I feel myself on this point. I confess that I think some honourable gentlemen have really lost sight of what the original intention of this Bill was. When I arrived in the country, I found the Municipal Bill before the public, and from the discussions regarding it, which were being carried on everywhere, I understood that it was the intention of Government to give the people of Bombay a certain amount of control over the management of their own municipal affairs, and it was my endeavour, from the moment I took an active part in connection with this Bill, to give the citizens as much power as could be fairly and safely given to them. It seems to me that if we are going to create municipal bodies, with extensive powers and authority, that these bodies should take their fair share of the responsibilities of the situation, and this they might well do in the manner indicated by the Honourable Mr. Rogers. The Honourable Sir Jamsetjee has suggested that we should postpone the

His Excellency the President opposes further delay, and states that one of the duties of the new corporation will be to inquire into the incidence of taxation.

dassing of this Bill and make some inquiry into the incidence of taxation upon the different classes of the community. Now, I think that that is precisely one of the questions which it will be the duty of the Corporation to consider, and if they find any inequalities or faulty distribution, to make such representations to Government as will enable Government to correct what is found to be faulty. The responsibility of making a change in the distribution of taxation is one of the responsibilities which will attach to a body in which the tax-payers have direct representation, in the meantime, it is our duty to do the best we can to give the citizens a fair amount of real representation; and to assign sufficient revenues to the Corporation to start with, and then allow them to proceed as they think fit within the limits assigned to them. My opinion is, that instead of making any alteration whatever in the distribution of taxes, we should simply decide that an annual rate of 5 per cent. upon the annual value of lands and houses shall be levied from the coming into operation of this Bill, and provide that it shall be lawful for the Government, in compliance with a recommendation from the Corporation, to fix a higher or a lower rate as may be required. Let the Corporation take the responsibility of saying whether this house-rate is too high or too low, and at the same time show, if a reduction is decided upon, how the monies relinquished to house proprietors are to be recovered from other sources. By our merely fixing certain rates and leaving it to the Corporation to alter them, I believe we shall succeed in putting all parties in their proper places.

The Honourable Mr. TUCKER—Do I understand His Excellency to mean that he would have no minimum or maximum rate fixed in the Bill?

His Excellency the PRESIDENT—Not exactly. I would fix no maximum, but start with a minimum of 5 per cent., leaving it to the Corporation to go as high as they may choose without any interference from Government, but giving Government the power to lower the rate on the representation of the Corporation and demonstration that it can be safely done. The whole responsibility will then rest upon the Corporation of saying whether the house-rate is to be high or low. Certainly I do not think we can go back with the Bill now to consider the propriety of making a considerable change in the fiscal system.

The Honourable Mr. TUCKER—I think that the course His Excellency proposes would create alarm. A limit to taxation must be fixed, I think, in the Bill. The course which is now proposed implies unlimited confidence in the Corporation, but I am not sure that the great body of rate-payers will have sufficient faith in the Corporation to entrust them with unlimited power of increasing the rate.

His Excellency the PRESIDENT—That would not be a sufficient reason for rejecting my proposal, but to make sure the honourable member might say, provided that the rate shall not be higher or lower than a certain figure.

The Honourable Mr. NARAYAN—I have no objection to His Excellency's proposal.

The Honourable Mr. TUCKER—There is only this much to be said, that the house-owners will have great influence in the new Corporation, and if we agree to such a proposition as His Excellency's, we may expect that the interest of the house-owners will receive more than a fair share of consideration at the hands of the Corporation. In a body so constituted, the house-owners will very likely seek to relieve themselves at the expense of the rest of the community.

The Honourable Mr. BYTHELL—I certainly think we should fix a minimum, and we may rest there if the house-owning interest do not object to leaving the maximum open.

His Excellency the PRESIDENT—Of course I would not agree to any reduction in the rates unless the Corporation could show how the deficiency was to be made up.

The Honourable Mr. BYTHELL—I believe that if we fix a minimum one per cent. below the present rate, the house-owners cannot complain. I agree with the Honourable the Acting Advocate-General, that those who have invested in property since 1865 have no right to complain of the present rate, and still less could they complain if the minimum should be fixed at 5 per cent. I shall not go over the question again as to whether owners or occupiers pay all the rates, but I think with the Honourable Mr. Tucker, that the Honourable Mr. Narayan's proposal that the house-owners should pay all the taxes proves that they know very well how to recoup themselves. To show that even at present the house-owners do not pay all these taxes, I may mention that it is a very common thing in Bombay for an owner to say to a tenant, "If you pay all the taxes your rent is so much; if I pay them, then the rent is so much more." With regard to the 14,000 house-owners who, as the Honourable Mr. Narayan says, occupy their own properties and pay all the rates, I think it cannot be denied that in addition to these house-proprietors a great many more people live in the same house with them, and I think it would require a great deal of argument to make this Council believe that the people to whom these owners sublet their apartments do not in some way or other contribute their share of taxation. Certainly, as regards the community who live in the dearest houses, and the merchants who live in the various houses in the Fort, the rates are paid by the occupier. With regard to the arguments brought forward to prove that rates amounting to 18 per cent. were paid by house-owners, I think they have been shown to be founded on an entirely false basis, because the users of it have confounded payments for services rendered, such as halalcore cess and water rate, with pure taxation. As to the distress warrants, I think that the facts stated by the Honourable the Acting Advocate-General show that too much stress has been laid on that point. It is a well known fact that many persons in the native community delay paying their debts until they really find that their creditor is going to take steps against them, and some people may possibly behave in the same manner with regard to the Municipal claims.

The Honourable Mr. TUCKER—Before we proceed to vote, perhaps I may be permitted to repeat that considering the existing house-rent is six per cent., there will be a very sensible relief to the house-owners if the reduction which I have suggested is made. With regard to the distress warrants, Mr. Peile tells me that the wonderful issue of distress warrants which has excited so much notice was due to the energy and activity of Mr. Hope, who came down upon a number of people who had previously been dilatory in payment or had managed to evade it. Hence the origin of the sensational stories with reference to the great amount of distress caused by selling up the goods of the poor. In only 33 cases have goods been sold out of the whole number of warrants issued.

The Honourable Mr. NARAYAN—After the remarks which have fallen from the honourable members, I think that it would be useless to press my amendment on the attention of the Council; I shall therefore merely reply to a few of the arguments put forward by

Mr. Narayan withdraws his amendment.

the Honourable Mr. Tucker and the Honourable the Acting Advocate-General. In the first instance, the Honourable Mr. Tucker read extracts from a valuable work on taxation in England, but I submit that the condition and circumstances of this place are totally different to the condition and circumstances of England. If the Legislature in England tried to pass a Bill in the face of so much clamour as has been raised in Bombay against this measure, the representative Government of England would not be allowed to stand a single day. Regarding the distress warrants, probably the Honourable the Acting Advocate-General is not aware that, whatever opinions he may entertain about the native community, it should be said to their credit that they are always ready to relieve the distress of their neighbours and fellow-countrymen, and I believe that it has often occurred that the late Commissioner himself has paid money out of his own pocket to prevent the goods and chattels of poor people from being sold; and passengers on roads have often paid money in the same way to save some poor wretch his bedding and cooking utensils. It would not be safe to deny the existence of distress in the town simply from the fewness of the actual seizures and sales which have occurred. What shifts have been resorted to to prevent them no one can tell. The Government of India being essentially arbitrary and despotic is peculiarly under the obligation of exercising the functions and duties of a paternal Government. Such facts as these therefore show that it is necessary for this Council to inquire into the pressure of taxation. As regards the question whether Government have had notice of the distress caused in Bombay by the oppressive character of the taxation, I know that in 1868 the then Municipal Commissioner, in a letter which he wrote to Government defending himself from adverse criticism, pointed out that the fiscal system was not suited to the place. With these remarks I shall withdraw my amendment, leaving the question of what is suitable to the place to the consideration of this Council.

The amendment was then withdrawn.

<p>The maximum house-rate reduced to 7 per cent., and the minimum to 4 per cent.</p>	<p>After some discussion the Council agreed to fix a minimum of 4 per cent. and a maximum of 7 per cent., and thereupon</p>
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His Excellency the PRESIDENT proposed that Section 69, amended as follows, should be agreed to:—LXIX.—An annual rate of five per centum of their annual value shall be levied upon houses, buildings, and lands in the said city, and shall be payable by the owners thereof in advance in half-yearly instalments, that is to say, the first instalment for the year shall be due and leviable on the 1st of January, and the second instalment on the 1st July of each year: Provided that it shall be lawful for the Government, if it shall see fit, in compliance with a resolution passed by the Corporation at a special general meeting, to fix from time to time, in lieu of the said annual rate of five per centum, some higher or lower rate, provided that such rate shall not be less than four nor more than seven per centum. Any rate so fixed shall be published in the *Government Gazette* before the commencement of the year in which such rate is to have effect.

The section amended as above was agreed to.

The Honourable Mr. MUNGULDASS moved that the words "or portion of flat" be added between the words "flat" and "as" in line 5 of Section 76; and that the proviso of the same section be omitted. The taxation of flats, godowns, and suits of apartments. The honourable member, in supporting his amendment, said—I do not consider it just and equitable to treat a *whole* flat or storey as a separate

property for the levy of house-rate, because it often happens that a whole flat consists of many shops or godowns let separately to different persons, or of several suits of apartments each occupied by separate families or individuals. If only one or two of these are occupied and several others are vacant, Section 64 will make the owner liable for house rate, say at 6 per cent, for the whole flat or storey. I hope the Council will not sanction such gross injustice against which house-owners have good reasons to complain. The Act imposes very heavy taxes on them, and it is neither fair nor expedient to increase their oppressive burden by taxing all unoccupied shops, godowns or suits of apartments in the same way as if they were all used and tenanted. When the subject was discussed in Council, the Honourable Mr. Tucker put an interpretation on this section totally different from the construction which I have put, and which is carried out in practice by the Municipal officers employed to assess buildings. My honourable friend said this was not the case. To remove all doubt or difficulty, I made a reference to the Municipal Commissioner, who says in his reply—"Rates would be levied on the whole of a row of shops or godowns, if they formed the lower storey of a building. The rule is quite simple. A storey is the unit of assessment. If part of any storey whatever is tenanted, rates are charged for the whole. A flat is an entire storey." This important subject has been reserved for further consideration, and for reference to Mr. Peile. I now hope the Council will set the question at rest, and sanction the amendment which I propose, in order that the injustice against which the Bombay Association have justly complained may be remedied.

The Honourable Mr. TUCKER—Sir,—When the Honourable Messrs. Narayan and Munguldass spoke with regard to these sections upon a previous occasion, I mentioned the information which I had received from Mr. Peile. This did not satisfy the Honourable Mr. Munguldass, who said it has been the practice to treat each separate floor of a chawl as a building let in sets of apartments as provided in this. It has turned out on further enquiry, that the honourable gentleman is right, and that the practice of the Municipal Commissioner has been as he described, though apparently under a strict construction of the section it would not include chawls. I find that in England it is considered right that the owners of lodging houses, such as chawls, should pay reduced rates to cover the risk of some of the rooms being unoccupied, and I think we might extend a similar indulgence to the owners of chawls or of ranges of warehouses or godowns. With respect to the house-rate, I think that the introduction of a reduced rate for these buildings in Bombay would have a better effect than the amendment now proposed by the Honourable Mr. Munguldass, and with the assistance of the Advocate-General, I have drawn out a clause to show exactly what is intended. We wish to provide for two sets of things—one for houses let out in separate sets of apartments, and are in effect separate tenements, answering to what are termed "flats" in Scotland, "chambers" in England, and "apartments" in Paris, and for houses which are let in separate rooms for lodgings or for storing goods.

The Honourable the ACTING ADVOCATE-GENERAL read the following section, which was proposed to be substituted for Section 76:—

"In the case of houses or buildings let in flats or sets of apartments constructed so as to form distinct dwelling places, and let as separate tenements, it shall be lawful for the Municipal Commissioner to treat such flats or sets of apartments as a separate property for the purposes of the house-rate: Provided that if any portion of such flats or sets of apartments is occupied, the house-rate shall be leviable upon the valuation of the

whole tenement." The next clause runs—"In the case of any chawl or building let out for hire in single rooms either as lodgings or as godowns for the storage of goods, one-fourth part of the house-rate upon the whole chawl or building shall be remitted: Provided that the owner of such chawl or building shall, within fourteen days after the commencement of the 1st January and 1st July in any year, apply to the Commissioner for such remission, and shall furnish full particulars of the situation of any such chawl or building, the number of the rooms or godowns therein, and the names of the occupants thereof."

The Honourable Mr. MUNGULDASS—That would make things worse instead of better, because the honourable gentleman now proposes to levy the rate upon the whole house even though the greater portion of the same remains unoccupied. If many rooms in the house were vacant, this section would work very unjustly.

The Honourable Mr. TUCKER—It is not easy to suppose that the great portion of these lodging houses remain always vacant. Men do not build houses of that description without taking care that there is a demand for such accommodation as they afford.

The Honourable Mr. MUNGULDASS—I think that honourable members are misled by the state of chawls in the neighbourhood of cotton spinning factories or workshops, where they are readily occupied, but this case is exceptional, and in the greater portion of these buildings more than 10 per cent. of the rooms are vacant in consequence of the population having decreased.

His Excellency the PRESIDENT—Is it impracticable to levy the rate upon each room?

The Honourable Mr. TUCKER—I think it would be. I do not see, however, why we should not place the assessment on every floor instead of on the whole building. As I have said, we intended these clauses to apply to two distinct sets of tenements—one, the sort of tenements into which Albion Place and Grant Buildings are divided, where though one man occupies only three or four rooms, he has virtually a separate domicile; and the other to the buildings called chawls, which in England would be termed lodging-houses.

The Honourable Mr. MUNGULDASS—I prefer my own amendment to this, because I want relief for unfortunate men who will have a large portion of these houses vacant.

The Honourable Mr. TUCKER—The Honourable Mr. Narayan, a house-holder as well as the Honourable Mr. Munguldass, tells me the reduction we propose is sufficiently liberal.

The Honourable Mr. NARAYAN—I do not think it is very liberal, but I think it is fair. The Council divided on the Honourable Mr. MUNGULDASS's amendment:—

Ayes—3.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable COLONEL M. K. KENNEDY.
The Honourable J. A. FORBES.

Noes—8.

His Excellency the Honourable Sir AUGUSTUS ALMEIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRÃO TATYA SAHIB PUTWURDHUN.

The amendment was therefore lost.

The first clause of the Honourable the Acting Advocate-General's section was agreed to, and the second clause was adopted after being amended thus:—"In the case of any chawl or building let out for hire in single rooms, either as lodgings or godowns for the storage of goods, the house-rate shall be levied in respect of the assessment of the rent on each floor, and the owner shall be entitled to a remission of one-fourth part of the said annual house-rate: Provided that the owner of such chawl or building shall, within fourteen days after the first day of January or the 1st day of July in any year, apply to the said Commissioner for such remission, and furnish full particulars of the situation of any such chawl or building, the number of the rooms and godowns therein, and the names of the occupiers thereof."

This section was substituted for Section 76 and stands part of the Bill.

The Honourable Mr. MUNGULDASS proposed that the words "and buildings and lands owned by Government" in lines 4 and 5, Section 77, be

The taxation for Municipal purposes of buildings and lands owned by Government,

omitted. In support of his amendment the honourable gentleman said—I ask the Council to re-consider the decision arrived at on the last occasion to exempt all lands and buildings owned and occupied by Government from payment of the house rate and occupiers' rates on the ground that this Council had no power to impose rates on Government property. Since the Honourable the Acting Advocate-General expressed his opinion in favour of the proposed exemption, the opinions of two other learned Counsel have been taken by the Rate-payers' Committee. These opinions will, I hope, induce the Council to sanction the claim of the Municipal rates and taxes on Government property. The cases decided by eminent judges in England and referred to in the opinions of Messrs. Anstey and Marriott annexed to the petition of the Rate-payers' Committee, coupled with the fact that no such exemption is sanctioned by the Legislative Councils of Bengal and Madras in favour of lands and buildings owned and occupied by Government in the cities of Calcutta and Madras, and the opinion of General Marriott's Committee, of which the present Advocate-General, Mr. Scoble, was a member, will, I trust, be deemed sufficient to convince the Council of the justice and propriety of removing the exemption, which cannot be justified in law as well as equity. The very fact of introducing an express exemption shows that Government property is *prima facie* liable to assessment. With regard to occupiers' rates the Council will, I trust, no longer entertain any doubt or difficulty, but will at once remove the exemption that has been introduced in Section 103. I know your Excellency has expressed a desire on behalf of the Government to give to the Municipality a contribution equal to the amount of the occupation rates claimable in respect of Government property, but unless the express exemption is removed, the contribution is liable to be withdrawn at any moment, as in the case of the police contribution, or in the event of a change taking place in the views of Government.

The Honourable the ACTING ADVOCATE-GENERAL—The honourable member has spoken of the law of this matter, but I shall just read an extract from a decision of the House of Lords, which possibly may induce him to alter his opinion. I think it will sufficiently set forth the grounds upon which I founded the opinion I before expressed. I refer to the Mersey Dock case, which was decided by the highest Court of Appeal in 1865:—

"The Crown, not being named in the statute of Elizabeth, is not bound by it, and consequently the overseers cannot impose a rate on the Sovereign in respect of lands

occupied by Her Majesty, nor on those occupied by her servants for Her Majesty. The exemption depends entirely on the occupier and not on the title to the property. The tenants of Crown property paying rent for it are rateable like all other occupiers, and it has even been determined that when apartments in Hampton Court, a Royal Palace, were gratuitously assigned to a subject, who occupied them by permission of the Sovereign but for the subject's benefit, the subject was rateable in respect of her occupation of this royal property. On the other hand, where a lease of private property is taken in the name of a subject but the occupation is by the Sovereign or her servants on her behalf, the occupation being that of Her Majesty, no rate can be imposed. So far the ground of exemption is perfectly intelligible, but it has been carried a good deal further and applied to many cases in which it can scarcely be said that the Sovereign or the servants of the Sovereign are in occupation. A long series of cases have established that where property is occupied for the purposes of the Government of the country, including under that head the police and the administration of justice, no one is rateable in respect of such occupation. And this applies not only to property occupied for such purposes by the servants of the great departments of State, such as the Post Office, the Horse Guards, or the Admiralty, in all which cases the occupiers might strictly be called the servants of the Crown; but also to property occupied by local police, to country buildings occupied for the Assizes and the Judges' lodgings, or occupied as a County Court or for a Gaol. In these latter cases it is difficult to maintain that the occupants are, strictly speaking, servants of the Sovereign so as to make the occupation that of Her Majesty; but the purposes are all public purposes of that kind, which by the constitution of this country fall within the province of Government and are committed to the Sovereign, so that the occupiers, though not perhaps strictly servants of the Sovereign, might be considered in *consimili casu*. These decisions are uniform, and it was not disputed at the bar that exemption applies so far." This was a case in which the whole law of the subject was reviewed, and I think it must be held to be conclusive on the points which it decides.

The Honourable Mr. NARAYAN—But in any case, this extract cannot be held to apply to houses which Government let and draw rent from.

The Honourable Mr. BYTHELL—Do Government not pay taxes on these?

The Honourable Mr. NARAYAN—No, they do not.

The Honourable Mr. BYTHELL—Government have many bungalows at Colaba which are occupied by Government servants. Do Government not pay house-rate on these?

The Honourable Mr. NARAYAN—No, and under this section they will be exempted.

The Honourable Mr. TUCKER—But until the question has been settled, we are willing, as we have said several times, to make an allowance to the Corporation for that class of property.

The Honourable Mr. BYTHELL—If such property is by law exempt from taxation, it seems to me to be a very retrograde kind of legislation to make a special exemption of it in this Act. I observed that the question is exciting attention at home. I have just received the last volume of Hansard, and I see that in the House of Commons on the 14th of last March, the subject of the liability of Government property to local rates was introduced. Major Dickson asked the First Lord of the Treasury, "if it is the intention of this Government to introduce a Bill this session to make Government property asses-

able to local rates. Mr. Stansfield said he had a Bill drafted which proposed to repeal all exemptions from local rating, including Government property: but he was unable then to state the exact day on which he would ask leave to introduce it." I consider that it is very backward legislation indeed on our part to agree to this section, specially when it is generally admitted at home that it is unjust to exempt Government property at all.

The Honourable Mr. TUCKER—When the Government at home carry a measure containing the views of the honourable member, we shall have a precedent to guide us, but until that time arrives, any motion such as the Honourable Mr. Munguldass' is premature. We have already admitted that Government should pay police and lighting-rates on this kind of property, but we hold that we cannot lawfully make this declaration in the Bill.

The Honourable Mr. BYTHELL—I wish to point out that though the present Executive Government have promised to make a contribution to the Municipality, it is possible that a future Executive Government might refuse to make the grant, on the ground that in doing so they would be going against the Act, which specially stipulates that the house-rate shall not be paid on Government buildings.

The Council divided on the Honourable Mr. Munguldass' amendment:—

Ayes—5

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable SIR JAMSETJEE JEJEEBHOY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—7

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The amendment was therefore lost.

The Honourable Mr. TUCKER moved that the words " shall be permitted" be inserted in line 22 of Section 78 after the word " occupier."

The amendment was agreed to.

The Honourable Mr. MUNGULDASS moved that the words " Municipal Fund" in lines 16 and 17 of Section 86 be omitted, and the words " Provincial Revenue" substituted. In supporting his amendment the honourable gentleman said—I consider it my duty to remonstrate against the retention of Section 84 in its present form, because while it professes to devolve the entire cost of the maintenance of the city police on the Municipality of Bombay, it gives the Corporation no control whatever over the expenses of the police force which it authorizes the Government to fix and determine from time to time. There ought to be a limit to the demands of Government in this matter. Before the enactment of the present law the Municipality was required to make an annual contribution of Rs. 81,600 only. When Act II. of 1865 came into operation, the police expenses amounted to Rs. 2½ lacs a year, and subsequently they were enhanced from time to time by Government, and whilst the

The maintenance of the police by the Municipality.

Corporation has been compelled to pay about 4 lacs a year during the last six years, the Government contribution of one lac has been totally withdrawn since last year. The result is the deficit in the Municipal Fund has been enhanced each year, and the debt of the Corporation has increased by several lacs. If the Government decline to give to the Corporation of Bombay such powers of controlling and checking the police expenditure as are given to the sister Municipality of Calcutta by Sections 5, 6, and 7 of Act XI. of 1867, Government should be satisfied with the proceeds of the police tax levied at the highest rate, viz., 3 per cent., which amount, I believe, will be more than sufficient, and Government should regulate the police expenditure in such a manner that it shall be covered by the income of the police tax; but if the Government choose to increase the expenditure so as to cause a deficit, it is fair and reasonable that Government should contribute the amount of such excess of expenditure out of the provincial revenues. The Council will be good enough to bear in mind the important fact that the Calcutta Municipality pays Rs. 2,71,000 a year, being three-fourths of the amount of police expenditure, and the remaining one-fourth is contributed by Government out of the Provincial revenue. The Council is perhaps aware that Lord Napier, late Governor of Madras, publicly declared before the Legislative Council of Madras on the 18th February 1870, as follows:—

“ There is no duty more plainly incumbent on the State than the protection of the lives and property of the citizens.” This view was fully carried out by the Madras Government in the following year, when the Municipality of Madras was by Act V. of 1871, Section 2, totally relieved from contributing towards the maintenance of the city police. The Honourable Mr. Arbuthnot, executive member of the Madras Government, made the following declaration on behalf of Government at the meeting of the Legislative Council held on the 17th February 1871:—“ It is in conformity with the views entertained by the large majority, if not by all the members of the Council, that the police ought to be one of the first charges on the general revenues, and it tends to simplify the accounts and estimates of the Municipalities. It also substitutes a fixed charge on the general grant for what might be, and probably would be, an increasing charge, and it is the arrangement which, we believe, will be most generally acceptable to the rate-payers.”

I don't go so far as the Madras Government in this matter. I don't ask the Bombay Government totally to relieve the Corporation of the liability to defray the cost of the police. I simply ask the Council to put a limit to the demand of Government, and not to impose an unlimited liability on the Corporation, which it is not able to bear. The duty of contributing to the police expenditure has been recognized by this Government as well as the Supreme Government, as was recently shown by the Honourable Mr. Narayan. No argument derived from any deficit that might exist in the Provincial Budget can, in my humble opinion, justify Government in declining to perform their duty. But irrespective of this contention, I am in a position to show that if my amendment be adopted, it will not be necessary for Government to contribute a single rupee towards the expenses of the City Police. The income of the police-rate at 3 per cent. will, according to the Budget Estimate for this year, amount to Rs. 3,92,000, to which I add Rs. 12,000 as the amount expected to be realized from the tax to be imposed on Fire Insurance Companies. If from this amount the cost of collection, Rs. 12,000, be deducted, the net income will amount to Rs. 3,92,000. As the Police Budget of this year amounts to Rs. 3,77,000, there will be surplus of Rs. 27,000 instead of any deficit. Consequently if the Government do not make a very large increase in the amount of the police expenditure, there will be no deficiency for Government to supply from the Provincial revenues.

But if Government choose to make a very large increase, it is but fair that they should be made to supply the deficit which they themselves create. It cannot be contended for a moment that the inhabitants of Bombay are disloyal, or that they are disorderly and riotous, and that it will therefore be necessary to increase the Police Force in order to preserve the peace. The people of Bombay are so well behaved and celebrated for their allegiance to the British Crown and for their peaceful conduct as to render an augmentation of the police on that ground unnecessary.

The Honourable Mr. ROGERS—The Honourable Mr. Munguldass seems to think that Government are going to increase the cost of the police, but I do not think that he has any reason for thinking so.

The Council divided on the Honourable Mr. Munguldass' amendment:—

Ayes—5.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable SIR JAMSETJEE JEJEEBHOY.
The Honourable J. A. Forbes.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The motion was lost.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under-Secretary to Government.

Puna, 15th October 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Puna on Wednesday, the 16th October 1872, at noon.

P R E S E N T :

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

His Excellency the Honourable SIR AUGUSTUS ALMEBIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

A communication from the Secretary of the Chamber of Commerce, dated the 12th October, enclosing extracts from the proceedings at a meeting of that body held on the 8th October, was read by the Acting-Secretary to the Council.

The letter from the Chamber of Commerce regarding the proposed duty on cotton provided in Bombay Municipal Bill presented to the Council.

The Honourable the ACTING ADVOCATE-GENERAL mentioned that as Section 82 in the Bill stood at present a remission would only be allowed on property let out for separate tenements. He, therefore, proposed a series of amendments on that section, making it read as follows :—

Amendments proposed before the third reading of the Bombay Municipal Bill.

“When any land, house, or portion of a house, let as a separate tenement, or for lodgings, or godowns, as mentioned in Section 76 of this Act, shall have been vacant for sixty consecutive days during any year, the Commissioner shall remit so much of the rate for that year as may be proportionate to the number of days the said land, house, or portion of a house may have remained unoccupied: provided that the owner of such land, house, or portion of a house, or his agent, shall have given notice, in writing, of the vacancy thereof to the Commissioner, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.”

The amended section on the assessment of house property.

The section as amended was agreed to and stands part of the Bill.

The Honourable SIR JAMSETJEE JEJEEBHOY proposed the following amendment, of which the Honourable Mr. Narayan had given notice :—

“That the words ‘not less than two and’ in line 11 of Section 86 be omitted; and that the word ‘two’ be substituted for the word ‘three’ in line 12.”

Payment of the Police by the Municipality.

The Honourable Mr. MUNGULDASS—If the Council wish to give this relief, it should be fixed at 2 per cent. instead of “not more than.”

The Honourable Mr. TUCKER—I think we have given quite enough relief in that direction.

The Honourable Mr. RAVENSCROFT—I think that any modification in this direction would be unsuitable, and I shall oppose it.

The Honourable Mr. ROGERS—I learn from the Honourable Mr. Munguldass that the amount of this tax at one per cent. would be about Rs. 1,30,000, and therefore if we reduce the present income to that extent, a considerable drain will require to be made upon the Municipal Fund.

The Honourable Mr. MUNGULDASS—Two per cent. sufficed until Government discontinued its contribution. Up to this time I believe that Government have contributed towards the Mofussil police, and I find that even under Act I. of 1871, Government cannot recover from Mofussil Municipalities more than a fifth of their income.

The Honourable Mr. RAVENSCROFT—Government may make a Mofussil Municipality pay for the whole expense of the Police, if it do not exceed more than one-fifth of the entire revenue of the said Municipality.

The Honourable Mr. MUNGULDASS—Am I to understand that the Police in cities under this Presidency, like Púna and Ahmadabad, are entirely supported by their Municipalities?

The Honourable Mr. RAVENSCROFT—Yes; to a very great extent in all Municipalities to which Act I. of 1871 has been applied.

The Honourable Mr. FORBES—I think that we ought to vote in favour of this amendment, because I do not see the object of retaining the power to impose an additional rate when it has not been found necessary to exercise it in former years.

The Honourable Mr. TUCKER—But the rate has only been in force since 1866, and because a necessity has not arisen during the last six years we cannot assume that it will never arise.

The Honourable Mr. MUNGULDASS—The ratepayers already complain that they cannot bear even the present taxation, and we can only relieve them by two ways,—either by Government helping the Municipality with a contribution towards the police expenses and by paying rates on Government property, or by reducing the present Municipal expenditure upon the classes on whom it presses too heavily.

The Honourable Mr. TUCKER—If we were to agree to the present proposal it would not give any immediate relief to the persons now taxed. It would simply curtail the power of the Corporation in the event of any contingency arising which rendered an increase of the police necessary for the security of life and property. If the city did ever find itself in such a predicament, and the Corporation had not the necessary power to increase the rate for the better protection of the inhabitants, I believe that the owners of house property would be the first to regret that this part of the section had not been allowed to remain as it stands. Surely the Corporation will never enhance the minimum rate unless it is found necessary for the general good to do so. I think that in the same spirit with which we made an alteration yesterday in the section regarding the house-rate, giving more latitude to the Corporation, we might in this instance allow them a power to increase the rate, if they thought it necessary to do so.

The Honourable Mr. MUNGULDASS said he had no objections.

The Honourable Mr. TUCKER—But if the Council permanently fix this rate at the present minimum amount, it will practically give the Corporation no discretion in case of an emergency.

The Honourable Mr. FORBES—I think it is desirable to curtail the power of the Corporation to increase taxation.

His Excellency the PRESIDENT—In this case they have not got the power of curtailing the expenses of the police, because, as the law stands at present, Government fixes the establishment.

The Honourable Colonel KENNEDY—I think this item of police is the last in which the Corporation ought to reduce expenditure.

The Honourable Mr. FORBES—It is entirely a matter of opinion as to whether the police force is excessive or not, and I doubt whether it is entirely used for Municipal purposes. I believe that a great part of the police is occupied in doing imperial or provincial rather than municipal service in Bombay, and therefore a portion of the police expenditure ought to be paid out of imperial revenue.

His Excellency the PRESIDENT—Imperial duties of what kind?

The Honourable Mr. FORBES—Guarding Government buildings and public offices.

His Excellency the PRESIDENT—If there are any other Government services for which the police are employed, I think it would be a fair question for consideration whether a contribution should not be made on that account.

The Honourable Mr. MUNGULDASS—I think that the services of the police at Government properties are paid for by Government.

The Honourable Mr. FORBES—Does the honourable gentleman mean to say that the police who are occupied in guarding the Government Houses at Parell and Malabar Point are paid for?

The Honourable Mr. MUNGULDASS—Yes; I believe that it is so, and my information goes further—that the police in charge of the Dockyard and the Town Hall are paid for, as also are the Harbour Police, by Government. At least this was the case last year, I know.

The Honourable Mr. RAVENSCROFT confirmed the statement of the Honourable Mr. Munguldass.

The Council divided on the amendment of the Honourable Mr. Narayan :—

<i>Ayes—4</i>	<i>Noes—7</i>
The Honourable MUNGULDASS NCTHOOBHOY.	H. E. THE Honourable Sir AUGUSTUS AL-
The Honourable Sir JAMSETJEE JEJEEBHOY.	MERIC SPENCER.
The Honourable J. A. FORBES.	The Honourable H. P. ST. G. TUCKER.
The Honourable GUNPUTRAO TATYA SAHIB	The Honourable A. ROGERS.
PCTWARDHUN.	The Honourable the ACTING ADVOCATE-
	GENERAL.
	The Honourable M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable J. K. BYTHELL.

The motion was therefore lost.

The Honourable Sir JAMSETJEE JEJEEBHOY then brought forward the following amendment, of which the Honourable Mr. Narayan had given notice :—" That the words 'not exceeding' be inserted in place of the word 'of' between the words 'rate' and 'two' in line 5 of Section 87."

The Honourable Mr. TUCKER—The 2 per cent. is hardly sufficient, the expenses being barely covered at that figure.

The Honourable Mr. MUNGULDASS expressed himself against this amendment.

The motion fell to the ground.

The Honourable Mr. MUNGULDASS withdrew the amendment on this section of which he had given notice.

The Honourable Mr. TUCKER proposed that the words " to the said Commissioner" be inserted in line 8 of Section 90 after the word "fit."

The amendment was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. MUNGULDASS proposed that Section 96, which authorizes the levy of a supplementary rate, be omitted. The honourable member said—I protest strongly against the retention of Section 96, which legalizes the imposition of a special supplementary rate to supply any deficit that might occur in any year. First, because it is neither expedient nor politic to expose the people to the risk of being called upon to pay a fresh and indefinite tax in addition to the heavy and almost intolerable burdens which are imposed on the rate-payers of Bombay. Secondly, because uncertainty of taxation is productive of evils which ought to be avoided. Thirdly, because it is liable to be levied at a time when it might put the people to great inconvenience and loss. Fourthly, because it will be unequal in incidence and will fall chiefly on one class of rate-payers who possess landed property. Fifthly, because it takes away all incentive to economy and encourages extravagant and unauthorized expenditure, which has already involved the Municipality in heavy debts.

Mr. Munguldass objects to the supplementary rate.

The Honourable Mr. TUCKER—Even in the best and most carefully considered Budgets mistakes will sometimes occur sufficient to alter an estimated surplus into an actual deficit, and every year we have instances of this happening in some country or another. By this section, all that is meant to be expressed is simply that there is a possibility of deficit, no matter how much credit we may be prepared to give to the Corporation for prudence and economy, and that when this contingency shall happen the Corporation shall be bound at once to take measures to supply the deficiency. So far from this section encouraging extravagant expenditure, I must repeat that I believe it will have an opposite effect, as the Corporation will be made much more careful in preparing their estimates than they might otherwise be. I agree, however, so far with the honourable gentleman, that it is not fair to insist that the obligation to make good this deficit shall only be thrown upon the classes which pay rates, and therefore I am about to propose an alteration in the section which will have the effect of allowing the Corporation to have recourse to any head of taxation, which they have the power to increase for the supplementary supply which may be called for to make good the deficit. If it should ever be the misfortune of the Corporation to have to impose an additional tax, my amendment will enable them to decide whether it shall be levied in the shape of town duties or in any other way. I think this ought to meet most of

the objections which honourable members have urged against this section, and I am unable to assent to the omission of the section altogether, because if that were done we could have no provision which would enable the Corporation to meet an emergency of this description.

The Honourable Mr. RAVENSCROFT considered that the Honourable Mr. Tucker's amendment would meet all contingencies, and therefore he would vote against the Honourable Mr. Munguldass' amendments.

The Honourable Mr. FORBES—I shall certainly vote in favour of the amendment which has been proposed. I am certain that the Justices who appealed to Government to alter the present Municipal Act did not intend that a new tax should be imposed upon the city. This is really a new tax, to which the inhabitants have never hitherto been exposed. It certainly appears to me that if the Budget is likely to be exceeded, the proper remedy is to curtail expenses; whereas, having this supplementary rate which may very easily be imposed, it is probable that attention will not be paid to reductions which might be made.

The Honourable the ACTING ADVOCATE-GENERAL—I shall oppose the Honourable Mr. Munguldass' proposition. I think that the Honourable Mr. Forbes entirely misapprehends the effect of this section. It is not a new rate upon the people at all—it is simply a legal means to provide for a deficiency of income. If too much money has been spent, it must be made up somehow, and it is not new taxation if the Council simply gives the power to the Corporation for one particular year to meet over-expenditure. That the principle is not a new one I shall prove to the Council. In an Act which I have no doubt the Honourable Mr. Forbes is very familiar with—namely, the Act called The General Police and Improvement Act for Scotland, to make effectual provision for regulating the police of the towns and populous places in Scotland, and for lighting, cleansing, draining and so forth—I find that Section 108 says that if the rate or assessment for any year shall not be sufficient for the purposes for which it was imposed and levied, the Commissioners shall and are hereby authorized and required to make provision for the payment of such deficiency by an assessment of rate for the purpose in the following year or years until the same shall be fully paid. Here, therefore, the principle has been laid down with great breadth, and I have no doubt that the framers of the Municipal Bill now before the Council had this Scotch Act, among others, under their consideration, and adopted the suggestions which appeared to them to be suitable to Bombay.

The Honourable Mr. TUCKER—What is the year of the Act which the honourable gentleman quotes from?

The Honourable the ACTING ADVOCATE-GENERAL—1862. When we see a section of this kind passed in an Act which is of much more magnitude than ours, and which has been carefully considered by the home Legislature, I think it ought to have considerable force in the matter before us. I think the intention of such a section is manifestly to meet the just claims of creditors who may have dealt with the Corporation, and I think that its presence in the present Bill is only just.

The Honourable Mr. BYTHELL—The Honourable the Acting Advocate-General has omitted to tell us that no Scotch town has a Commissioner who may do as he pleases placed over it by Government whether it wishes it or not.

His Excellency the PRESIDENT—The Commissioner here cannot spend money.

The Honourable Mr. BYTHELL—I think he can, and in this way—he may tell some contractors that he wants a certain work done, but that as he has not the money to pay he will be happy to allow them to carry out the work, if they agree to do so upon credit. I have been told by several Justices of the Peace that this was often done by the late Municipal Commissioner. I think that any contractor, looking at Section 42 and seeing there that “the entire executive power and responsibility for the purposes of this Act shall be vested in one Commissioner,” might adopt this course without any fear of losing his money. At any rate, if it has been done in the past, I do not see any reason for saying that it cannot be done in the future.

The Honourable Mr. TUCKER—Excepting that the late Commissioner was not put under the same restrictions as the Commissioner under this Act will be.

The Honourable Mr. BYTHELL—But I have cited a case in which the Commissioner may spend without the sanction of the Corporation. Of course the Commissioner would be personally responsible to the Corporation for any actions of that kind, but that would be very poor recompense to them for any loss that his conduct would entail upon them.

The Honourable Mr. TUCKER—If he makes any contract of the description mentioned by the honourable gentleman without consulting the Town Council, he will be acting illegally.

His Excellency the PRESIDENT—He may do what he likes apparently in contracts under Rs. 5,000.

The Honourable Mr. TUCKER—But even within that amount he is bound to report contracts, and I think that there are several provisions in this Bill which will clearly prevent malpractices of this kind.

The Honourable Mr. MUNGULDASS—We have already had to pay thirty lakhs for unauthorized expenditure, and I think that, if this section is allowed to remain, there will be again an incentive to extravagance. I would mention to the Advocate-General that Bombay is not Scotland.

The Honourable Mr. BYTHELL—I did not know that the unauthorized debts amounted to such a large sum as 30 lakhs, but we are all very well aware that in consequence of the way the late Commissioner ran the city into debt it had recently to borrow Rs. 15,00,000. Therefore, I should like to ask the Advocate-General, whether under this Act the Corporation could turn round and say they did not want any work that they had not authorized and could refuse to pay the money.

The Honourable Mr. TUCKER—If a work should be executed which was not in the Municipal Budget, the Corporation could refuse to take it or to pay for it.

His Excellency the PRESIDENT—But I would again point out there is no limit to the Commissioner's power of making contracts, provided he keeps each contract under Rs. 5,000.

The Honourable Mr. TUCKER—I do not dissent from His Excellency's views that some improvement ought to be made in the section referring to contracts, and we can consider this point when dealing with that portion of the Bill which contains the regulations regarding contracts, but at present we are on the question of the supplementary rate. This rate is introduced to enable the Corporation to provide funds as they are needed in consequence of a failure of income to meet the actual expenditure, and in considering this

section it is not necessary for us to settle the general question which has now been irregularly raised as to the power of the Commissioner under the Bill to involve the Corporation in unauthorized expenditure and to run it into debt. I quite agree with His Excellency and the Honourable Mr. Bythell that some further restraint in the matter of contracts should be placed on the Commissioner, and this we may discuss hereafter; but the discussion is out of place while we are on the supplementary rate.

His Excellency the PRESIDENT thought that in Section 96 "legitimate" expenditure should alone be mentioned.

• The Honourable Mr. TUCKER—I am quite willing to agree to such an alteration because the section was never meant to meet illegitimate expenditure.

The Honourable Mr. MUNGULDASS—If an alteration such as His Excellency indicates be agreed to, I would withdraw my amendment in favour of it.

The Honourable Mr. TUCKER then introduced the amendment on the section, of which he had given notice.

After some further discussion this amendment, with an alteration introduced to meet the view of His Excellency the President, was agreed to, and the section was amended and stands as follows:—"Whenever it shall appear, from the statement of actual cash receipts and expenditure in any year, laid before the Corporation at their quarterly meeting in the month of April next following, as provided in Section 33 of this Act, that the receipts on account of the municipal fund have not been sufficient to meet the expenditure sanctioned in the Budget, the Corporation shall forthwith provide funds for supplying the deficit either by diminishing the expenditure proposed for the current year and re-adjusting the items of the Budget for that year, or by raising additional income to cover the amount of the deficit; and for the purposes aforesaid, it shall be lawful to the Corporation, subject to any sanction of Government which may be requisite under this Act, to increase any of the rates, taxes, or duties which the Corporation is empowered to increase under the provisions of this Act so as to raise the said additional income, anything provided in Section 37 of this Act to the contrary notwithstanding. The Town Council shall forthwith apply the funds provided in the manner aforesaid to discharge the liabilities incurred in consequence of the excess of expenditure over receipts, and so soon as the accounts of the year are finally closed, shall publish in the *Government Gazette*, and in at least one of the daily English newspapers and in one daily Guzerati newspaper and in one Marathi newspaper published in Bombay, a report describing in detail the proceedings taken by them under this section and the manner in which the moneys collected have been applied."

The Honourable Mr. TUCKER—In consequence of the alterations on this section we must now refer to Section 4 and the other sections where the supplementary rate is alluded to, and alter the words "supplementary rate" to "supplementary tax." This will be the effect of the second amendment which I have given notice of.

It was agreed that the alterations should be made.

The Honourable the ACTING ADVOCATE-GENERAL—With reference to the "Bludgeon Clause" I would refer the Honourable Mr. Munguldass to the English Sanitary Act of 1866. The British Parliament, with the light of many Acts before it, and apparently with

The precedent for the bludgeon clause.

the knowledge that local boards were very often disinclined to carry out powers they were entrusted with, reserved a power in sanitary matters to one of Her Majesty's Secretaries of State similar to the power we have reserved to Government in this Bill, so that this clause which is so much objected to is not altogether without precedent.

The Honourable Mr. TUCKER—I may mention that this clause was drawn up by the Honourable Mr. White on the model of the compulsory clause in the English Act of 1866. I do not say that Mr. White approved of this section, but as Advocate-General he drew it up upon the precedent I have mentioned. There is a material difference however in the two clauses, as in the English Act the Secretary of State exercises this power through the Court of Queen's Bench.

The Honourable Mr. TUCKER moved—"That the words 'Police, lighting, water, and special supplementary rate' in Section 97 be omitted, and the following words be inserted in their stead—'The police, lighting, and water rate, and any supplementary rate which may be imposed under the provisions of the preceding section.'"

The alteration was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. MUNGULDASS—Regarding Section 98, I wish the power of remission to lie with the Town Council as well as the Municipal Commissioner.

The Honourable Mr. TUCKER—I think we had better not alter the section. The Commissioner cannot remit unless the Town Council approve, and the Town Council cannot remit until the Commissioner brings the case before them. I think that is the extent to which the Town Council should interfere.

The section was not altered.

The Honourable Mr. ROGERS—I move that the following words be added at the end of Section 98 as it stands:—"Or when it shall appear to be for the interest of the Municipal revenue to do so." This alteration will save the Commissioner from collecting revenue at a loss instead of at a gain.

The Honourable the ACTING ADVOCATE-GENERAL—I think it would be better to adopt the words of the English Public Health Act.

The Honourable Mr. BYTHELL—If the Council follow the English Act, it will have to exclude the Commissioner and to leave the matter to the Town Council alone.

The Honourable Mr. ROGERS had no objection to adopt the words of the English Act, and the section was altered to read as follows from the word "approval"; "Of the Town Council to reduce or remit the payment of any rates for the year or any instalment thereof on account of the poverty of any person liable to the payment thereof, or when it shall appear to be for the interest of the Municipal revenue to do so."

The alteration was agreed to and the section as amended stands part of the Bill.

The Honourable Mr. MUNGULDASS proposed that Section 101 be omitted, and in lieu thereof the following section be substituted:—"When any house, building, or land is sub-let in apartments, flats or portions of flats, the owner thereof shall furnish the Municipal Commissioner with a list of his tenants showing the amount of rent paid by each tenant at least 15 days before

The rating of unoccupied houses for occupiers' rates. Mr. Munguldass proposes that rates should be recovered from tenants in proportion to the amount of rent they pay.

the 1st January and 1st July in each year, and the Municipal Commissioner shall thereupon proceed to recover the occupiers' rates from such tenants in proportion to the amount of rent paid by each tenant; but if the owner shall neglect to furnish the Municipal Commissioner with such list as aforesaid, the Municipal Commissioner shall proceed to recover the said rates from the owner instead of from the tenants of such house, building, or land sub-let as aforesaid, provided no rates shall be chargeable to any persons on account of any unoccupied house or portion of a house for the time during which it may remain unoccupied." In supporting his amendment the honourable member said—The proposition contained in line one of Section 101, which enjoins the levy of occupiers' rates from owners of houses and buildings that are unoccupied, is utterly indefensible. These rates are imposed, as indicated by the designation, in respect of certain services rendered by the Municipality to occupiers in protecting their person and property and providing them with the convenience of lighted streets. Consequently it cannot be contended that it is fair and reasonable to levy these rates on houses and buildings which are vacant and unoccupied, and which do not require such services. I therefore trust the Council will give effect to the recommendation made by General Marriott's Committee to exempt all unoccupied houses and buildings from payment of occupiers' rates. It is an imposition to make a charge for rendering services to occupiers when there are no occupants whatever, and when there is no necessity at all for such services. I beg to draw the attention of the Council to the fact that Bengal Act VI. of 1863, Section 62, exempts unoccupied houses. The section is as follows:—"Every occupier shall be liable to the lighting rate and to the water rate for the time of his occupation; and when any person shall have been an occupier for a part only of any quarter, the Justices shall charge him with only so much of the rate for that quarter as may be proportionate to the number of days during which he shall have continued to be an occupier. No such rate shall be chargeable to any person on account of any unoccupied house for the time during which it may remain unoccupied: Provided always that, when any person ceases to be the occupier of any premises liable to the rate, he shall give the Justices notice thereof, or if he fail to give such notice, he shall be liable to the rate assessed on the said premises for the whole quarter, although they may have been occupied for a part only of such quarter." With regard to the rest of the section which compels the owner to pay occupiers' rate when any house or building is let in apartments or flats or portions of flats, or when any land is let in portions, I cannot see any ground for sanctioning the proposed injustice of levying these rates from the owner and exempting the occupier. I therefore ask the Council to omit Section 101 and to substitute Section 7 of Act IV. of 1867, as proposed by me. This will not only remedy the injustice just referred to, but will give many persons a voice in the conduct and management of Municipal affairs who are at present excluded from the Corporation and will be deprived of the franchise conferred by Section 6. Thus the names of all European gentlemen who live in clubs or jointly with others, and all merchants, barristers, attorneys, &c., who have their offices in large buildings, will appear in the books of the Municipality. They will therefore be disqualified for voting as electors and serving as members of the Corporation.

His Excellency the PRESIDENT—Certainly there is on the face of these sections a contradiction in terms, because although there may be no occupier, yet occupiers' rates are charged. I think this appears strange.

The Honourable Mr. BYTHELL—The Council will get over the difficulty by substituting the words police and lighting rate for occupiers' rates.

The Honourable Mr. MUNGULDASS—There was no such section as this in the previous Acts, and I do not see why it should be introduced now.

The Honourable Mr. TUCKER—General Marriott's Committee considered that no rates ordinarily paid by occupiers should be charged if a house was not occupied. I think that as we have in a measure agreed to the principle that there should be a division of rates, half upon the owner and half upon the occupier, that full occupiers' rates should not be charged to an owner for an unoccupied house.

The Honourable Mr. MUNGULDASS—The Honourable Mr. Bythell speaks about police and lighting rates, but does vacant land require lighting?

The Honourable Mr. BYTHELL—By this Bill, if a house is unoccupied for a whole year, the owner pays no house rate, and if this section be altered he will pay no police or lighting rate. I do not think that this is right, and I certainly am of opinion that at the very least the owner should pay police rate, because the property has always to be protected. If there were a riot in the city, probably the house-owner would be the first to see how necessary police protection was for the safety of his property. Besides this, we have seen many large owners of house property of late keeping their property unoccupied for as long a time as three years, in order to obtain high rents, and this is a line of action that should not be encouraged. Such property ought to pay the police rate, because unless the property were protected, the owners would suffer materially. It has been said that many owners keep ramosies to guard their vacant houses, but if the general body of police were withdrawn, these ramosies would not be sufficient for this purpose. All house-owners are benefited by the existing police arrangements, and should contribute whether their houses are occupied or not.

The Honourable the ACTING ADVOCATE-GENERAL—Property is protected by lighting also, and therefore I think that both lighting and police rates should be paid by house-owners, although their houses may be untenanted.

The Advocate-General thinks lighting rate should also be paid for unoccupied houses.

His Excellency the PRESIDENT—I think that the owner of house property ought to contribute for its protection under all circumstances, and I therefore think that no exemptions from police rate should be allowed in the case of vacancy.

The Honourable Mr. TUCKER—I agree with His Excellency that the house-owner ought always to pay house-rate, but I do not think he should pay all the occupiers' rates for an unoccupied house.

The Honourable Mr. MUNGULDASS—I would submit that the course now proposed by several members of this Council would, if carried out, be nothing else than an income-tax upon house-owners. With the greatest respect I would point out that the house rate is a tax upon income, and if a man is unfortunate enough to get no tenant, I cannot see why an additional tax should be levied upon him.

The Honourable Mr. TUCKER—Does the honourable member mean to say that the house rate which he pays is a tax on his whole income?

The Honourable Mr. MUNGULDASS—Yes; on income derived from the whole of my landed property.

The Honourable Mr. TUCKER—But that is not all the honourable gentleman's income—he may have money in Government securities and invested in other ways, which returns him an income.

The Honourable Mr. MUNGULDASS—I would point out that one man may invest his money in Government securities or in other ways in the city of Bombay, and he enjoys every protection, but he does not contribute to the rates ; and another man invests his money in house property and has to bear all the burdens of the Municipal expenditure in consequence.

The Honourable Mr. BYTHELL—But the man who puts his money into house property finds that it will pay him to do so, or he would not act thus.

The Honourable Mr. TUCKER—The correct mode of regulating this matter would be as His Excellency has suggested, that the owner should always pay something for the protection afforded to real property by the general Municipal arrangement, and as under this Bill if a house be entirely vacant for more than two months, the owner gets an entire exemption, it is right that he should pay the police rate, if not the lighting rate also. When I last spoke I overlooked the fact that the owner could get an exemption from the house rate if his house was vacant for more than two months. The arguments of the Honourable Mr. Munguldass would have some force if the owner always paid full house rate when his house was vacant, but it fails in consequence of the exemption from house rate. If the exemption for house rate were done away with, the liability to occupiers' rates when there was no tenant might be equitably foregone, but not otherwise.

His Excellency the PRESIDENT— I think that the principle that house-owners should always pay police rates is the legitimate result of the discussions which the Honourable Mr. Munguldass has provoked.

The Honourable Mr. MUNGULDASS—Since the commencement of the Municipality of Bombay, it has been the rule that empty houses should be excluded from the house-rate.

After some further discussion the Honourable Mr. Munguldass' amendment was put to the vote and lost :—

<i>Ayes—4.</i>	<i>Noes—7.</i>
<p>The Honourable MUNGULDASS NUTHOOBHOY. The Honourable Sir JAMSETJEE JEJEEBHOY. The Honourable J. A. FORBES. The Honourable GUNPUTRAO TATIA SAHIB PUTWURDHAN.</p>	<p>His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER. The Honourable H. P. ST. G. TUCKER. The Honourable A. ROGERS. The Honourable the ACTING ADVOCATE-GENERAL. The Honourable Colonel M. K. KENNEDY. The Honourable E. W. RAVENSCROFT. The Honourable J. K. BYTHELL.</p>

The Honourable Mr. BYTHELL proposed that after the word "unoccupied" in line 2 of the section, the following words should be added—"The owner thereof shall be liable or the police rate."

His Excellency the PRESIDENT—As I understand this motion, it does not apply to flats or portions of a house.

The Honourable Mr. BYTHELL—I think that the owner ought to pay the police rate in all cases.

The Honourable Mr. TUCKER—I am afraid that by altering this section at this late stage we may commit some grave mistake and introduce confusion into the provisions of the Bill. I at first agreed to relieving the owner from a portion of the occupiers' rates in the case of a vacant house, because I had forgotten his exemption from house rate. As that exemption is to continue, I prefer to leave the Bill as it stands on the point, so I shall oppose any amendment.

The Honourable Mr. BYTHELL's amendment was finally put to the vote in the following shape :—

“When any house, building, or land is unoccupied, the owner thereof shall be liable for the police rate; and when any house, building, or land is sub-let in flats or sets of apartments or for lodgings or godowns as mentioned in Section 76 of this Act, the owner thereof shall furnish the Municipal Commissioner with a list of his tenants, showing the amount of rent paid by each tenant at least fifteen days before the 1st January and 1st July in each year, and the Municipal Commissioner shall thereupon proceed to recover the occupiers' rates from such tenants in proportion to the amount of rent paid by each tenant; but if the owner shall neglect to furnish the Municipal Commissioner with such list as aforesaid, the Municipal Commissioner shall proceed to recover the said rates from the owner instead of from the tenants of such house, building, or land sub-let as aforesaid.”

The Council decide that all houses shall be liable to police rate.

The Council divided on the Honourable Mr. Bythell's amendment :—

<i>Ayes</i> —5.	<i>Noes</i> —5.
The Honourable MUNGULDASS NUTHOOBHOY	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable SIR JAMSETJEE JEJEEBHOY.	The Honourable H. P. ST. G. TUCKER.
The Honourable J. A. FORBES.	The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable J. K. BYTHELL,	The Honourable Colonel M. K. KENNEDY.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN,	The Honourable E. W. RAVENSCROFT.

His Excellency the PRESIDENT having voted in favour of the amendment the motion was carried. The Honourable Mr. Rogers declined to vote.

In line 5 of Section 102 “or” was deleted, and “or portion thereof” inserted after land
In line 17 of Section 183, “also” was inserted after “provided.”

The Honourable Mr. TUCKER on the motion of the words “sunrise and sunset” in line 6 of Section 111 were omitted, and the words “5 A.M. and 7 P.M.” substituted.

The Honourable Mr. BYTHELL moved that the following words in lines 10 to 14 of Section 114 be omitted:—“The list of articles and rates specified in the said schedule may be altered from time to time by the Corporation with the sanction of Government.” He said—I had always been under the impression that this Council, His Excellency the Governor of Bombay, and the Government of India, each and all retained on principle a voice in deciding as to what

Mr. Bythell objects to the Corporation being allowed power to alter the articles or rates specified in the schedule of town duties.

extent local taxation should go in any one direction. I thought that while power was sometimes vested in a local Government to vary certain taxes, there was always a limit fixed beyond which that Government could not go. That was the principle on which Act IV. of 1869, the existing Town Duties Act, was framed. Power was given to the Corporation to vary the articles and the rates, but neither Government nor the Corporation had the power of putting a tax on any article not specified in the schedule. I should be very sorry to be thought in any way disrespectful, but I must say I do think that the words I wish to see expunged from Section 114 amount to a proposal that this Council and the Government of India should to a certain extent abdicate their functions. The section as it now stands empowers the Government of Bombay to tax to any extent any or every article of commerce (there is not one exception) passing through Bombay. We have seen that a majority of the executive Government were very recently in favour of inflicting a transit duty on the staple article of trade in Bombay, and what guarantee have we that they would not ere long again, in response to the property owner's outcry, impose a similar duty on many other kinds of goods and produce? If piece-goods, cotton yarn, oil-seeds, gums, myrabollams, hides, and other articles in which Bombay has a trade were all subjected to a small town due, it would, I presume, be still argued that the tax in each instance was imperceptible, although the amount levied on the trade as a whole would be very large. Honorable members may reply that if such dues were levied they would not be a transit tax, because on exportation a refund would be given. But the terms under which drawback is to be allowed would preclude many articles from receiving it. No refund of a less amount than ten rupees is to be granted. Now those conversant with the trade know that this condition would prevent most of the piece goods and yarn dealers from obtaining the refund. Dealers in Bombay buy large quantities of goods at one time from importers; but the goods are resold to up-country dealers, and despatched to the Mofussil in small quantities. I have mentioned this to show that Section 114 does really give the Government of Bombay the power to levy transit dues without coming to this Council or going to the Government of India for consent. Now, Sir, I do respectfully submit that before any new tax is imposed, every member of this Council should have the opportunity of speaking and voting for or against it. Honorable members representing the property owners' interest voted cheerfully for Government and the Corporation being allowed to retain the power of increasing taxes on trade indefinitely at their own good pleasure; but this Council will not have forgotten how very anxious, eager and determined those same honourable members were to have the limits of the house, police and lighting rates carefully defined. The Council has admitted the principle that the limits of the taxes on property shall be jealously stated in the Act; but as regards taxes on trade, unlimited power of taxation are vested in Government. There is to be no limit whatsoever. The matter is to be solely at the discretion of Government. Is there any consistency here? The property owners were up in arms merely at the idea of the maximum rates of the special taxes on property not being defined; what then would have been said, what a fearful outcry would have been raised had a section something to this effect been inserted:—"Taxes on property and the amount of those taxes may be altered from time to time by the Corporation with the sanction of Government." But if it would have been unjust thus to put property at the mercy of the Corporation and of Government, on what principle is it just to submit the whole of the trade of Bombay to be taxed at their will and pleasure? I consider this power to be the most objectionable portion of the Act. It opens the door to extravagance when strict economy is imperatively needed. I hope this Council will ponder well the words of Sir Seymour FitzGerald on this point. He said—"Another great evil is that of

all the forms of taxation the system of octroi duties is the most expansive, and when once the power is given to a municipality to levy certain taxes of this kind, although they begin with moderate imposts, they almost invariably go on until they have imposed the highest possible amount of taxation. I think that nothing but a very great emergency would ever justify the Legislature in having recourse to this species of taxation in order to supply the wants of the Municipality." This is a most important consideration. So long as the Corporation know that they have such a resource to fall back upon so long as they know that unlimited taxation, in a form which will not directly touch, their pockets, is allowed by the Act, and believe that there is a Government not unwilling to see such taxes imposed, there will be no inducement to practise economy. Property owners will be continually coming to Government just as they have for six years past been continually coming to this Council, and saying that money must be had from somewhere, and that there is only one source of revenue open—that another town due must be imposed. If the town duties are to be fixed by Government and not by this Council, what a waste of time it was for us to spend a whole day in deciding what article and what rates should be inserted in Schedule B. It was a day completely thrown away if Government are to have the power of altering the whole thing at any time by a stroke of the pen. After this Council has carefully considered and decided which articles shall be taxed, and which shall not, it seems to me to be utterly inconsistent to give Government the power of reversing the whole thing at any time. Certainly the property owners are to be congratulated on the success that is at last attending their efforts. In 1866 Government and the Council refused to sanction the levy of octroi duties; three years later, in 1869, they were induced, though under protest, to consent to octroi duties being levied on a few articles, but would not listen to the proposal to establish transit dues. Again three years later, in 1872, and we see much greater progress however; not only are transit dues willingly granted, but this Council, before so jealous of its power to specify the limits of local taxation, positively asks Government to take the power of levying duty on every article passing through Bombay. Landlords are making progress with a vengeance. If they should be equally successful in the future, we shall be seeing the Council, when an other period of three years has elapsed, abolishing taxes on property and putting the whole municipal expense on the trade of the place. I cannot, however, believe that the Government of India will be willing to forego their right of sanctioning the limit beyond which local taxation shall not go, and of being consulted before any new article is subjected to town or transit dues. I hope this Council will on reconsideration also decide to retain a similar power as regards the local taxation of this Presidency. Honourable members must see that this is one of the privileges which should be jealously guarded by the Council. While voting to give Government and the Corporation the power to vary taxes, this Council should on principle prepare a schedule as a limit to that power. We have a schedule certainly, but as the Bill now stands, I cannot understand why we took the trouble to prepare that schedule. I only ask the Council to be consistent. Do not, I repeat, give Government unlimited power to tax trade, and at the same time carefully restrict their power of taxing property. On what ground, I ask, is this unfair distinction made? I hope some honourable member will try to explain the anomaly.

The Honourable Mr. ROGERS—The Honourable Mr. Bythell's amendment is intimately

Mr. Rogers thinks the Corporation a suitable body to revise town duties from its knowledge of the requirements of the community.

connected with one of which I have given notice upon the succeeding section. The honourable member has gone entirely upon the supposition that under the power which Government will have under this section to sanction an al-

teration of rates and articles there will be constant changes in the town duties ; but I think he is quite mistaken in that respect. As has been said more than once, one of the chief reasons for the creation of this Corporation was that we should have a body of men who would really represent the different classes of the community and who would be qualified to submit to Government recommendations for the alteration of the list of articles and rates according to their knowledge of the circumstances of the community. Government have no desire for any change unless it can be demonstrated to be required in the interest of the town. In a matter of this description I believe that Government would be perfectly impartial, and only look to the interests of all concerned. For my own part, and I think on this point I may say on the part of Government, there will be an earnest endeavour to hold the scale between all classes of the community with perfect equality. If it be shown that one portion of the community is unduly burdened by taxation, it may be anticipated that the Corporation will come forward and tell us so, and also suggest how the burdens may be redistributed, and we shall act in accordance with what may appear to us to be the correctness or incorrectness of the opinions submitted to us. As I consider that the Honourable Mr. Bythell's motion will restrict the action of the Corporation in a matter in which it is desirable to leave an assembly constituted on the representative principle some latitude of action, I shall oppose its adoption.

The Honourable the ACTING ADVOCATE-GENERAL—I have not heard any good reason why the latter part of this section should not stand. I think it is very desirable that the Corporation should have power in a matter of this kind to consider in what respect they may relieve certain classes of the people in their contributions towards supporting the Municipality. I cannot congratulate the Honourable Mr. Bythell on the consistency of his conduct with regard to this Bill. In numberless cases his demand has been that the Corporation should have more power, and we have been asked by him frequently whether any one had ever seen a law which was designed to transfer the management of a great city to the Corporation, that did not vest all the powers relative to the management of that city in such Corporation. If the power of altering the rates on immoveable property is vested in this Corporation, I do not see why it should not have a right, within certain limits, to alter the articles subject to Town Duties and the rates at which the duties are to be levied.

The Honourable Mr. BYTHELL—There are no limits.

The Honourable the ACTING ADVOCATE-GENERAL—I think that as no alteration can be made without the sanction of Government, there are limits. I agree with the Honourable Mr. Rogers that there is no risk that the trade of the town will be hampered with transit duties if the section remains as it stands. I believe that the Government in this respect will exercise a sound discretion and hold an even balance between conflicting interests, and I am astonished to find that the honourable gentleman thinks that men who are to be entrusted with large powers over real property, are not fit to be entrusted with some discretion in dealing with personal property in the shape of merchandise and articles of trade. On a former occasion I gave my reasons for thinking that even the sanction of Government ought not to be required to these alterations, and in this respect I was supported by certain honourable members who thought that as the Corporation were about to govern the city, they should have full powers of deciding upon all articles to be taxed. I do not at all quarrel with the decision which the Council have arrived at either in

Select or General Committee, because I am satisfied after the discussions and the reason I have heard, that the conclusion of honourable members has been a right one. If there has been one thing more than another which induced me to accept this conclusion and feel satisfied with this Bill, it was the addition of this very clause at the end of this section, which leaves it in the power of Government to be the means of adjusting the distribution of taxes when necessary. The Corporation will make its representations to Government, the people affected will make theirs, and thus Government and the Corporation will be able to fulfil their respective functions. I have not the slightest hesitation in saying that this power ought to be given to the Corporation, and to suppose that they will exercise that power in a way which will be injurious to the inhabitants is an assumption that ought not to be made. Neither is there anything in respect to the conduct of Government which can justify the apprehensions of the honourable member that this clause will be made the means of working injustice to the traders of Bombay. I shall oppose the amendment.

The Honourable Colonel M. K. KENNEDY—My idea of the wording of this clause was that it was intended to include articles for town consumption, and I did not imagine that it applied to articles either of 'export or 'import. I thought that the refund clause would be a sufficient protection, but from the way in which the subject has been treated by the Honourable Mr. Bythell, I do not think this would be a sufficient protection. I shall therefore support the amendment.

The Honourable Mr. RAVENSCROFT—It appears to me that the section is rather inconsistent. It starts by saying "duties not exceeding the rates specified by Schedule B," and then it is said they may be altered.

The Council agreed to substitute "at" for "not exceeding."

The Honourable Mr. RAVENSCROFT—I think that the position taken by the Honourable Mr. Bythell, that we are always to be bound down by certain fixed rates and articles, is not tenable. We must allow a certain amount of discretion to the Corporation.

The Honourable Mr. BYTHELL—Give the Corporation the same power over real property, and then the Council will be consistent throughout in this particular matter.

The Honourable the ACTING ADVOCATE-GENERAL—It is impossible to fix the rates upon articles which are not named.

His Excellency the PRESIDENT—Nothing has been more remarkable in the course of these debates than the distrust of each other evinced by the different sections of the community as represented here. I think it is fortunate that there is a Government to arbitrate between them.

The Honourable Mr. TUCKER—It might have been expected, after the announcement which His Excellency made yesterday with regard to the withdrawal of the duty on cotton in deference to the views of the Viceroy, that the honourable member who has moved this amendment would have been content to leave the commodity in which he is so much interested to the protection of those influences which have hitherto sufficed to shield it from the attacks of all who have desired to put it under contribution for the benefit of the Municipality. But, not satisfied with the present advantage which he has gained, he now wishes to prevent the possibility of any tax being ever imposed upon cotton without some further change in the law. Supposing hereafter that

Mr. Tucker opposes Mr. Bythell's amendment, because it would hinder the future free action of the Corporation.

this Corporation, based on the principle of representation, should come to the conclusion that a small duty on cotton was more for the interest of the city than some of the other imposts which will be levied under this Bill, and should be able to convince both the local and the central Government of the soundness of their views, yet there should be no power to give effect to them, and the immunity enjoyed by cotton and other articles not now included in the schedule of town duties should be stereotyped till the Legislature shall again take up the matter. To enable the honourable member to gratify the desire of his heart with respect to cotton, he advocates a rigid restriction of the powers of the Corporation, notwithstanding that one of his principal causes of dissatisfaction with this Bill is the insufficiency of the power entrusted to the Corporation and Town Council for the management of the affairs of the city. He would give them full latitude to interfere in all matters except those which would affect the interests of the class whom he more particularly represents. This is an illustration of that lamentable partisan spirit by which the opponents of this measure have been actuated from first to last, and which has rendered it impossible for us to accept them as guides in matters in which their special experience and local knowledge could have been of the greatest service to us. I regret very much this exhibition of onesidedness, as notwithstanding the efforts made to counteract it, I cannot hope that it will not have some prejudicial effect on the Bill and will give it an ultimate shape and form which it would not have assumed if there had been a stronger desire to subordinate class interests to the general good. The Honourable Mr. Bythell appears to suppose that the Bombay Government, in coalition with the Corporation, might be disposed to replace the duty on cotton which we have now abandoned in compliance with the wishes of the Supreme Government, but he has forgotten that the Bombay Government in its executive capacity is subordinate both to the Government of India and the Secretary of State, and that if it desired to act in the manner which the honourable gentleman thinks probable, it would have to satisfy both those authorities of the propriety of its proceedings. Its present action with reference to this duty would be a sufficient guarantee to most persons that it would not sanction the imposition of such a duty in future without the consent of the Supreme Government. It is inexpedient, I consider, to fix once for all the commodities upon which duties shall be levied, and I think that a discretionary power both as to articles and rates may be safely entrusted to the Corporation, subject to the general control of Government. The Chamber of Commerce and the persons interested in the different articles selected from time to time for taxation would always be able to make their views heard, and the fear which has been expressed that trade would be hampered by oppressive and objectionable taxation, rests on no solid foundation in my opinion. The Government would be as anxious then as now to consider the general good only, and it appears to me that we ought not to withdraw this power from the Corporation, provided it is not likely to be exercised mischievously or to the detriment of the community.

The Honourable Mr. MUNGULDASS—Sir, with your permission I would say a few words in reply to the observations of the Honourable Mr. Tucker. For my part, I totally deny that in this Council I have shown any party feeling or endeavoured to promote the interests of a particular section of the community. I admit that I have more particularly spoken on behalf of the native community, but this was not because they are my countrymen, but because they are poor and powerless, and have not the means of protecting their interests as powerfully as Europeans, whether here or in England I have

endeavoured to discharge my duty in the interests of all, and therefore, so far as I am concerned, the Honourable Mr. Tucker's observations do not apply to me.

The Honourable Mr. FORBES—I quite agree in what the Honourable Mr. Bythell has said in proposing this amendment. From the very first I would gladly have seen some means of abolishing town duties altogether, because I think they are to a certain extent restrictions upon trade, and many of them are not town duties in the true sense of the term. The duties on grain and sugar partake of the character of transit duties; but as it appears impossible, in the present burdened state of the municipal finances, to raise sufficient funds without having recourse to some of these duties, I assent to the articles which are now in the schedule, although I certainly should be opposed to any increase in the number of articles which are to be subjected to these duties. It is a well understood thing—at least, it seems to be an acknowledged rule of financiers in England, that if trade must be taxed, it is desirable, at all events, to limit the number of articles as much as possible. The other day I was reading a very interesting book published by the Cobden Club upon this subject, and the writer argued that it was not only the amount of tax which the merchant paid that was a serious injury to trade, but that it also suffered from the mode of collecting the tax and the processes to be gone through and the restrictions to be imposed in order to enable Government to collect those taxes. It is admitted that no matter how small a tax may be, still the mere fact of its being a tax constitutes a serious drawback upon trade. The Honourable the Acting Advocate-General made some remarks about the fairness of allowing the Corporation to tax personal property as well as real property, but I think that his remarks would have been more pertinent if the power to tax personal property had been restricted to the property of persons residing in the city. Coffee is a commodity in which a large trade is carried on in Bombay, and supposing a merchant sent this article to Bombay from Aden for transhipment to England or America, and that the Corporation added coffee to the list of town dutiable articles, I do not think it could be argued that this merchant was a person belonging to Bombay whose property should be taxed. The owner of merchandise may reside in New York or England, but the town of Bombay would be benefited by his trade, and I think it is the duty of Government to restrict the duty as much as possible to articles consumed in the town, and not allow the imposition of restrictions upon trade which could by any means be avoided.

The Honourable Mr. BYTHELL—Sir, I think that the statement of the Honourable Mr. Tucker about mercantile members having discussed this question in a partisan spirit is quite uncalled for. All that the mercantile members have done was to urge the Council to adhere to the principles by which its members have been actuated for a number of years past. This is not the first time transit duties have been discussed in this Council. Every one knows that they have often been discussed before, and a large number of honourable members, including two of the late Governors of Bombay—Sir Bartle Frere and Sir Seymour FitzGerald—Lord Napier of Magdala, and others who cannot be said to be connected with trade, and who at any rate are above the possibility of being told that they were actuated by motives of partisanship, have condemned transit duties. Besides, even though the Council do levy transit duties, I never argued that if this tax were inflicted on cotton the merchants of Bombay would have to pay it. I simply argued in favour of Bombay being exempted from taxes of this

Mr. Forbes supports Mr. Bythell and wishes that town duties as well as transit duties should be abolished.

Mr. Bythell disclaims discussing this question in a spirit of partisanship. He alludes to English practice in support of his amendment.

nature, on the ground that if the trade were burdened by them, the town itself would be greatly injured. All the merchants already pay a very fair share towards municipal revenue. I think that the reply which the Honourable Mr. Tucker has made to my remarks does of itself savour of the spirit of partisanship. Though the property owners and the mercantile members differ as to how trade and property should be taxed, they agree upon one point, and that is, the incongruity of establishing a municipal Corporation nominally to manage the affairs of the city, and yet at the same time providing for the sole power and responsibility being vested in a Government official. I was sorry indeed to hear the Honourable the Acting Advocate-General harp upon the old string again, that while we are afraid of trusting the Corporation in one direction, we complain that they have not power enough in the executive management. I have said all along that the power of the Corporation should be limited by this Act, and that Government should have power to step in in the event of mismanagement; and therefore I think the honourable member's statements are to a certain extent unjustifiable. There is no inconsistency on our part in advocating that the Corporation be trusted with power to carry out the provisions of the Act subject to certain restrictions laid down in the Act and to Government interference in case of mismanagement, and yet being very much opposed to the Corporation, with the sanction of Government being allowed unlimited powers of taxation over the whole of the trade of the place. At the second reading of this Bill, the Honourable the Acting Advocate-General spoke very strongly, challenging me to name a precedent for certain powers being given to Corporations, but I should like to hear from him whether he ever heard of any Corporation being entrusted with full power to tax trade to an unlimited extent, while at the same time I defy him to produce an instance of an English Corporation not possessing full power for all municipal purposes. With regard to what the Honourable Mr. Rogers has said about this Government exercising the power given in this section with impartiality, and being careful not to overburden trade, I have only to repeat that even at this present time we see a majority of the members of Government in favour of a transit duty on the staple trade of Bombay—a tax which has been vetoed by the Government of India. I should be sorry to say anything that might appear disrespectful, but when mercantile members see such a feeling pervading the members of the executive Government, it is their duty to endeavour to limit the powers of that Government with regard to the taxation of trade. I am sorry that in the course of the debate upon this amendment no honourable member has taken up my remarks relative to the utter inconsistency of the powers of Government, and of the Corporation being so rigorously restricted as regards property interests, and yet being so completely unlimited when it is a question of imposing taxes on a trade, which amounts in value to over forty million sterling annually. The thing is utterly inconsistent. In the same way, no honourable member seems inclined to attempt to explain the inconsistency of our having wasted a whole day upon the question whether ghee or metals or timber or other articles should be taxed when the power is here given to Government of upsetting the whole thing on the day after this Bill is passed.

His Excellency the PRESIDENT observed that the Chamber of Commerce's memorial pointed out that the conditions under which it was proposed to give returns of duty would to a great extent prevent refunds and make all the duties upon the articles in the schedule mere transit duties.

The Honourable Mr. BYTHELL—I alluded to this point at some length on a previous occasion. Section 120 provides that no refund can be claimable for a less amount than

Rs. 10, and as many goods of English manufacture are sent to the Mofussil in very small quantities, a transit duty would actually be levied upon them.

His Excellency the PRESIDENT—Does the honourable gentleman mean that packages are sent to the Mofussil so small that he could not get even Rs. 10 refund on them?

The Honourable Mr. BYTHELL—Exactly. One man may carry away a bale of one thing and a bale of another, which are taxed with an amount that cannot be refunded.

The Honourable Mr. TUCKER—The duty cannot be very severe if a merchant will export three or four bales without claiming a refund.

The Honourable Mr. BYTHELL—A number of gums come here from the Persian Gulf, where they are sorted and shipped. If they are taxed, the small refund recoverable on their going to England would not be worth the trouble of application for. It is the same with a great deal of cotton which has to be repacked when it comes to Bombay. Linseed is the same. A great quantity comes from Jubbulpore, and the greater part of the packages are opened here and the seed cleaned. I say that if town duties were levied upon these articles, it would practically be a transit duty upon them.

His Excellency the PRESIDENT—It occurs to me that there is a great difference between giving the Corporation power to charge the articles, and allowing them to fix the rates. In the former case power is given to the Corporation to make a transit duty, while in the latter the alterations which they may effect will not alter the character of the taxes. I think that this is a distinction of considerable importance, for as the section authorizing refunds now stands, it practically, with respect to some articles, converts a town duty into a transit duty.

The Honourable Mr. TUCKER—If His Excellency or any other member is prepared to suggest an alteration of the refund section, which will facilitate the obtaining of refunds, I shall have no objection. I imagine that it is to a great extent the smallness of the duties which prevents this privilege being taken advantage of as frequently as it might be. When the words "except cotton" are expunged from this section, refunds will be obtainable on exportation of every article on which duties are or shall hereafter be levied, so the Corporation will have no power to impose a transit duty if they should wish to do. The improvement of the refund section may be considered when we come to that section.

The Council divided on the Honourable Mr. Bythell's amendment.

Ayes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable Colonel M. K. KENNEDY.

The Honourable Sir JAMSETJEE JEJEEBHOY.

The Honourable J. A. FORBES.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB
PUTWURDHUN.

Noes—4.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-
GENERAL.

The Honourable E. W. RAVENSCROFT.

The amendment was therefore carried.

The Honourable Mr. ROGERS intimated that the following amendment on Section 115, of which he had given notice, would fall through in consequence of the Honourable Mr. Bythell's amendment being carried:—That the following words in lines 13 to 21 of Section 115 be omitted—"Provided that such rates so from time to time to be fixed shall not exceed the rates authorized to be levied under the provisions of this Act, or be imposed in respect of any other articles than those liable to town duties under this Act, and the town duties when so fixed shall be the town duties leviable for the then next ensuing year."

His Excellency the PRESIDENT said that the section would now require no alteration.

The Honourable Sir JAMSETJEE proposed, on behalf of the Honourable Mr. Narayan Vasudevjee, the following motion:—"That in Schedule B, referred to in Section 114, the duty on wines and spirits be raised from 2 to 4 annas."

Mr. Narayan's motion to enhance the duty on wines and spirits by 2 annas.

The Honourable Mr. TUCKER—We had better, at the same time, consider whether we are prepared to increase the rate on ghee. The two questions should be settled at the same time.

The Honourable Mr. MUNGULDASS—I shall oppose any further increase of duty on ghee, because ghee is essential to the healthy existence of those natives who abstain from animal food. I may tell this Council that dissatisfaction has been caused in Bombay by the increase of duty on ghee which has already been made at the second reading of this Bill.

The Honourable Mr. RAVENSCROFT—I shall support the Honourable Mr. Narayan's motion, and I hope that an additional 2 annas will be laid on ghee.

The Honourable Mr. BYTHELL—I think that that will be sufficient. I am assured by many native gentlemen who know the circumstances of the case, that ghee is not an article of ordinary consumption among the poorer classes, so that a tax upon it will be a tax only upon the well-to-do portion of the Hindoo community.

The Honourable Mr. MUNGULDASS—Of course the honourable member is at liberty to express his opinion on this point, but as for his opinion that ghee is not necessary for the poorer classes, and that it is a luxury, I do not agree. The vegetarian Hindoos cannot sustain a healthy existence without ghee. I am in favour of the Honourable Mr. Narayan's motion for increasing the tax on wine and spirits, which are indeed a curse to the poorer classes of the natives who consume a great quantity of spirits. I know from my personal knowledge that grog shops have been increasing in Bombay, and the vice of drinking amongst the lower classes is rapidly spreading.

The Honourable Mr. TUCKER—If we raise the duty on wines and spirits, we might fairly add another two annas to the rate on ghee. Cheap clarets and other light wines are quite as much a necessity for some Europeans as ghee is to some Hindoos.

The Honourable Mr. NARAYAN's amendment was put to the vote and carried.

Ayes—7.

The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. K. BYTHELL.

Noes—3.

His Excellency the Honourable SIR
AUGUSTUS ALMERIC SPENCER.
The Honourable J. A. FORBES.
The Honourable GUNPUTRAO TATYA
SAHIB PUTWURDHUN.

Mr. Bythell moves an additional duty of two annas on ghee.

The Honourable Mr. BYTHELL—I move that the duty on ghee be raised from 8 to 10 annas per maund.

The Honourable Mr. MUNGULDASS—No notice has been given of this motion, and it cannot be put.

The Honourable Mr. TUCKER—It does not affect the principle of the Bill.

The Honourable Mr. MUNGULDASS—I never knew of a tax being increased at the third reading of a Bill in this Council without previous notice of a motion to that effect being given.

The Honourable Mr. TUCKER—Perhaps the honourable gentleman will be good enough to refer to the rule of this Council regarding amendments.

The Honourable Mr. MUNGULDASS—I cite the practice.

Mr. NUGENT (Secretary to the Council), at the request of His Excellency the President, read the rule on the subject of amendments, which only required that notice should be given of amendments affecting the principle of a Bill.

His Excellency the PRESIDENT ruled that the amendment might be put.

The Council divided on the amendment of the Honourable Mr. Bythell:—

Ayes—8.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable COLONEL M. K. KENNEDY.

The Honourable Sir JAMSETJEE JEJEEBHOY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

Noes—3.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable J. A. FORBES.

The amendment was therefore carried.

The Honourable Mr. BYTHELL—I move that the words “except on cotton” in lines 1 and 2 of Section 120 be omitted.

The motion was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. TUCKER moved that the words “of this Act” be inserted after “81” in line 9 of Section 128.

The amendment was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. TUCKER moved that the words “of this Act” be inserted in line 7 of Section 129 after the words “Section 127.”

The amendment was agreed to, and the section as amended stands part of the Bill.

In line 20 of Section 148, “powers” was substituted for “owners.” This was the correction of a typographical blunder.

The Honourable Mr. TUCKER moved that the words " plan and statement " be substituted for the word " notice " in line 11 of Section 166.

This was agreed to. The word " made " was substituted for " laid down " in line 20. Section 166 as amended stands part of the Bill.

The Honourable Mr. TUCKER moved that the words " and plan and statement " in line 4 of Section 167 be omitted, and the following words inserted—" or without furnishing the Commissioner, if required, with a plan and statement as aforesaid " : also that the word " requirements " be substituted for the word " directions " in line 7 of the same section.

The amendment was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. TUCKER moved that the words " of this Act " be inserted in Section 168 after the words " Section 165 " : also that in line 8 " statement " should be substituted for " notice," and that in line 10, the words " statement and plan " be substituted for " notice."

The alterations were agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. TUCKER moved that the words " shall be necessary to " in lines 5 and 6 of Section 180 be omitted, and the word " should " substituted for them.

The amendment was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. ROGERS moved that the word " public " be inserted between the words " any " and " street " in line 10 of Section 181.

The amendment was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. TUCKER moved that the words " the opinion of the said Health Officer " be substituted for " his opinion " in line 7 of Section 184.

The alteration was agreed to.

In Section 219, line 3, " three " was substituted for " there "—a misprint.

In line 4, Section 221, " at " was inserted between " officer " and " any."

In line 5, Section 222, " so " was inserted after " overcrowded."

The Honourable Mr. ROGERS moved that the words " the provisions of Sections 225, 226, and 227 of " be inserted after the word " against " in line 5 of Section 228.

The amendment was agreed to, and the section as amended stands part of the Bill.

The Honourable Mr. MUNGULDASS NUTHOOBHOY, in moving that the words, " and the proof that any such article was not unfit for food shall

Mr. Munguldass moves that the onus of proving articles to be unfit for food should rest with the captors of the articles.

rest with the owner thereof, or the person in whose possession the same is found," at the end of Section 244 be omitted, said—I object to the last clause of Section 244, which imposes the *onus probandi* on the accused. The onus of proving that any article of food or drink exposed for sale is unfit for the use of human beings ought, in common fairness and justice, to rest with the accuser, and unless he

proves that the accused was guilty of exposing for sale such an unwholesome article, there can be no ground whatever for convicting and punishing the accused. I therefore ask the Council to omit the portion of the clause which transfers the burden of proof from the prosecutor to the accused. The character and position of the Municipal Commissioner and Health Officer are such that it will not be difficult for these officers, armed as they are with great powers, to adduce the necessary proofs before they can call upon the magistrate to convict and punish the accused with imprisonment extending to six months or fine up to one thousand rupees. The Calcutta and Madras Municipal Acts do not contain such a provision, which is contrary to one of the principal rules on which all judicial proceedings are conducted in criminal cases.

The Honourable Mr. RAVENSCROFT and the Honourable Mr. BYTHELL approved of the Honourable Mr. Munguldass' amendment.

The Honourable Mr. MUNGULDASS—I would specially point out that in this matter it is not the Commissioner or the Health Officer alone who is entrusted with this power, but also the Commissioner's subordinates have the same power, so that any sepoy may seize articles of food, no matter whether he may be right or wrong in his proceedings. Before fish or flesh could be taken before a magistrate it would be spoilt, and it would then be exceedingly difficult for the owner to prove that at the time of its seizure the article was fit for food.

The Honourable Mr. TUCKER—The honourable gentleman surely does not wish that the Commissioner should be obliged personally to make all the inspections. This would make the law a nullity.

The Honourable Mr. MUNGULDASS—No; but I say, let the parties who seize the article of food prove that it was unfit for food when they seized it.

His Excellency the PRESIDENT remarked that the Honourable Mr. Munguldass' argument was of some importance, because if food were seized in the evening it would be bad in the morning.

The Honourable the ACTING ADVOCATE-GENERAL—It would practically come to this, that the magistrate will be compelled to let off everybody, for by the time seized food can be brought into Court, he must know that the time which had elapsed since its seizure would make it bad.

His Excellency the PRESIDENT—But would it be actually necessary to bring the article of food declared to be unwholesome into Court? The section says, "if it appear to the magistrate upon sufficient evidence that the same are unfit for food or drink, he shall," &c. By this it appears that the magistrate could make a conviction upon the evidence of the captors.

The Honourable the ACTING ADVOCATE-GENERAL—I find in the English Public Healths Act that the sanitary inspector may at all times, if he be convinced that any flesh, fish or vegetable, or other article is unfit for human food, seize the same without warrant, and if it appear to the sheriff or any two magistrates or justices that the article seized was unfit for food, they could condemn the same to be destroyed or disposed of so as to prevent the same from being again exposed for sale or use. The person to whom the condemned article belonged is made liable to a penalty not exceeding £10, and also to pay the expenses caused by the seizure, detention, or disposal of it.

The Honourable Mr. TUCKER said that after careful consideration of the section, he was disposed to think that the declaration about the burden of proof might be omitted. There appeared no sufficient reason for an alteration of the ordinary rule of evidence in a matter of this kind.

The alteration was then agreed to.

The Honourable Mr. MUNGULDASS proposed that after Section 244 the following section be inserted—“Any person dissatisfied with the decision of the Municipal Commissioner in regard to any matter or thing which the Commissioner is authorized to do under the provisions of this Act relating to General Conservancy, Building, General Sanitary Regulations, Private and Public Markets, Registration of Births and Deaths, and General Provisions for carrying out the Act, shall have a right of appeal to the Town Council, and if such person within four days gives to the Municipal Commissioner notice of such appeal, the Commissioner shall refrain from enforcing his decision pending the result of such appeal; and this decision of the Town Council shall be binding on and carried into effect by the Municipal Commissioner, and it shall be lawful for the Town Council to direct the Municipal Commissioner to refrain from enforcing any of the abovementioned sections if it shall be of opinion that such enforcement would be impolitic, inexpedient or oppressive.” In supporting his motion the honourable gentleman said—With a view to avoid one of the weighty objections that have been urged against the Bill by the Bombay Association and the Rate-payers’ Committee in regard to the arbitrary power conferred on the Municipal Commissioner under the provisions relating to general conservancy, building, sanitary regulations, markets, registration of births and deaths, and general provisions for carrying out the Act, I ask the Council to introduce the new section which I propose to add after Section 244, giving to the people the right to appeal to the Town Council against the acts of the Municipal Commissioner in such matters. Unless this safeguard is provided, the acts of the Municipal Commissioner may be productive of great annoyance, oppression and damage, and cause wide-spread discontent in Bombay. In considering the Bill in detail, the Council has, I readily acknowledge, made several modifications by which the sanction of the Town Council is required before the Municipal Commissioner can perform the duties entrusted to him; yet there are many sections which confer very great powers on the Municipal Commissioner such as even Government or the High Court does not possess. For example, Section 172 gives full power and authority to the Municipal Commissioner to alter or pull down any huts or sheds used as dwellings or stables as may, in his opinion, be attended with risk of disease to the inhabitants of the neighbourhood if the owner or occupier refuse or neglect to remove, alter or improve the same, and persons disobeying the Commissioner’s order in this matter are made liable to a heavy penalty. There will be no great hardship if the opinion of the Municipal Commissioner in such a case be right and correct, but if there really be no objection to the shed or hut, it would be a great wrong to demolish it or to compel the owner or occupier to remove it. Again, Section 228 gives power and authority not only to the Municipal Commissioner, but also to all his subordinates and agents with his sanction to enter any place at any hour of the day or night without notice or permission, if he suspects, with or without just grounds, that any offence is being committed against Sections 225, 226 and 227 of the Act without being liable to any action or damages which may be caused by such entry.

Mr. Munguldass moves that a power of appeal to the Town Council against decisions of the Commissioner should be instituted.

It is neither just nor politic to confer not only on the Municipal Commissioner or his agents, but also on the lowest of his servants, powers which are not possessed even by officers of the police, who have no authority to enter or search any premises where a crime is alleged to have been committed except under the authority of a warrant issued by a magistrate on the sworn information of one or more persons; such arbitrary powers are liable to be abused to the detriment of the interests of the people. As an illustration of the oppression practised on the people for alleged infraction of municipal regulations, I crave permission to read an extract from the work recently published by Major-General Sir G. LeGrand Jacob, an officer of high standing and character, who has been distinguished for his valuable services in this country. "Another story will also show the inapplicability of our system to men of the interior, if not to natives generally. I had in my employ a painter named Jooma, to draw for me figures and costumes of the people of Kutch, a respectable, inoffensive man, and a stranger to the world beyond it. I tempted him, however, to accompany me in December 1856 to Bombay, there to finish some work he had on hand. We landed on the 19th, and Jooma obtained a temporary lodging in the town. Three or four days after this he brought me a paper, saying a peon had given it him with directions to attend the magistrate's court, asking me what the paper was, and what he should do. It proved to be a summons to appear and answer for the infraction of some municipal law on the 9th of the month. I told him that he must of course attend, and say that he was at that time some five hundred miles away, and that he had only just arrived with me in Bombay—of all which I gave him a formal certificate. On the day named he attended the Court, where he was hustled into a box with several others guarded by peons who would not let him speak, till, with great difficulty, he managed to get my certificate handed up to the magistrate. This gentleman informed him that he could pay no attention to communications so received. After some further—to poor Jooma equally unintelligible processes—each prisoner was ordered to be fined ten rupees, and to be kept in custody till paid." Again, Section 226 compels not only stable-keepers, but also the occupiers of every place where milch cattle are kept, to obtain a license from the Municipal Commissioner, and authorizes this officer to grant, withhold or revoke such licence, and subjects all persons who use such places without licence to a penalty of rupees five hundred. If the Municipal Commissioner withhold the licence in any case, and if no appeal be allowed against his decision, the aggrieved party will have no redress, and will have to submit to the oppression.

The Honourable the ACTING ADVOCATE-GENERAL—The introduction of such a clause as this would, I believe, make the Bill utterly impracticable.

The Acting Advocate-General opposes the amendment, because it would impair the efficiency of the Commissioner while it would impose duties upon the Town Council which they would be unable to perform.

It would seriously affect the Commissioner's efficiency with reference to his conservancy and general executive powers. When one looks at the matters to which the power of appeal is sought to be made applicable, I think this proposition will appear unreasonable. The Honourable Mr. Munguldass has mentioned only a few of the powers of the Commissioner, but we ought to look at others which may be appealed against. For instance, Section 208 provides that any man who may place or deposit or cause to be placed or deposited any box, bale, or package of merchandise or any other thing in or over or upon any public street, shall be liable to a penalty not exceeding Rs. 100, and to a further penalty not exceeding Rs. 10 for every day after conviction during which the offence is continued. Grant a power of appeal, and the owner of the packages or bales may defy law and order

for a time. Take, again, Section 183. The subject there treated of is a very delicate one to handle, but nevertheless, by an appeal the Commissioner may be prevented from doing what is necessary for a number of workmen; and so again, with Section 180, which treats of the erection of privies. Supposing a right of appeal were granted, and that a householder availed himself of it to object to a privy being erected in a certain place, can it be expected that the Town Council are to go to the place in solemn procession and see whether such a privy is necessary? I do not intend to allude to all the conservancy clauses, but I think this honourable Council will see that appeals would paralyse the action of the Commissioner in matters the decision of which can be best left to the judgment of one man. If the Commissioner does any wrong in fulfilling his duties, the wrong will soon find its way before the public and the matter will be remedied either by the Town Council, or the larger body of the Corporation. I find that the sections of the Scotch Act certainly contemplate the local Boards giving to their Commissioners and Inspectors powers similar to this which we propose to give to the Commissioner. These inspectors carry out the orders of the Board as executive officers, and the only real and practical distinction between them and the Commissioner is that the latter is not exclusively the officer of the Corporation simply because he happens to be nominated by Government—a distinction which to my mind does not touch the question whether or not it is expedient to vest executive duties in one person. I think this principle applies particularly to India, the natives of which country, like uneducated persons in all parts of the world, are peculiarly prone to disobey orders so long as there is any chance of getting rid of a duty by an appeal. Many of them have no great dislike to dirty houses and do not at all consider the health of themselves or of their neighbours, their reasoning being that if they are satisfied themselves to sit down quietly amid what is offensive or injurious to health, their neighbours either ought to do the same or leave them alone. Ignorance is always more or less obstinate—and if sanitary improvements are to be carried out, a certain amount of power must be vested in the Commissioner and the Health Officer. My remarks are not intended to apply to the more enlightened classes of the native community, who are educated and associate with Europeans; but these persons are few compared with the remainder of the population. One has only to travel out of the beaten paths of traffic in the native town to come across dirt and sights and smells of the most offensive kind, so that one is glad to get back to the larger thoroughfares. But it is just this portion of the community who are indifferent to sanitary considerations who would be the readiest to avail themselves of a right of appeal if they were ordered to take measures with relation to their own properties, which would be for the general good. Let this Council imagine five or six appeals coming before the Town Council every week, and also let it imagine, if it can, how many places this Town Council could visit and adjudicate upon in a day. The members of that body will have their time very fully occupied with other duties, and how could they possibly get through the appeals that would be likely to come up with reference to the innumerable questions with which the Commissioner must deal? I believe that many persons would appeal, if it were for nothing else than to try their strength with the Commissioner. The result of this state of things might be a good thing for lawyers certainly, but I am not here to advocate their interests, and I speak on behalf of the community, who in the end would suffer much if this kind of litigation were allowed to spring up. In conclusion, I would repeat that I object to this right of appeal, because the chief executive officer of the Municipality ought to have ample power, and not be subjected to interference by a Board who would not be so likely to look to the general good. I cannot understand how two or

three or more members of the Town Council should be better judges than the Commissioner on the matters in respect of which appeals will lie, and I cannot find in any Acts relating to sanitary arrangements, that a power of appeal is given similar to that which the Honourable Mr. Munguldass proposes. I would, for the reasons I have stated, ask this Council to reject the honourable gentleman's new section.

The Honourable Mr. TUCKER—I do not like to allow this motion to be voted upon without expressing my opinion upon it briefly, lest my silence on so important a point should be construed into acquiescence. I shall oppose the honourable member's motion on the same grounds upon which he brings it forward, viz., the good of the people of Bombay. I think it would be a bad day for the city if a power of this description were taken from the Commissioner and vested in a body constituted as the Town Council will be. A Board of this kind forms an excellent instrument for dealing with financial matters, but it is wholly unfitted to exercise judicial functions or to direct executive action. Of what use would it be to give a power of appeal to a body who could not judge so well, and is not likely to judge so impartially as the Commissioner, to whom this Bill proposes to entrust executive powers? These are matters which it is universally admitted are better left to the discretion of a single competent and trustworthy man than to a number of men, however able and well-intentioned they may individually be, and these are the matters which we have left to the Municipal Commissioner. It is for the benefit of the town that there should be no divided responsibility with respect to these things; and with a public Press such as exists in Bombay, it is not likely that any harsh or oppressive measure could be carried out without its becoming immediately known. This will be a far more effectual protection to the citizens than any right of appeal, which would only foster a description of litigation which would be most detrimental to the public interest. I look upon my honourable friend's proposal as a most mischievous one, and it is diametrically opposed to one of the cardinal principles on which this Bill has been framed.

The Honourable Mr. ROGERS—It appears to me that even if this amendment were carried, there never would be an appeal settled by the Town Council. There is no power in this Bill by which the attendance of that body can be enforced at any particular part of the town, and therefore they would just hand the matter over to any two members who might choose to trouble themselves about it.

The Honourable Mr. BYTHELL—I merely wish to refer to a remark made by the Honourable the Acting Advocate-General. He referred to the English Acts, and pointed out what he deemed to be a distinction between the Commissioners at home and the Bombay Commissioner, and that was, that in the first case the local Board appointed that officer, while in the latter case that duty was performed by Government. I think, however, that there is a much greater distinction than this, and this is, that in Bombay the Municipal Commissioner is made the sole judge of whether certain things shall be done. At home, the executive officer, with all his powers, has not the power of making awards in any matter, but can merely report to the Board which appointed him.

The Honourable Mr. MUNGULDASS—The powers given to the Commissioner by this Bill are more arbitrary than those given under the existing Act. I allude particularly to the power of pulling down houses, closing markets, and refusing licenses for certain trades. I would point out to His Excellency that whether this Bill will meet with the approbation of the public to some extent or not will depend upon the amount of restriction which may

be put upon the arbitrary powers proposed to be vested in the Commissioner. The poor people of Bombay have no means of making their grievances known through the Press, in case of injustice being done to them, and thus they have very little chance of getting redress. And I think the Council should therefore agree to my amendment, which will be appreciated by the native community.

His Excellency the PRESIDENT pointed out that in deference to the views of members the Commissioner's powers had been greatly restricted, and he regretted that they were still dissatisfied. He thought that to agree to the honourable gentleman's proposition would make the Bill impracticable. He trusted that the Commissioner would be a more discreet and intelligent man than some members of Council appeared to think he would be, and he could not favour the amendment.

The Council divided on the Honourable Mr. MUNGULDASS' amendment :—

Ayes—3.

The Honourable MUNGULDASS NUTROOBHOY.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

Noes—8.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable E. W. RAVENSCROFT.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The amendment was therefore lost.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under-Secretary to Government.

Puna, 16th October 1872.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Púna, on Thursday, the 17th October 1872, at noon.

PRESENT:

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

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable Colonel M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The Council proceeded with the consideration of the proposed amendments in the Amendments proposed by members considered. Bombay Municipal Bill of which the honourable members had given notice.

The Honourable Mr. ROGERS proposed that the following words be inserted after the word "health" in line 9 of Section 249:—"By reason of the state of the vaults or graves within the walls of or underneath the same, or in any churchyard or burial ground adjacent thereto." Also that the words "in the event of any places for the disposal of the dead being closed" in line 43 be omitted, and the words "before any such places are closed" substituted. The reason for this section being introduced was that vaults were made and interments allowed in churches to an extent that became dangerous to health. Therefore to show the meaning of the section more clearly, the honourable member moved the insertion of the above words.

The amendments were agreed to, and the section as amended stands part of the Bill.

In Section 299, the words "of this Act" were inserted between "144" and "committed."

The Honourable Mr. TUCKER moved that the following words be inserted after the words "to do so" in line 51 of Section 306—"and provided also that all contracts lawfully made by the Municipal Commissioner in pursuance of the Budget fixed by the Bench of Justices for the year 1873 as aforesaid shall be valid and binding upon the Corporation in the same way as if this Act had not come into operation." This addition is necessary to protect the contractors with whom the Acting Municipal Commissioner may enter into contracts for the year 1873 under the Budget which is now about to be submitted to the Bench of Justices. This protection will only extend to contracts lawfully made.

The addition was agreed to.

The Honourable Mr. TUCKER—We have thus far concluded the reconsideration of the Bill in detail, and have now to pass a resolution on the

Mr. Tucker's observations made while moving that the Bill be read a third time.

motion which I made on the 15th instant, that "this Bill be read a third time," and as we approach the crowning act which will terminate the prolonged discussions which we have had upon this necessarily voluminous Bill, I trust that I shall not be considered out of order in making some additions to the prefatory remarks which I addressed to the Council the day before yesterday. My object in doing so is to explain, so far as I may be able, the views and objects which Government have had in bringing forward this measure, and to remove some misapprehensions which appear to me still to exist with respect to the action which we have taken in this matter. I would, in the first place, disclaim for myself, and for the entire Government collectively, any desire to force upon the city of Bombay a municipal constitution or system of administration which would be disagreeable to, or disliked by, the bulk of the inhabitants of the city. From the beginning there has been no such idea. It was supposed, and I believe correctly, that a desire for a trial of self-government existed on the part of a considerable and influential section of the community, and it was to meet this desire that the difficult and laborious task of preparing this Bill was undertaken. At first the principle of representation was only recognized to a limited extent, but as this did not satisfy the wishes of those who had been most prominent in crying out for change, it was resolved to give a far wider scope to the system of election by the rate-payers than had been at first intended. Since this was determined upon, several other concessions have been made with the view of giving to the people of Bombay a real and substantial share in the management of their municipal affairs, and we have only refused to yield those points on which we felt that any giving way would imperil the future welfare of the city and the State. It is therefore altogether a mistake to suppose that we have attempted to compel the city to submit to a change of administration which it did not ask for. We have done all we could to give effect to the public wishes so far as they have been made known to us, and although we have not felt ourselves at liberty to go the extreme lengths to which some of those who have been most clamorous for reform have wished to draw us, yet it is unfair to charge us with indifference or insensibility to the popular sentiments, when every step we have taken has given evidence of our desire to go as far as we safely could in the direction which the voice of public opinion, so far as it has been expressed, has pronounced in favour of. It may not be out of place if I remind the Council that Act II. of 1865 introduced a system of municipal government which was considerably in advance of the system which preceded it, and that under this Act much good has been effected and considerable progress made in the improvement of the city. On the first passing of that Act it apparently met with the approbation of the citizens, but reckless expenditure on the part of the Municipal Commissioner and the inability of the Bench of Justices to exercise effective control in financial matters, rendered some amendment of that Act necessary, and it was loudly called for. In response to this demand the present Bill was framed, and it is the result of an honest and loyal attempt on the part of the Government of this Presidency to meet the popular desire for self-government, and to cure those defects in the existing law which have been disclosed by the light of past experience. I must repeat that it was never contemplated to re-arrange the entire fiscal system, nor, until recently, were there any signs that such a change was desired. Nor can I admit that the necessity for an alteration of this sweeping character has been made out, and if it really exist, as is now alleged, it

appears to me that it will certainly be wiser to leave the initiation of so difficult a task to the new Corporation, who will have better means of ascertaining the real working of the present system of taxation than we now possess. Our refusal, then, to accede to this new demand which has been now suddenly made does not proceed from any want of consideration of the wishes of the community, but from a conviction that it will be better to leave this important subject to be ventilated by the new assembly in which the rate-payers will be directly represented. The non-settlement of this question is therefore no just reason for the rejection of this Bill, inasmuch as the Bill itself will bring into existence the best agency for the ultimate satisfactory determination of a matter of such serious consequence to the inhabitants of the city. The disinclination which appears to exist in the minds of some members of this Council to leave the adjustment of this matter to the new Corporation and the Government, is to me very extraordinary after all that has been said of the effects likely to be produced by the introduction of the principle of representation and of the superior fitness of the elect of the rate-payers to the nominees of Government for the administration of municipal affairs. I would ask the honourable gentlemen who still express themselves as dissatisfied with some portions of this Bill, to consider what will be the consequence of the rejection of this measure. The existing law (Act II. of 1865), which many of them have so strongly denounced, will remain in force, and Government, after appointing an efficient Controller and a new Commissioner, must attempt to work the present system in such a manner as to avoid, if possible, the more conspicuous errors of the past. It cannot be supposed, after all the time and labour which have been expended in maturing the present Bill, that Government, if this Bill should not pass, will recommence the consideration of a new measure. I personally shall be strongly opposed to such a course, and I can hardly believe that any honourable member can seriously suppose that if this Bill do not pass, another will be brought forward for a considerable interval of time. The question, then, which the opponents of this Bill have to consider is, whether they will remain under the present law which they have so vehemently condemned, or will accept the measure of reform in the direction indicated by themselves which we have tendered to them. This is the issue now to be decided, and unless the opponents of this measure are prepared to assert that the enactment of this new law will leave the administration of the town in a more unsatisfactory condition than they have declared it now to be, it would be wise in them to accept the concessions now made and to look to the extension of these concessions hereafter, should the correctness of their views be established in the course of time. In the ordinary affairs of life, if a man has no means of enforcing his entire demand, he would be considered foolish if he did not accept a substantive instalment with the possibility of obtaining more; and to the objectors who urge that we have not gone far enough in the way of liberal reform, I would say that half a loaf is better than no bread, and that it will be wiser to accept what is offered now than to risk entire failure by sticking out for what is unattainable at present. I feel assured that the party represented by the Honourable Mr. Forbes, if they lose the present opportunity, will not for a long time have the chance of securing so large a portion of the things they profess to desire. The trading classes, who have found so staunch an advocate in the Honourable Mr. Bythell, have obtained nearly all they wanted, and I would submit that the doubts entertained by the honourable gentleman of the sufficiency of the power given to the Town Council or of the working of the machinery designed for the government of the city, are scarcely a sufficient reason for the rejection of the measure. If the new law will not work as is asserted, it will speedily come to an end, and they who are convinced of its impracticability might safely leave the experiment to be tried in

the confident assurance that their predictions will be realized. This will be the real test of the truth of the conflicting opinions entertained on this point, and if we do not fear its application, why should there be any hesitation on the part of those who consider themselves so certain as to the result? I regret very much to find that the Honourable Mr. Munguldass Nuthoobhoy and the Honourable Mr. Narayan Vasudevjee, who have taken so active a part in these debates, are not in their places at this Council table to-day, when the fate of this Bill is to be decided, and I trust we may not be accused of having spirited these honourable gentlemen away so as to give us a certain majority in favour of the Bill. I consider it most unfortunate that they should be absent at this critical moment, as I had hoped that the arguments which I have advanced in favour of the adoption of the Bill might have had some weight and induced them not to reject the substance within their grasp for the shadow which they aim at, but which will mock their efforts. The section of the community upon whom, in accordance with the opinions of these Honourable Councillors, the burden of taxation now falls so heavily, will gain many advantages by this Bill. Not only has the house-rate been reduced one per cent., but it will be competent to the Corporation and Government to reduce it another one per cent., if the correctness of their assertions can be established hereafter. A power of exemption has been given to meet the cases of alleged distress which have been brought forward, which will enable the Commissioner to grant remissions in cases of established poverty, and there has been a reduction of the rates on lodging-houses and ranges of godowns to cover the risk of rooms remaining vacant. The supplemental tax will now not necessarily involve an increase of rates, but will be raised from any source of revenue which the Corporation has the power to increase. All these are substantial gains to the class of house-owners, and when it is considered that there is at present great divergency and contradiction in the opinions held by different classes of the community on the subject of the distribution of taxation, it will be singular if the representatives of that particular class are not content with the position to which they have attained, and should declare their preference to remain under the existing system of taxation, of the evils of which they so loudly complain. I have thus endeavoured to show not only that Government has tried to meet the aspirations after self-government on the part of the citizens of Bombay, but that it has made considerable concessions to each of the leading divisions into which the community has split up with reference to these particular questions, and I would ask the honourable members who represent the views of the different sections earnestly to consider whether the interests which they support will be best promoted by the continuance of the *status quo* or by the acceptance of what they cannot deny to be a step in the direction which they desire us to go, though it may not be as long a leap as they looked for. If there were any prospect that the refusal of this Bill would lead to the introduction of a new measure more in accordance with the views of the members who may unite to vote against the present one, there would be some reason in this persistent opposition; but as the choice lies simply between the Bill as it stands and the existing law, it will be for honourable members to ponder well before they incur the responsibility of postponing indefinitely the improvement of municipal administration because they cannot obtain at once all they think fit to ask for. Under free institutions, unless there be absolute unanimity in opinion, no person or class of persons can obtain at once all that appears desirable to that person or class without much patient endurance and some intermediate compromise; it is a proof of the fitness of a people for such institutions that they are able to carry on their contentions in a conciliatory spirit and are prepared to make such com-

promises. Moderation at this moment and the abandonment of extreme views on the part of the advocates of reform, will be the most satisfactory indication which can now be given that the conditions upon which self-government is alone practicable are understood and appreciated by those who may be considered the representatives of certain portions of the population on this occasion, and I trust that there will be some who are not with us upon all points who will find upon reflection that it is not necessary to vote against the Bill in its integrity.

The Honourable Mr. FORBES—I have listened with some interest to the remarks with which the Honourable Mr. Tucker has proposed the third reading of this Bill, and I was particularly glad to hear him state that neither he nor any member of Government was anxious to impose upon the people of Bombay a Bill which would be obnoxious or disagreeable to them. I think that the expression of public opinion, which has been very strong and very ample of late, must fully convince the honourable gentleman that this Bill would be obnoxious and disagreeable to the majority of the citizens of Bombay. I think that one of the chief features in this Bill which renders it open to be described in these words, is the probability which exists that the taxation of the people will be very greatly increased instead of relieved, and if we could have some assurance that Government would not, under the powers which they reserve to themselves in the sections mentioned in the well-named bludgeon clause, undertake any of those great and expensive works which have been for some time looming in the distance, and which will no doubt before long have to be very seriously considered by those in charge of the Municipality, without in the first place fully consulting the wishes of the rate-payers of Bombay upon the subject, I think that one of the main objections to the Bill would be removed. So far as I am concerned I wish I could say that it is with a feeling of satisfaction we approach the conclusion of our long and arduous endeavours to devise a better Municipal Bill for the city than that which has been in force for the past seven years, and I wish more especially that we could have secured a prospect of our labours resulting in Bombay being relieved to some extent of the burden of taxation which presses so heavily upon the people. I also fail to see wherein this Bill encourages to any considerable extent that feeling of public spirit which, I think, it is most desirable to encourage in the citizens, and I should like to have seen a Bill introduced which, by the liberal and conciliatory tone of its provisions, would have tended more than this Bill can to increase the feeling of confidence which I think ought to exist between the people of Bombay and the Government. I regret to say that the results of our labours fail to satisfy me as regards any of the points which I have mentioned. Indeed, Sir, when I glance over this bulky volume, covering 180 pages, and containing 308 sections, and when I endeavour to pick out those particular clauses which I can regard as improvements on the former legislation on the subject, I really am constrained to exclaim in the words used regarding the items of a Bill of a character very different from this, "O monstrous! But one halfpenny worth of bread to such an intolerable deal of sack!" I think if I remind the Council that we have spent many hours in discussing the sections in this Bill relating to such matters as the width of new streets in Bombay, whether houses are to be set forward or backward to improve a line of street, how gas and water-pipes are to be laid down and what distance shall be maintained between them, and that they should be altered at the expense of the Corporation, provisions to secure ventilation of public and private sewers, that doors on groundfloors are not to open outwards, veran-

Mr. Forbes' reasons in support of his opposition to the Bill

dahs to be permitted to project over streets in certain cases, that names of streets and numbers of houses may be put up, the providing of moveable or fixed dust boxes, the removal of dead animals, and so forth—when we look at all this, I think we must admit that this Bill contains a great many matters with which it was quite unnecessary to occupy the time of the Bombay Legislative Council, and that these were matters which could fairly have been left to the discretion of the Corporation or the Town Council. The Honourable Mr. Tucker has reminded us of the circumstances which led to the introduction of this Bill. I agree with him to a considerable extent in his remarks upon this subject, but I certainly think that the fact that the people of Bombay were groaning under a very oppressive amount of taxation, and that this was one of the principal objects for which the people of Bombay sought for relief from Government, ought to have been kept more prominently in view when this Bill was framed. I shall not enter upon any lengthened recapitulation of the history of the mismanagement which led to the necessity of a new Bill being introduced, but I think I may refer to one or two facts which will still be in the memory of this Council. During the past four years the debt of the town has been increased to the extent of £300,000 through the unauthorised expenditure of the late executive officers. The citizens of Bombay have also felt for some time past that there were some great and heavy outstanding accounts between them and the Government which had been long unadjusted and which called for examination and final settlement upon a just and liberal basis. The matters to which I refer are the Vehar water works debt, the amount contributed by the Municipality for the railway overbridges, the claim which the Municipality have put in for a share of the one per cent. income tax which was intended to be devoted to local public works, and further, the Municipality's claim to a share of the three-quarters of a million sterling which was obtained by the Bombay Government by the sale of the ramparts and plots of ground round the city, which money was actually paid by the citizens themselves in a time of extreme excitement, and which they very naturally think ought to have been returned to Bombay by being spent in the island on works which would benefit the people. It is not for me to say whether these claims are altogether justified or to what extent they are justified, but there is no doubt that they have frequently been brought to the notice of the Bombay Government by the public for some years past, and I should have thought that the opportunity afforded by the framing of a new Municipal Bill would have been the very best for Government once and for ever to settle these claims in a satisfactory manner. I have shown that during the past four years the debt of the town has been enormously increased, but this is not the only alarming consideration for the rate-payers and townspeople of Bombay. They have also to consider the fact that the population of the town is decreasing, that the value of property is diminishing to a very alarming extent, and that the trade of the town is very far from being in a satisfactory condition—so that not only are their burdens likely to increase, but their means of meeting them are becoming less. I think therefore that I am justified in saying that the question of municipal taxation ought certainly to have obtained a larger share of attention than it has had during these discussions. I was astonished when, on the question of the Vehar debt coming up in Select Committee, we were told that such matters as these could not be considered, because the Bombay Government was unable to interfere in the matter. I do not know whether members of Government will agree with me—I believe that they will not—but it certainly appears to me that knowing that such a claim as this existed, and knowing the hampered and difficult position into which the finances of the town have fallen, it would have been only right if this question of Vehar debt had been

thoroughly considered, and the Justices or Corporation of Bombay assisted in bringing the matter before the Government of India at the same time that this Bill will be under the consideration of that Government. I would remind the Council that the great increase of expenditure was one of the principal causes which led to the introduction of this Bill, but there was also the question of increasing the income of the Municipality. Hitherto, the word "extravagant" fitly characterised that expenditure, but I confess that under the new Bill the tendency to extravagance will, I fear, be increased. There are all these great public works in prospect—the increase of the water supply, the sewage and drainage question as distinguished from surface drainage, and besides these there is the question of the payment of the police—and Government may force the Corporation to commence on these undertakings when, and to whatever extent, Government may consider necessary. I know that I shall be asked whether I am justified in expressing a feeling of distrust in Government, which will decide the amount to be spent on all or any of those works, but I can only reply that the people of Bombay will be probably guided by their former experience. They have seen themselves saddled with the excessive cost of the Vehar works, and more recently they have seen themselves saddled with the total cost of the police expenditure in contradiction to the practice of the other Presidency towns and in spite of the utmost opposition and protests by the citizens, and coming down to a more recent date, we find a not very encouraging instance of the tone in which Government is sometimes disposed to deal with the people of Bombay. It was only last week that at a meeting of the Bench of Justices the question came up as to whether the Municipal Commissioner should have full power to pay the increased rent demanded by Government for two small pieces of land; one of which was to be used as a market place in Mazagon, and the other as the site for a milch cattle stable in Falkland Road. Both of these places were urgently needed, although the Bench had not sufficient money to carry the works out at once. However, they had spent a considerable sum in preparing the land for the reception of the works—on one of the pieces of ground, at all events, Rs. 11,000 had been expended. This having been done, Government came down upon the Municipality, and in a most summary manner demanded increased rent for the properties. This of course may be a small matter in itself, but it shows that the Municipality of Bombay have, from actual experience, no reason to expect great consideration either for the pockets of the rate-payers or the wishes of the citizens. One of the speakers at the Bench meeting remarked strongly on the matter of these two bits of land, and I think his remarks were perfectly justified. The speaker said he "thought this demand of Government for increased rent was a most remarkable instance of the way in which the Bench were treated in all these matters, the utmost being screwed out of them. Two years ago Government said the Municipality should have this ground at Rs. 500 per annum, but now, after a large sum of money had been spent by the Justices in improving the land, Government insisted on an advance of 50 per cent. in the rent, thus tending to increase the difficulties of the Corporation—difficulties which had certainly not been brought about by the rate-payers, whatever the Justices might have had to do with them. Government ought to consider the rate-payer in all these matters and look beyond the Justices." The speaker contended "that for Government, after having agreed to let them have this ground for Rs. 500, on the strength of which understanding the Municipality had expended some Rs. 11,000, to now turn round like an exacting landlord and say—"No you shall not have the ground which you have improved for less than an advance of 50 per cent.," was most improper, and a sort of conduct that one could hardly understand.

The Honourable Mr. RAVENSCROFT—Perhaps the honourable member will state whether the Municipality carried out the terms of the contract upon which the lands were let to the Municipality.

The Honourable Mr. FORBES—I am not fully informed upon this question, but I suppose this is the point which is referred to by the same Justice in his subsequent remarks. He says—“If the agreement had not been completed within the stipulated time, whose fault was it? Not that of the rate-payers. The course adopted here by Government was most unusual and improper, and he hoped the Bench would not hesitate to express their disapprobation of this exacting and usurious conduct on the part of Government.”

His Excellency the PRESIDENT—We ought to have the name of the party who made these remarks.

The Honourable Mr. FORBES—I find them in the reported speech of Dr. Dallas.

The Honourable Mr. TUCKER—I do not think that any member of this Council has a right to make reflections upon Government through a third party; and as to “exacting and usurious conduct,” I think these are unparliamentary expressions, although the charges are doubtless ridiculous.

His Excellency the PRESIDENT—I think we can bear them.

The Honourable Mr. FORBES—My only object in quoting these expressions was to show the feelings which such matters are calculated to arouse in the breasts of the citizens of Bombay. On a former occasion I mentioned that one characteristic of the present Bill is the distrust of the people, which is evident in many of its sections. I think that the manner in which the people of Bombay have for some years past most quietly and patiently endured the amount of taxation which has been imposed upon them, and which has been admitted by the late head of the Government to be of crushing severity, should entitle them to an exemption from the suspicion and distrust which this Bill plainly displays towards them. I think that if the people of Bombay have, after all these unsettled claims against Government, endured the load of taxation which has been hitherto imposed upon them, there is no reason whatever to doubt that they will, if allowed to manage their own affairs, be quite willing to contribute a sufficient sum to carry out the really necessary objects required by the Municipality. I think, further, that there is no community whatever, of the same numbers and with the same amount of means at their disposal, who have given more proofs of a desire to contribute liberally towards objects of public benefit. After the many instances which have been shown in Bombay of liberality in that respect, Government might fairly have believed that there would be always found in the town a sufficient number of citizens who would take care that the necessary requirements of the city should not be neglected. Surely when members of Council are reminded of these things, they will hesitate before they hand over the rate-payers bound hand and foot, as it were, to Government, and liable to be made to bear any amount of taxation which may be required to carry out the great public works which are embraced in Sections 40 and 41 of this Bill. As to the amount of concessions and control in municipal affairs which has been referred to by the Honourable Mr. Tucker just now, and which has also been laid before the Council in tabular form, I must say that most of these so-called concessions hardly deserve the name of “concessions.” They simply consist of what I may call the rights of every civilised community with regard to the expenditure of its own money. As to the control over expenditure which has been placed in the hands of the Town Council and Corporation,

I think it must be borne in mind that though a certain amount of control may have been given, that in itself is not of so much importance as is the question whether they have got a *sufficient* amount of control, because to place only a certain limited amount of power in the hands of the controlling body may prove to be really of very little use indeed. If we read over Section 42, which specifies the powers of the Municipal Commissioner, and by which it appears that he is to have "the entire executive power and responsibility for the purposes of this Act," I think we shall see that his large powers will undoubtedly lead him on many points into direct antagonism with the Town Council and the Corporation, and if this be the case, one of the greatest defects of the old Municipal Act will be still unremedied. Recent experience has shown that divided responsibility is objectionable, but in this Bill it is even worse than it was under the former Act, where there were two responsible bodies—the Municipal Commissioner and the Bench of Justices. In this Bill, we have not only these, but we have also Government directly interfering with Municipal affairs under clauses 40 and 41. Under these circumstances, I confess that I find myself unable to vote in favour of the Bill as it at present stands. But, as I have said before, if some guarantee could be given that the great and expensive works with which the town is more immediately threatened by the bludgeon clause, shall not be undertaken without the concurrence of the townspeople themselves through their representatives, I think one of the great objections to the Bill as an experiment for three years would be removed.

The Honourable Mr. RAVENSCROFT—The Honourable Mr. Forbes has not only repeated the objections which he has so often urged against the Bill, but he has also pressed into his arguments certain statements of facts regarding which I consider him to be mistaken, and about which I should like to say a few words. I refer to his assertions regarding the Vehar debt, and to his account of a particular transaction between Government and the Municipality, with respect to which he alleges that the Corporation have been badly treated. This last charge refers to a matter which was recently before the Bench of Justices and is the repetition of an accusation made by Dr. Dallas. The real state of things is this. Some years ago the Government assigned certain lands to the Municipality at Mazagon and near Falkland Road for the construction of stables and for other purposes. The conditions were that certain buildings and other works were to be completed within a specified time and the lands were granted at a ridiculously low rent. The Municipality failed to fulfil the conditions on which the land had been granted to them, and the Government, instead of claiming the forfeiture, expressed their willingness to continue the grant on the payment of a slightly enhanced rent. This rent, though in excess of what was at first demanded, was nothing more than a fair and reasonable return for the use of the property out of which the Municipality designed to make profit. It will be for the Council therefore to judge whether there was anything harsh or inconsiderate in this transaction. The next point on which the honourable gentleman founded an accusation against Government was the old and often exploded story of the debt upon the Vehar Water Works, and it appears to me that the honourable gentleman should have made himself better acquainted with the figures and facts of this case before making it a subject of attack. If the Council will be good enough to hear me for a few moments, I think I shall be able to explain once for all that instead of Government treating the Municipality harshly with respect to the Vehar Water Works, they have been giving the Municipality a distinct annual grant of 1½ lakhs

Mr. Ravenscroft replies to statements made by Mr. Forbes, in respect of certain lands rented to the Municipality and the debt upon the Vehar Water Works.

of rupees. Doubtless the honourable gentleman will look rather astonished when he hears this, but I can produce the figures, which cannot be very easily disproved. The Government of Bombay gave over the Vehar water works to the Municipality. The water works were then burdened with a debt of $37\frac{1}{2}$ lakhs of rupees, and were bound to pay to the Government an annual sum of $1\frac{1}{2}$ lakhs of rupees in consideration of their being made tenants for 99 years. The annual revenue from the Vehar water works amounts to $3\frac{3}{4}$ lakhs, and the expenditure on repairs comes to about half a lakh. If this half lakh is added to the sum which has to be paid annually to Government, there will be found $2\frac{1}{4}$ lakhs, and deducting this from the revenue, leaves a balance of $1\frac{1}{2}$ lakhs annually in favour of the Corporation. If any gentleman thinks he can impugn the accuracy of these figures, I should like to hear him do so; but unless he is able to disprove their accuracy, I do not think he can be justified in saying that Government have treated the Municipality inequitably with respect to the Vehar works. The other parts of the Honourable Mr. Forbes's speech are merely repetitions of his former remarks, and I shall not trouble the Council with any further comments on them.

The Honourable Mr. FORBES—I should like to remark, with regard to this present which Government appear to have given to the citizens of Bombay in the shape of revenue from the Vehar water works, that it must be borne in mind that this so-called present is taken from the pockets of the people of Bombay.

The Honourable Mr. RAVENSCROFT—The people of Bombay simply pay for value received.

The Honourable Mr. FORBES—It must not be forgotten that formerly the people of Bombay got water without payment, and the city's tanks have not been filled merely since Vehar water was introduced. I readily admit that there may be a better supply now, but that Government in any way contributes to this result I entirely deny. The people of Bombay have to pay very heavily for the water they get, and are therefore indebted to no one.

The Honourable Mr. RAVENSCROFT—People in Bombay may still get their water for nothing. I myself live in a house on Malabar Hill, and I simply pay a bheestie to bring water from a well 200 or 300 yards off. I pay no water rate whatever; but those who wish Vehar water to be brought to their premises, of course have to pay for the necessary connections, and therefore I maintain that the present water rate is not a tax, but a payment for value received.

The Honourable Mr. TUCKER—If a capitalist lends money to another person to be spent on the construction of a reproductive work, and allows the borrower to enjoy a considerable revenue from the work by deferring for a considerable duration of time the repayment of the debt, I do not think that this would be called in ordinary life a harsh or avaricious proceeding. Is this not the position of the Bombay Government and the Municipality with reference to the Vehar Water Works?

The Honourable Mr. FORBES—Under ordinary circumstances this would be generous, but if this capitalist were himself to undertake the construction of the work for which he lent the money, and were to do it at double the necessary cost, and then charge the moiety upon the man with whom he was dealing, I think the proceeding would not be at all satisfactory. This is the state of matters relating to Bombay and its Vehar water supply

Government insisted upon doing the work with their own officers, and while the cost was unnecessarily large, they laid the burden of their extravagance upon the citizens.

The Honourable Mr. TUCKER—I have already mentioned on another occasion that I believed that two different Governors of Bombay had desired to remit a portion of this Vihar debt to the city, but the question whether this indulgence should be granted is a matter for negotiation between Government and the Corporation, and not a subject for discussion in a legislative assembly. The Government of India is alone competent to deal with this question, and it is altogether beyond our power to legislate upon it.

The Honourable Mr. FORBES—I would represent that if this is a claim which has been acknowledged to have some justice in it, the sending up of this Bill to the Government of India would have been a most excellent opportunity for asking them to take it into consideration.

The Honourable Mr. TUCKER—It would be out of place to mix up matters of this character with purely legislative business.

His Excellency the PRESIDENT—Is not the honourable member now making an attempt to relieve Bombay at the expense of the people of India? I cannot look upon it in any other light.

The Honourable Mr. FORBES—I believe that these water works originated from the fact that the Government of Bombay found themselves frequently compelled to go to considerable expense by having to relieve distress caused by water famines, and they therefore considered that it would be a saving to the revenue of the Presidency if a proper supply of water were introduced into the city.

The Honourable Colonel KENNEDY—I must say I am surprised at the Honourable Mr. Forbes regarding as a tax what is nothing more than a payment for one of the necessaries of life. It would be as reasonable to consider payment for a loaf of bread a tax. I cannot see that the honourable member should regard the bludgeon clause with such terror. The police is already a fixed rate; making suitable provision for “cleaning and surface draining” cannot involve a large expenditure; and there is nothing said about undertaking large works to increase the water supply, all that is provided for in the stipulation that a “proper and sufficient supply” shall be maintained, being that the present water supply of the city shall be kept up. There is one more reason which I think should satisfy the honourable member—I allude to the position which Government took in regard to the Toolsee scheme. The Bench wished to spend a considerable sum upon that work, but Government actually restrained them from spending so much and showed them the means by which the cost could be diminished. I consider this to be an apt illustration of the course which Government is likely always to pursue with regard to the Municipality. The Honourable Mr. Forbes has alluded to the Municipality's claim for a share of the 1 per cent. income tax. I have not the figures here just now, but I know I am correct in saying that there has been a very large outlay from that source of revenue on public works in Bombay and in the vicinity, a notable example of the improvements made in its neighbourhood being the completion of approaches from the opposite side of the harbour. The honourable gentleman has also alluded to the sale of certain lands in Bombay. These lands became available when the ramparts

Colonel Kennedy argues that the “bludgeon clause” cannot be the means of leading the Municipality into great expenditure.

were removed, and as fortifications are specially imperial property, I do not see that the Municipality has any just claim to any portion of the sums realized by the sale of these lands. Nevertheless the money has been spent for the greater part in the improvement of the city, and every time the honourable member drives from his residence to the Fort, he will see some of the benefits that have been conferred on the city. The roads across the Esplanade were also constructed from the land fund; so were those buildings which are now springing up in every direction in Bombay, tending to render it one of the most beautiful cities in the world. Therefore, to hold that that money has not been applied in any way to the advantage of the citizens of Bombay is, I submit, altogether a mistake.

The Honourable Mr. TUCKER—I think the Honourable Colonel Kennedy has omitted to allude to buildings which undoubtedly may be said to be for the benefit of the inhabitants of Bombay. I allude to the Victoria and Albert Museum and Elphinstone College already completed, to the School of Arts, which, although not yet begun, will I hope soon spring into existence; and the University buildings, not to say anything of the proposed New High School and Palace of Justice, all of which are provided for. The idea expressed in the *Indian Statesman* that the city has received no benefit from the one per cent. set apart from income-tax for local expenditure is a most extraordinary one. As a matter of fact a far larger portion of Imperial and Provincial revenues has been spent on the city of Bombay than it was justly entitled to if the other parts of the Presidency had received their full share. There is no foundation whatever for this complaint.

The Honourable Mr. FORBES—I do not know whether I am now in order, but I should like to ask the Honourable Colonel Kennedy upon what ground he can assure us that there will be no increase on the amount which the Municipality is called upon to pay towards the police expenditure.

His Excellency the PRESIDENT—I think the question is irregular.

The Honourable Mr. FORBES—I merely asked it, because I think the honourable gentleman is assuming something which he is not justified in assuming.

The Honourable Colonel KENNEDY—I merely said that it was fixed within certain limits.

The Honourable Sir JAMSETJEE JEJEEBHOY—I regret, Sir, that my vote must be against the motion for the third reading of the Bill. My reason for it is simply this, that the Bill does not satisfy any one section of the community of Bombay. The concession of the quasi-representation which the Bill makes does not satisfy the expectations of those that made the demand for it. The reduction of taxation which, as I have already informed His Excellency, the people needed more than even the privilege of representation, has not been granted to them; the lowering of the maximum and the minimum of the house rate is not calculated to afford any perceptible redress to the oppressed classes. It is said that it is too late to enter upon the enquiry into the incidence of taxation, that it would delay the Bill indefinitely, but with all deference to the opinion of the honourable mover, I submit that it is never too late to mend. It would serve no good purpose to allow the Bill to go forth in the face of opposition from all sides and without bestowing any consideration upon the fiscal system which has admittedly been left unnoticed. The people and the Municipality can well afford to wait another six months

Sir Jamssetjee Jejeebhoy opposes the Bill because it satisfies no section of the community.

or even a year, in order to have a satisfying and well-considered Municipal Bill offered for their acceptance. The Bill, again, introduces other changes into the existing law which are most rigorous and undesirable. It makes the building and sanitary clauses much more stringent, exacting and rigorous than is necessary in the present state of the town and its people. Taken as a whole, the Bill does not promise to be any improvement upon the present state of things. Out of deference, therefore, to the voice of the public, as well as from my own conviction that the Bill fails to meet our requirements, I am compelled to vote against it. It would not perhaps be out of place for me, as one of the custodians of the Parsee Panchayet properties, to add, before I conclude, in reference to the burial clauses in the Bill, that although they have been materially altered at the second reading of the Bill, it would have been highly expedient to have exempted the Towers of Silence from the operation of Section 249 of the Bill, which contemplates the closing of the existing places for the disposal of the dead, because there is no likelihood of the Towers of Silence proving injurious to the public health in any way. They have been there nearly for the last one hundred and fifty years. With His Excellency's permission, I will read an extract from a Government resolution dated the 18th September 1855, para. 2 :—"So with respect to existing places of exposure for the Parsee dead. The places of this nature now existing are not supposed to be injurious to the public health, and the prospect of Bombay being so increased that its population will be forced into dangerous proximity to them is of such a remote nature, as not to call for present legislation."

The Honourable Mr. BYTHELL—Sir,—As the Bill after undergoing twelve days' discussion in committee remains unchanged, in what I consider to be the most essential point, I shall vote against the third reading. I find myself placed in an awkward position. I know that it may be deemed unbecoming in one of the junior members of the Council to express himself very strongly, and yet, Sir, I entertain such a strong opinion on this question, that I cannot give a silent vote. I speak however in no factious spirit. I am sorry to hear that the Honourable Mr. Tucker thinks the mercantile members displayed any class feeling. He spoke of concessions having been made to the party I represent, and seemed to think that I should therefore withdraw my opposition. But, Sir, I do not by any means look upon the withdrawal of the town due on cotton and the change in Section 114 as being concessions to me personally. All that I did in connection with that matter was to exhort the Council to be consistent. I advocated no new policy. For years past this Council, the Government of Bombay, and the Government of India have emphatically refused to sanction the re-imposition of transit dues in India. I did not speak on behalf of the interests of any special class, but for the good of the whole community. If Bombay had been allowed to impose transit dues, a similar privilege could not have been refused to municipalities in the Mofussil, for in the North-West Provinces and the Punjaub municipalities have been clamouring for years past to be allowed to tax goods in transit. To re-institute a system of taxation, which we know from experience rivals in India all other systems in fostering oppression and official corruption in their worst form, would indeed be a retrograde piece of legislation. I stated, Sir, on the second reading of the Bill, that I could not believe in this divided system of management being successful, and the changes in the sections relating to taxation do not in any way remove this my one great objection. I have gone through the Bill again and again very carefully, I have studied it to the best of my ability in every

Mr. Bythell opposes the Bill, chiefly on the ground that it would introduce an objectionable system of "divided responsibility."

possible light, and the result of it all is that I am more firmly than ever impressed with the belief that the very best thing that can be done is to throw out the Bill at this stage instead of allowing it to proceed further. I cannot conscientiously vote for the Bill, because it is based on a principle which I believe never can under any circumstances work satisfactorily. If the honourable member who introduced the Bill to the Council had only adopted the principle which, judging from his remarks on the second reading of the Bill, he seemed to think had been his guide, we should have had a simple, workable Bill to discuss instead of the hybrid sort of measure that is now before us. Had he only treated the Corporation as a mercantile man or a Bank would treat his or its agent, we should have had some prospect of the Bombay citizens being allowed a real trial in self-government. Such an agent would have full power to manage the agency subject to certain restrictions laid down by his masters, who would retain full power to suspend him from office at any moment. Now, this is precisely the position—the only position—in which the citizens of Bombay should be placed if they are to be allowed a fair trial. Lay down stringent rules for their guidance, but give them the sole management of the city subject to these rules, and let Government have the power to take the management out of the hands of the Corporation at any time. I know that self-government in Bombay would be an experiment, and I do not prophesy that it must infallibly be a success. He would be a bold man who did that! Therefore it is that I think Government should have the power (reserved to them under the Port Trust Act with regard to the port trustees) of coming forward in case of necessity and suspending the powers of the Corporation, and, if need be, taking the entire management into their own hands. The plan I propose, if carried out, would really test the capabilities of the citizens and could not possibly lead to any evil result. But with the present half-and-half kind of Bill there cannot possibly be any such test. Should the Act prove a failure—and I cannot see in it any element of success—on whom would the blame fall? All the unpleasant wrangling that has been going on for the past two years as to who is to blame for the shameful extravagance which has overloaded the city with debt, would just be repeated in an intensified form. Government would say—“This comes of allowing the citizens to meddle with their own affairs”—and some Government officials might possibly say “this is just what we predicted.” Then, on the other hand, the public would in their turn say “We prophesied this failure; how could such a system of divided management and responsibility ever work? We said the Commissioner and the Town Council would inevitably quarrel, while the interests of the city were neglected.” With such a complicated system of check and countercheck stipulating that the Corporation shall do this, the Town Council that, and the Commissioner shall be supreme in the other matter, any one could easily bring forward many reasons for showing that a failure was inevitable. The matter would not in fact be advanced one step beyond its present stage. It would still be an open question as to whether Bombay was or was not ripe for self-government, and Government would probably be driven to launching another tentative measure in order to decide what ought to be decided by the present Bill. The Act begins by providing for the election and nomination, at great trouble, and probably at some expense, of a Corporation composed of sixty-four citizens, and for a Town Council of twelve members being nominated from among the members of that Corporation. Reading thus far the Act would seem to an outsider to be all that could be desired. He could naturally conclude that the citizen representatives were going to have the opportunity of carrying out the provisions of the Act in the manner they found to be most expedient and least likely to cause annoyance

to the community. But what would he say when, after turning over a few more leaves he saw that this elaborately elected Corporation was merely to vote supplies, and that its satellite, the Town Council, was merely to see that the money voted was expended in the manner specified? And would not he be inclined to laugh and say the whole thing was incongruous, disjointed, and an absurdity, when he found that in place of the elected body of citizens being empowered by the Act to set to work and effectively organise all the Municipal business, Government were to step in and appoint one of their own officials with sole power to carry out all the provisions of the Act? Why, in the name of goodness, he might well exclaim, was such a great fuss made about electing the Corporation and Town Council if this is to be the end of it all? Why did not Government simply at once appoint their official and tell him to do the work, without going to all this useless trouble and expense? I have however heard it argued, that we who object to the Commissioner being placed in a position that must bring him into antagonism with the Town Council, are led away by a figure of speech, that Section 42, which says that the sole power and responsibility shall be vested in one Commissioner, must not be read literally, that the other portions of the Act so bind him down that he virtually cannot move hand or foot without the sanction of the Corporation. Well, then, I answer, if he really will, *and is intended to be* the servant of the Corporation, why annoy the public by deluding them into the belief that Government are so distrustful of the Corporation that is to be, that they take care to render the body to a great extent powerless, by placing all the real power in the hands of their own nominee? I do not however at all believe in the theory that all the real power will rest with the Corporation and Town Council. Certainly the Commissioner's power was to some extent curtailed when the Bill was discussed in Committee, but in order to show what an immense amount of arbitrary power over the citizens—including the members of the Corporation individually—was vested in the Commissioner by the Bill before it was amended, I will, with the permission of the Council, give a statement of the power that he will still be allowed to exercise without any one having the right of appeal against him—either to the Town Council, the Corporation, or any other tribunal.

“Section 42.—Sole executive power placed in the hands of the Commissioner.”

“Section 90.—Commissioner to supply water on such terms as he may deem best.

“Section 148.—Commissioner to fix at his pleasure width, direction, drainage and level of all new streets, and to approve or reject the plans submitted by the parties proposing to make the streets.

“Section 151.—To set apart such bathing and washing places as he may think fit.

“Section 152.—Should he suspect that any manufacturer is fouling Vehar water, he has power to open and examine any conduits and pipes belonging to such person.

“Section 154.—No one shall make roofs of certain materials without the consent of Commissioner.

“Section 159.—Commissioner's power to order owners to level and drain any street according to his satisfaction within a time specified by him: Penalty—Commissioner will do the work at owner's expense.

“Sections 165-166.—Commissioner to approve or reject all plans for building: if any building be erected without his approval, he may pull it down.

“ Sections 170-171.—Commissioner has power to raise, sink, or otherwise alter situation of any gas or water-pipe, full expenses and compensation to be borne by Corporation.

“ Section 172.—Commissioner has power to remove, alter, or destroy existing huts.

“ Sections 174-175.—Commissioner has power to make owners drain houses and cesspools to his satisfaction.

“ Sections 176-177.—Also to make owners ventilate all drains and cesspools as he may deem fit.

“ Section 180.—To make owners provide any additional privies he may deem requisite.

“ Section 182.—To alter as he may choose any drain, cesspool, privy, house gully, made contrary to his directions.

“ Sections 183-84.—To make employers construct any and all privies he may consider necessary.

“ Section 186.—To open and examine all drains and privies to see whether they be in accordance with his directions: should they turn out to be so, compensation and expenses to be paid from Municipal funds.

“ Section 195.—To cause the removal of any existing projection, obstruction, or encroachment—and if such encroachments have been lawfully made, compensation shall be paid by Municipality to owners.

“ Section 196.—To demolish anything he may deem to be an obstruction or a projection constructed after passing of this Act, owners having no right of appeal.

“ Section 197.—To give permission, if he choose so to do, to owners to erect verandahs, balconies, sunshades, &c.

“ Sections 200-201.—To pull down any house, building or wall he may deem to be in a ruinous state—owners having no appeal against his decision.

“ Section 202.—If two neighbours complain that any unoccupied land is a nuisance or resort of idle persons, the Commissioner shall on enquiry give notice to owner to enclose the same.

“ Section 212.—Whenever in the opinion of the Commissioner any place is dangerous to passers by, he may give owner notice to enclose the same within 24 hours, and in default the Commissioner may do the necessary work at owner's expense.

“ Section 214.—Commissioner shall provide places that he may deem convenient for disposal of night soil and other refuse.

“ Section 216.—No person shall remove night soil except in a cart or receptacle, the design of which has been approved by the Commissioner.

“ Section 220.—If in the opinion of the Commissioner any house, building, or land is in a filthy or unwholesome state, or is a nuisance to neighbours, the Commissioner may order the same to be put in a proper state within 24 hours, and prohibit any one from inhabiting it until his orders are carried out.

“ Section 221.—To order any house owner at any time to limewash his house inside and out, and in default, to do the same at the owner's expense.”

Up to this point (Section No. 221) all these sanitary regulations are solely in the hands of, and are to be carried out at the discretion of, the Commissioner : thus far the amendments proposing to give right of appeal to the Town Council were all lost ; but the continued opposition during the sitting of this Council in committee to these exceptionable powers being placed in the hands of one man, had at length some effect. Beginning with Section 222, it will be found that many of the sanitary regulations have been subjected to the control of the Town Council. This explains the anomaly of the Town Council being allowed to interfere in one-half of the regulations and being denied all power of control over the Commissioner with regard to the other half of the same branch of the service. Still, however, we do even find some sections subsequent to Section 221 that give sole power to the Commissioner, though on what principle the privilege of control is granted to the Town Council in the one case and refused in the other, it is impossible to say. I continue to enumerate the sections in which the sole power has been retained for the Commissioner :—

“ Section 225.—The Commissioner shall at his option grant, withhold, cancel or revoke any licence to any distillery or manufactory of an offensive and unwholesome nature.”

Now here is a wonderful power to be granted to any man. He is not bound to sit and take evidence as a magistrate would be before deciding the case—he may proceed *ex parte* or in any way he may deem most convenient, and he is the sole judge in the matter. There is to be a Corporation and there is to be a Town Council, and neither body is to have any power over the Commissioner in regard to such an important matter as this. Government may appoint a man who has spent most of his Indian life in the Mofussil, and such a man coming to Bombay is to be allowed to fix the localities in which certain trades should be conducted without even consulting the elected and nominated body who are by a great stretch of imagination said to be his masters and controllers. It is indeed difficult to understand on what principle this wonderful Bill has been constructed. To proceed with the analysis however :—

Section 226.—The Commissioner has a similar power to grant, withhold, or cancel licences to keep horses, buffaloes, or other animals for the purposes of trade.

Section 227.—Again the Commissioner has power to grant, withhold, or cancel licences for the sale or stowing of firewood, hay, steam coal, &c.

What a wonderful man this coming Commissioner must be ! He is to have a better knowledge of the requirements of the public in regard to what will be convenient places for livery stables, cowhouses, coalyards, firewood and hay stores than all the twelve Town Councillors and the other 52 residents composing the Corporation put together.

Sections 231-32 give the Commissioner power also to grant, withhold, cancel or revoke at his discretion licences for all slaughter houses.

Here again he is to be the sole judge as to locality and suitability in other respects. What an intimate knowledge of the city and its requirements he will have ! or will he be merely guided by his subordinates ? The latter is, I fear, the more likely contingency.

Section 235.—Commissioner to license all butchers.

Section 261.—In case of a census being taken, the Commissioner may appoint the establishment that may seem to him necessary, the Corporation paying for the same, although they will have no voice as to number of people engaged or salaries paid.

Nevertheless we are told that in all financial matters the Corporation will be supreme! The strangest part of this very strange Bill is, however, the fact that the extraordinary power to be vested in this ubiquitous Commissioner over the largest and most intelligent body of citizens in the country is one that is not granted to any official in the Mofussil. Should any resident in the Mofussil be charged with keeping his house in such a state as to be dangerous or a nuisance, he can demand that before even a magistrate shall make any order in the matter a jury shall be appointed to decide upon the justice or injustice of the charge. But here in Bombay no such power of appeal either to the Corporation, the Town Council, or to a magistrate is allowed. This autocratic Commissioner, bound by no law as to what evidence he shall first take, or what enquiries shall be made, and with power even to act solely on the information of a subordinate (the only stipulation being that in his—the Commissioner's—opinion the step shall be necessary) can order any citizen to pull his house down forthwith, and if the citizen should not comply, the Commissioner may demolish the house and make the owner pay all expenses. It is, Sir, I think unfair to the community to place such power in the hands of any man, no matter how perfect or conscientious he may be. I can confirm the Honourable Mr. Forbes's statement that most of our leading citizens would refuse to take office in a Corporation or Town Council who had a man possessed of such despotic power placed in their midst. Several Justices of the Peace and other gentlemen have said to me that with the Bill framed on this principle they would refuse office, and I do not think that Government would be able to secure the really best men. If the Town Council will not be fit to exercise the functions of a court of appeal in the sanitary matters enumerated in this long list, they will be good for nothing, and it will be a pity to call such a useless body into existence. During the discussion on the Bill in Committee the Honourable Mr. Tucker spoke of there being some probability of the local authorities in England being deprived of control over sanitary matters. The honourable member is reported to have said:—"The Honourable Mr. Bythell asked for a precedent. If he has taken any interest in the debates in Parliament during the last session about matters of local sanitation, he would find a precedent; because he would discover that a strong feeling existed in England to take away from local boards the control they had hitherto exercised in matters affecting the public health and security, and to place it in the hands of the general authority, who would discharge these functions by means of a single but competent executive officer entrusted with large powers. There are many things which are far better left to the discretion of one competent and trustworthy man than to a board of men not possessed of equal skill or influenced by so strong a sense of responsibility. The duties referred to in this section are matters of this description." I said, Sir, at the time, that I had no recollection of such a proposal being made. It will perhaps be remembered that the honourable member's remarks on this point were in answer to a challenge from me to name a precedent for any Corporation in England not being allowed to fix the level, width, and direction of all new streets. The Honourable the Acting Advocate-General had previously challenged me to name an instance of any Corporation having such a power, and I had replied that every Corporation in England has power to decide such matters; that a body of citizens intimately acquainted with the city

was more likely to know the wants of the community in that respect than a new man who possibly before his appointment might know no more about the city than a man coming fresh from England. Now, what the Honourable Mr. Tucker said in answer to me would lead one to infer that there was a movement on foot in England in favour of powers similar to those vested in the Commissioner by this Bill being conferred on an executive municipal officer in England. All I can say is, I should like to see the experiment tried there. It would be interesting and curious to hear the outcry that would be raised at the mere proposal to give any man living the power over the citizens of any large English town that will by this Act be given to the Commissioner over the city of Bombay. The honourable member may be right, but if so, I have strangely misread all English newspapers and periodicals of late, and the tempers of the English people must have changed most wonderfully since I was at home. If the honourable member referred to the Public Health Bill passed this session in England, I think I can show that he was mistaken as to its provisions. I have been unable to get a copy of the Bill, none having yet, I believe, been sent out to this country; but I have here a copy of the *Mail* of the 8th of April last containing a report of the debate on the second reading of the Public Health Bill. From this report, which is very long, a correct idea of the character of the Bill can however be obtained, and I find it to be quite different from what the Honourable Mr. Tucker imagined. Instead of all power being taken from local authorities, their power is to be increased. As the working of this new Health Bill in England is of importance in connection with the topic now under discussion, I hope, Sir, I may be permitted to read an extract or two from the report of the debate, in order that we may know the nature of the new sanitary provisions that are to be enforced in England. I will mention the speakers' names. Dr. Playfair—"Thus the guardians of the poor in country districts became the sanitary authorities; but in towns the ordinary civil authorities assumed the health functions. The Bill provided that both urban and rural boards were to appoint medical officers of health, and it suggested that these were to be the Poor Law medical officers. The urban boards were to appoint, pay, and dismiss these officers at will; but the rural boards were to pay only one-half the salary, the other half being paid out of the consolidated fund, and the appointment and dismissal being made subject to the approval of the central local Government Board." Sir C. Adderley—"He hoped there was nothing in the Bill that would make it less clear than it was now that the object of the Act of last year was simply to concentrate the central supervision, which up to that time had been scattered through several departments of the State, not to give the State any more power to undertake the local administration of the country, but to stimulate local administration where it was stagnant, and to give assistance when assistance was needed. This Bill would simply cover the whole country with local administration, and nearly all the objections raised to it referred to matters to be discussed on the clauses in committee. Of the three parts into which the Bill might be divided, the first and most material made it universally imperative that there should be local government every where; the second enabled the local authorities to combine for larger than merely local purposes; and the third improved and completed the powers of local government which the experience of the last few years had shown to be necessary. The first point—the universal provision of responsible local government—was the principle of the Bill which they were called upon to discuss on the second reading; and no honourable member would hesitate to affirm that we ought not to go on with our present partial provision for local government, leaving it to the opinion of every part of the country whether it

would undertake the responsibilities of local government, or that we ought to be content to leave local administration stagnant while health and comfort were sacrificed to such stagnation. The main principle of the Bill was the utilising of existing machinery, the immediate provision of it where none existed, and the consolidation of authority where confusion existed. It was the object of the Bill not only to utilise, but to economize existing machinery; and what economy could be greater and more important than to take an existing body and to use its officers instead of creating a new one? He believed that many of the powers which were proposed to be conferred on local authorities to prevent adulteration and so on were necessary; but they were not essential, and some of them would bear modification." Mr. Hardy—"What was wanted, therefore, was some extraneous authority, some inspector who would go to the local authority and say, 'here is a case in which you must interfere.' The authority inspecting must be an independent authority, having no other object than to secure the public health. If the local authority, who might be the guardians, dealt with the case, there would be an end of it; if not, the local Government Board should be apprised of the fact and step in." Mr. Stansfeld—"He had always professed himself a believer in local government, and had always insisted that the chief duty of the central authority was to lead and not to drive. That section (49th) conferred upon the Secretary of State the power, in case of default by the local authorities in the performance of their duty as guardians of the health of their district to call upon them to perform it. If they still failed, then the Secretary of State might appoint some other person to carry out the necessary work, and levy a rate upon the district to cover the expense. His honourable friend, the member for Westminster had drawn the attention of the House to the fact that London was not included in the Bill. The omission was made purposely, for the sufficient reason that he thought it was for the advantage of London that it should be left to do its own work. He had been asked by an honourable member what contributions the Government proposed to make in aid of the local authorities? That was a very serious question, and he thought it would best be dealt with in Committee." Sir, I need scarcely say that it is evident from these extracts that no proposal has been before the English Parliament to give power to one man to decide all sanitary matters solely on his own responsibility. Englishmen are not the people to stand such legislation. The new Health Bill simply does for English towns what I have all along contended the Bill now before the Council ought to do for Bombay. If there is to be a Corporation or a Town Council, the executive officer must be subordinate, or the thing never can work. That is the very point on which some honourable members appear to entertain somewhat contradictory opinions. At one time they say the Corporation are to be supreme, at another they say we propose to take all power out of the hands of the executive officer. But, I ask, if the Corporation are to be supreme, why appoint a Government official with power to act independently of his nominal masters, the Corporation? And on the other hand, if the Commissioner is to have independent power, why have a Corporation at all? An executive officer must of course have power, but if the scheme is to work, the power ought to be delegated to him by the Corporation, whereas he will be able with regard to many most important matters to defy the Corporation to interfere with him. As we have been discussing English municipal matters, perhaps I may be allowed also to refer to another matter of this nature which has been before Parliament lately. A Select Committee of the House of Commons, of which Mr. Goschen was chairman, reported in 1870 on the incidence of local taxation, and the constitution of local boards. The committee

were of opinion that rates were not fairly divided between occupiers and owners, and as regards the constitution of the boards and corporations, the committee's recommendations were as follows :—“ That in any reform in the existing system of local taxation, it is expedient to adjust the system of rating in such a manner that both owners and occupiers may be brought to feel an immediate interest in the increase or decrease of local expenditure, and in the administration of local affairs. That in the event of any division of rates between the owner and occupier, it is essential that such alterations should be made in the constitution of the bodies administering the rates as would secure a direct representation of the owners adequate to the immediate interest in local expenditure which they would thus have acquired. That Justices of the Peace should no longer *act ex officio* as members of any local board in which direct representation of owners has been secured.” I have referred to this matter as another proof of the fact that the English Parliament does not propose to curtail the powers of local authorities in the management of their own affairs. In fact I think it is rather unfortunate for the arguments of the supporters of the Bill that reference should have been made to what is transpiring in England. The fewer the illustrations they draw from England the better. I have endeavoured, Sir, to lay before the Council some of my reasons for deciding to vote against the third reading of the Bill. I do think that if honourable members would endeavour to realize the true position, and consider well the improbability of this complicated and contradictory scheme of municipal government ever being in any respect a success, they would decide to vote against its being made law. I would ask the Council once more either to give the people a real trial of their capacity of self-government or none at all. The people, seeing what burdens have been imposed on them by the mismanagement of a Government official, asked to be allowed to manage their own affairs in future. This Bill professes to give the citizens what they wished for, but I ask the Council, is it anything more than a mere profession? Is it not throwing into the city a bone of contention instead of giving a remedy for the evil that existed under the old administration? I hope, Sir, I shall be excused for speaking so strongly. If I could have believed that there was the slightest probability of the Bill being of any service to the community, I would not have gone to this length in opposing it. I have all along been anxious to give every possible assistance to the honourable members who have gone to so much trouble in preparing the Bill and who believe that it will meet the requirements of the city, and I regret exceedingly to have to state that I cannot honestly vote for the measure. I have now only to say in conclusion, that I hope the Council will see that I have adopted a fair and open policy throughout the discussion. I said during the debate in the second reading that I never could believe in such a complicated and divided scheme of management proving successful, but that as there was a hope of the Commissioner's powers being curtailed in committee, and as I had not, as I then confessed, given so much time and thought to the Bill as other honourable members, I would not take upon myself to oppose the second reading. The principle of the Bill which I do thoroughly believe, rightly or wrongly, to be very defective, remains however unchanged. I occupied much of the Council's time in committee by proposing and supporting different amendments. It may be asked why I did so when I intended to oppose the Bill in its final stage. My reason for doing so was this—I saw quite plainly that the Bill would pass through the Council in spite of the opposition, and therefore endeavoured to remedy what I thought to be the minor defects of the Act, although I intended from the very first to oppose the third reading in case no change should be made in the position of the supreme executive officer.

The Honourable Mr. ROGERS—Sir,—I beg to support the motion of the Honourable Mr. Tucker. A great deal of stress has been laid in the public papers upon the action of the Legislative Council in this matter, and some of the censures have been most uncalled for. Even in the petitions presented to this Council expressions are made use of which are to a considerable extent contrary to fact, and to which I can apply no other word than unjustifiable. One of these petitions professes to explain the purpose of the Executive and Legislative Governments in making alterations upon the Bill, and I will read to the Council an extract from this “humble memorial of the committee of the residents and ratepayers of Bombay.” “Your memorialists cannot but re-echo the feeling of disappointment which is generally expressed throughout the island that the Bill, as revised and reported upon by the select committee, fails to meet the most pressing wants of the city in the matter of improved control over its municipal affairs, and of greater economy in the expenditure of municipal funds. Moreover, your memorialists find that the Bill bears evidence throughout, as the Honourable Mr. J. A. Forbes has truly remarked, of ‘a marked distrust of the whole system of municipal government which it inaugurates.’ They observe that in the amended Bill Government have indeed professed a desire to make more liberal concessions in favour of popular representation than were offered in the original Bill. But the unpleasant fact cannot be concealed, that the so-called concessions are hampered by restrictions and qualifications which make them practically valueless. It would appear as if the concessions had been made with a predetermination to render their results entirely nugatory, with a studied desire throughout that the constitution, as presented by the Bill, shall collapse, as it must necessarily collapse; that the Act shall be unworkable; that its objects shall be frustrated; that the entire blame of the failure shall rest on the representatives of the people; and that the citizens of Bombay, on failure of the first experiment, shall cease to assert their claims to representation for at least a considerable time to come.” The memorialists say that this may appear strong language, but I do not think any one could hesitate to characterise these expressions as “incorrect representations,” and I for my own part, as well, I may say, as my colleagues, entirely repudiate these charges. The press of Bombay have been pleased to attribute all the supposed shortcomings of the Bill to my honourable friend Mr. Tucker, who has been called “the obstinate senior member of Council,” “the father of the Bill,” and many other names; but His Excellency must be aware, that with the exception of the constitutional part, the greater portion of the Bill was drafted by a select committee, consisting of General Marriott, the Honourable Mr. Scoble, Mr. Hope, and Mr. Dosabhoj Framjee; all the recommendations of the committee were, however, not followed, and the Bill as introduced into the Council was different in some respects from the committee’s draft. After its introduction it has been much altered, and every alteration has been in the direction of liberality, and has been a concession of some point or another which the people of Bombay have been asking for. We have granted a much larger measure of representation than was at first proposed; out of a total of sixty-four members of the Corporation, thirty-two will be elected by the rate-payers. I can say that both by the select committee and the members of the Executive Government every clause has been most conscientiously considered, and so far from desiring that the Bill should collapse we have tried in every possible way to render the representation of the people effective,—that is, to get together a body of men who will express the views of the persons by whom they are chosen. We have been entirely actuated by a desire to meet

Mr. Rogers remarks in support of the motion.

the wishes of the people in framing the municipal constitution. The great complaints which were made about the working of Act II. of 1865 related not to the management of the executive details by the late Municipal Commissioner, but had more particular reference to the want of control over him in the matter of the expenditure of municipal funds. The main object of the Government has therefore been to remedy the faults in this respect which were found in the present Act and to check any Municipal Commissioner in leading the city into the expenditure which a former Commissioner led the Justices into; and I think that any one who carefully and fairly looks through the details of the measure will agree with me that the Commissioner is most effectually controlled. Though the Government have reserved to themselves a position by which they will be able to see that the Corporation does not abuse the powers that will be entrusted to it, yet they have invested the Corporation with great powers, it being allowed not only to adjust the local burdens and regulate taxation, but also to say how the money which may be raised shall be spent. The full Corporation would, of course, be too large and unwieldy a body to control the expenditure in its minute details, this being, it will be remembered, one of the chief faults found with the Bench of Justices; and therefore we proposed that inside of this Corporation there should be a board of twelve directors, to be called the Town Council which should look into all details of expenditure and effectually control the Municipal Commissioner in every single matter by signing or not signing cheques as they considered to be necessary. A great deal of what honourable members have advanced about the large executive powers entrusted to the Commissioner may be set aside in one word—that the Commissioner can positively do nothing without money, and that he cannot get a single farthing to carry out any of his ideas without the signature of two members of the Town Council who are to be paid to sign cheques. It would certainly be an extraordinary proceeding if the Bank of Bombay or any other bank were to give the Commissioner money unless his cheques were signed by the requisite number of members of the Town Council. A great deal of the mistrust as to the power of the Municipal Commissioner has, I think, arisen from the wording of Section 42, but the words “entire executive power and responsibility for the purposes of this Act shall be vested in one Commissioner,” do not mean to imply that he can do as he likes. He is simply the executive officer of the Corporation with the power to carry out all he is ordered to do by the Corporation, who must provide him with the necessary funds. The Honourable Mr. Forbes has told us that this measure is obnoxious to public opinion, and if this is the case—which I very much doubt, for the press of Bombay have been giving various opinions and have not agreed on any one particular principle—I think it must have arisen partly from the construction put upon the words I have read and partly from the powers reserved to Government under Section 40 of this Act. I shall pass over the remarks which the honourable member made about this measure being incapable of encouraging public spirit—though in what direction he does not say—and the concessions being not sufficient to reconcile the people to the bill. He told us that the details of the measure provided a small quantity of bread to a large amount of sack, but he forgot to tell us which was the sack and which the bread. He then made allusion to a number of sections in which the Municipal Commissioner is to be allowed to act without the sanction of the Town Council or the Corporation, and the Honourable Mr. Bythell, in saying much the same thing, wished that the powers of the Municipal Commissioner should be curtailed and more power given to the Corporation. Now, I would just like these honourable members to think what the result would be if a body of 64 persons were entrusted with executive power in these details. Could these details ever by any

possibility be carried out? and what would become of the promptitude of action which would be the result of a single officer having that power? I think it would be absurd if the erection of any privy or urinal had to be decided by the Corporation. A question in which so many interests might be involved would be sure to lead to a party fight. Even though details like these were left to the much smaller board of twelve Town Councillors they could scarcely be carried out with efficiency, because the Town Council board will have plenty to do if it attends to its own business of financial control. Exception has been taken to the power which Government have reserved to themselves by the bludgeon clause, but I think that the Honourable Colonel Kennedy has shown that this section does not confer any very large amount of power upon Government, which is strictly limited to certain objects laid down in Section 138 relating to the provision of funds for the maintenance of the police and the protection of the city from fire, the making of adequate and suitable provision for the cleaning and surface draining of the city, and maintaining a proper and sufficient water supply. It has been objected that, in the matter of the police expenditure, the Corporation are not to be consulted, but there can be no doubt whatever that if the Corporation come to the Executive Government and say that the cost of the police is too great, Government will always be willing to listen to reasonable representations. It is not the object of Government to plunge the Municipality deeper into debt than it is at present, and it is unreasonable to suppose that they would do anything of the kind. As to the provision for cleaning, that simply means that Government must see that the city is always well swept and that dirt is not allowed to accumulate to an extent that would endanger the lives of the people, by the generation of disease. One of the objections which have been made to the powers reserved to Government under Section 40 was that it would expose the Corporation to enormous expenditure by providing for a large system of underground drainage. We put the word "surface" before "drainage," and one would have thought that was sufficient, but I see that in some quarters it is argued that the insertion of this word will not have the desired effect of restraining Government from forcing the Corporation into large outlay on drainage. I do not see how this can be, because the term "surface drainage" has a definite signification which cannot be extended at the pleasure of Government. I believe I may say that Government have not the slightest intention of forcing the Corporation to carry out any of the vast schemes of sewerage that have been talked about. With regard to maintaining a proper and sufficient water-supply, I apprehend that no one will contend that this should not be done. I would remind members of this Honourable Council that the Corporation that will be created by this Bill will be an entirely new body. Nobody can at present be certain from what classes the principal members of it will be drawn, and we cannot foretell what particular tendencies the electors or the elected may display. Like all untried things, it may turn out very differently from what we expect. We may look upon it as a child, who, hardly able to walk, must be held in leading strings to teach him to run. It would therefore not be well to endow it all at once with larger powers than have been given to it. If at the end of the three years for which this law is to be in force, it be shown by practical experience that the powers of the Corporation are too limited, it will then be easy to enlarge them, but at present it would be extremely rash to do so. As to the town duties we have learned recently from the public prints and from many of the petitions which have been brought before us that it is a reduction and redistribution of taxation that is wanted rather than the introduction of the principle of representation. But it seems to be forgotten that the concession of the representative principle is the necessary preliminary step to the equitable adjustment of taxation. It was intended that the Corporation should have considerable

powers in the alteration of rates and the selection of new articles to be entered in the schedule of town duties. Unfortunately the Council by its vote has curtailed the powers of the Corporation in this respect, but this is the fault not of the framers of the Bill, but of the honourable members who yet oppose the Bill generally on the ground of the inadequacy of the powers assigned to the Corporation. The action of the so-called reformers in this matter has been singularly inconsistent. In one direction they seek unlimited powers for the Corporation, while in another they would restrict it within the most narrow limits. I cannot agree with the Honourable Sir James Jajeebhoy that there is any reason for now postponing the passing of the Bill to enable us to make a thorough examination into the incidence of taxation. That duty will be best performed, in the first instance, by the Corporation, which this Bill will bring into existence, the members of which body will be able to bring to the investigation the practical knowledge, founded upon an extensive acquaintance with the wants and peculiarities of their fellow citizens, which will be so valuable in coming to any settlement. Finally, I have only to remark that it appears to me that it will be a grave mistake on the part of those who have expressed themselves so dissatisfied with the Municipal Act now in operation if they assist in the rejection of the present Bill merely because it has not gone to the extent which they want. Very great concessions have been made as the honourable member in charge of this Bill has pointed out, and every disposition has been shown to meet the popular requirements, so far as this could be safely done, with due regard to all the important interests involved in the settlement of this very large question. An opportunity has been given for laying the foundations of self-government in the city of Bombay on a liberal and secure basis, and it will be the fault of the unofficial members of this Council who are supposed more particularly to represent the public interest if the opportunity which may not recur again for a long space of time, be not seized and utilized for the general good.

The Honourable the ACTING ADVOCATE-GENERAL—I consider that after the very able speech which we have just heard from the Honourable Mr. Rogers, there remains very little for me to add. I shall address myself chiefly to the argument of the Honourable Mr. Forbes, who has condemned this Bill, because it entered into minute legislation. I referred the honourable member yesterday to the Police and Improvement Act (Scotland) 1862, and I shall do so again to-day. It is remarkable that, in looking at that Act, we find it containing provisions almost identical with those to which the honourable member has taken exception to-day. Section 144 of it relates to dust boxes which are to be fixed in the streets. It provides for the naming of streets and the numbering of houses almost in the same language as that which is used in this Bill with relation to the same subjects, and the penalty, which is fixed at 40s., may be taken as a fair equivalent for the penalty of Rs. 50 which we have in this Act. It provides for the width of courts as well as for the width of streets. I shall read this provision about the width of courts, because I have no doubt that the honourable member, as a judge of Scotch towns, will be able to say whether the British Parliament acted either unjustly or unwisely in descending into such minute legislation. Section 177 enacts that it shall not be lawful to form, lay out, or build any court unless the same shall be of the width of 15 feet measured from the buildings or intended buildings therein. It also provides for entrances being made to courts of the full width of the courts, and for these being left open from the ground upwards. But the so-called arbitrary power of the British Parliament did not stop there, but it actually provides the way in which the houses shall be built in the courts. Would the Honour-

The Acting Advocate-General replies to Mr. Forbes's objection to the Bill legislating upon minute matters.

able Mr. Forbes be surprised to learn that the occupiers of dwelling houses in Scotland with common stairs "shall sweep, wash, and cleanse the landing places in the flats or stories in which their houses are situated, and the steps leading from such landing place to the flats or stories below them?" This must be done at least once in every week. The Act does not stop even there, however. It says that if there be more than one occupier in each flat or story, each occupier shall sweep, wash, and cleanse such landing place and stairs, week about by turns. Now, if that is not minute legislation I hardly know what is. After hearing this statement and also that the penalty for not sweeping, washing, or cleansing, &c., is 40s., I think the honourable member will withdraw his objections to this Bill on the score of minute legislation. I find that another section provides for the fixing up of town clocks, the dials of which are to be lighted up at night, and I think if we had a provision in our Act about providing clocks, and how they should be lighted, there would have been considerable indignation. I was glad to hear that the Honourable Mr. Forbes did not lay any stress upon Section 137, upon which, on former occasions, he dwelt at some length. Therefore, I think, I may congratulate him upon adopting different views, and that he really does appreciate the benefit of giving authority to the Corporation to spend money for the useful purposes mentioned in that section. In looking at another Scotch Act, I must once more pay a tribute to his fellow-countrymen, and I am sorry to see that he does not share the enlightened views which are expressed in it, and which are more advanced than those which are now prevalent in India generally. In 1867 Parliament passed an Act to amend and consolidate the Public Libraries Act of Scotland, and the preamble shows that its purposes are to establish public libraries, art galleries, and museums. Now, a remarkable feature of this Act is that all these places are to be paid for out of the police rate. If there were any rate which one could have supposed *prima facie* not applicable to such purposes, it is the police rate. The words of the clause are these: "The expenses incurred in carrying out the rate shall be paid out of the police rate," and when I first read them, I thought it was a good specimen both of Scotch wit and wisdom. Certainly the wit may be rather deep, but I think the wisdom is very apparent, because the Scotch people must be convinced that the establishment of such useful and elevating places as libraries and museums is the surest way to reduce the expenditure for police purposes. In this view they are undoubtedly right, and I wish that the Honourable Mr. Forbes had been a Scotchman in the same liberal respect. A reference has been made to the one per cent. duty which was levied under a provision in Act No. XXXII of 1860. I will not detain the Council by reading the section at length, but I think it lays down distinctly that the money shall be spent in roads, canals, or other productive works duly sanctioned in various districts. Therefore this money *prima facie* is to be spent upon the whole of the presidency, and it is very doubtful whether it could be spent in the way the Honourable Mr. Forbes alluded to. I do not think the honourable member's other statements require any further refutation, because they have been already completely answered by the Honourable Mr. Ravenscroft. I must now express my surprise and regret that the Honourable Sir Jamsetjee has spoken against the third reading of this Bill. He occupies a peculiar position in this Council, being the highest representative of the Parsee community, and I believe it was for this reason that he was nominated to the Select Committee, because the Bill was one of the most important that could have come under the consideration of this Council, and required the aid of representatives of all classes of the community. A good deal had been done both in speaking and newspaper writing before this Select Committee sat, and Hindoos and Parsees took a considerable share in agitations and discussions.

The Honourable Mr. TUCKER—I think that my honourable friend is under a mistake in supposing that the Honourable Baronet was a member of the Select Committee.

On a reference to the Secretary, Mr. Nugent stated that it was the Honourable Mr. Byramjee Jejeebhoy who was on the Committee.

The Honourable the ACTING ADVOCATE-GENERAL—Well, I can only express my regret that the honourable gentleman was not at these meetings, and that, after the clear statement which was distinctly put before the Council by the Honourable Mr. Tucker, he should now prefer to reject this Bill, and remain content with Act II. of 1865. It is hardly necessary for me to point out the advantages and improvements which this Bill contains as compared with Act II., and it does seem to me strange that any person who has the welfare of the city at heart, who has any faith, however small, that the inhabitants of Bombay are qualified to take upon themselves representative government, should not at once seize the chance that is now offered of getting representative government, instead of adopting the course which the Honourable Baronet has taken. Speaking as a lawyer and as an independent member of this Council, I do believe that this Act will succeed as a first instalment; taking up the simile of the Honourable Mr. Rogers I do think that this Bill will operate as the leading strings by which the infant Corporation will eventually learn to walk at ease in the paths of self-government. That it should walk alone at first, as the Honourable Mr. Bythell seems to think it could, cannot be expected, because these men could not suddenly be entrusted with power and rise up as suddenly to the full measure of their responsibility, and show themselves wise administrators. If full powers were given to the Corporation, and yet it failed, what a reflection it would be upon the short-sightedness of Government! The Asiatic community in their dealings with corporate matters and in their manner of holding share company meetings, as reported daily in the newspapers, are shown to be wanting in the capacity to conduct business properly. When the native community is thus showing their inability to manage large matters with the ease and facility of Europeans, it would be monstrous shortsightedness on the part of Government to lay down its power to say suddenly to these people, “Here; you shall have the fullest powers that the British Parliament can entrust to its European subjects.” With one stroke of the pen to give a full franchise without any check would, in my opinion, be nothing less than an act of madness on the part of this Government. Looking back to the history of this Bill and to its surrounding circumstances, I cannot conceive how any honourable member of this Council should vote against it, and I do trust that, after members have heard the final remarks of the honourable mover, they will vote unanimously for the third reading. Regarding the observations made by the Honourable Mr. Bythell, I regret that that gentleman supposes that because there is divided responsibility, therefore the Bill will prove a failure. The arguments he has used with respect to the exceptional powers of the Corporation have, for the most part, been answered by the Honourable Mr. Rogers, and, therefore, I need only say a word or two regarding that part of his address. I must have been misunderstood by him when I said that no Corporation has power in England to interfere with or have the control or rather management of the streets. When I made that remark, I meant it with reference to its action in dealing with the private owner.

The Honourable Mr. BYTHELL—I may save the time of the Council by explaining that I merely said that the Honourable the Advocate-General challenged me to produce an instance, and I gave him it.

The Honourable the ACTING ADVOCATE-GENERAL—What I meant to say was that, in the case of a man being appointed the executive officer of a Corporation, whether as its engineer or its architect, power was vested in him to deal with the private owner. That is the way the present corporate bodies are managed in England, so far as I can understand, and this I gather from the various Acts, which, though silent upon these minute matters, yet express them inferentially. In that respect I said that this Bill was justifiable, because it will make private owners go to the Commissioner, whereas I understood that the reformers wanted the private owner to be compelled to go to the Corporation. The Commissioner is likely to know the wishes of the Corporation and to carry them out accordingly. The Honourable Mr. Bythell said that the Bill must fail because of divided responsibility, but he has not cited any instance in which there has been any such failure from this cause. What has been done is to give a system of representation which will give rights and responsibilities to all parties, and I think it is unfair to say now that it will be a failure. I think the honourable member's remarks would have been much more to the purpose three years after this, when the experiment will have run its course, and if he can then show that the Bill has resulted in a wretched state of deadlock, the Commissioner fighting with the Corporation, and the Corporation with the Government his views will have much more weight than they can have now. I do not like to see the way in which this matter of divided responsibility has been magnified. All companies are managed by divided responsibility.

The Honourable Mr. BYTHELL—No ; they are not.

The Honourable the ACTING ADVOCATE-GENERAL—Shareholders and managers of banks surely have each separate responsibilities and duties, and the only difference between the Bill and the case of a joint stock or other corporate body is that the managers are appointed by the shareholders in the one case, while in the other, for reasons which we have given, the Commissioner will be appointed by Government. Divided responsibility is not, therefore, so exceptional a circumstance as the honourable member would appear to think it. The Honourable Mr. Bythell also referred to the new Bill brought before Parliament in the present session, the object of which he said was not to give executive powers to small bodies—

The Honourable Mr. BYTHELL—What I said was that the object of the Bill was against giving power to one executive officer without his having to refer to anybody. That is all I said.

The Honourable the ACTING ADVOCATE-GENERAL—In support of his argument the honourable member read from a newspaper. I shall also read an extract from one in justification of the position which this Bill gives to the Commissioner. One of the speakers in the Parliament, when the matter to which the Honourable Mr. Bythell refers, was brought before it, said, "How can it be expected that a country board can bring its power to bear in a small village thirty or forty miles away?" That sentence clearly indicates that, whereas before there were many executive officers, the object of the Bill was to concentrate all power in one central authority.

The Honourable Mr. BYTHELL—But not to give it to one man.

The Honourable the ACTING ADVOCATE-GENERAL—It may be one person or a board of a dozen men, but the whole object of the Bill is, nevertheless, to bring executive authority

into a focus. I say, therefore, that the whole tendency of this modern legislation is to centralize executive authority, and this we have done in the Bill now before the Council.

The Honourable Mr. BYTHELL—The tendency may be to put the power in one board, but not in one man.

The Honourable the ACTING ADVOCATE-GENERAL—It may be that our legislation in Bombay is in advance of the home legislation in leaving the executive responsibility to a single person instead of several, and I certainly do not think that we have shown any retrograde legislation whatever as the honourable member has said. I shall certainly vote without hesitation for the third reading of this Bill.

The Honourable Mr. BYTHELL—Sir,—As I have been entirely misrepresented, although no doubt unintentionally, by the Honourable the Advocate-General, I desire to make a word or two of explanation. He said—I made a note of his words at the time—that I asked Government to lay down its power. Now, all I wanted was that Government should give the Corporation power to manage its own executive affairs.

The Honourable Mr. FORBES—The Honourable the Acting Advocate-General in his frequent references to the Scotch Act has failed to point out that the people of Scotland are under a full and comprehensive system of representation. My wish to place these matters of detail under the Corporation was that we should have powers as like to theirs as possible. If the people of Scotland were made subject to this clause I am sure they would soon relieve themselves of it.

The Honourable Mr. TUCKER—The members of this Council who have signified their intention of supporting this Bill have replied to so much of what has fallen from the members who have announced their intention of voting against it, that there is very little left for me to remark upon, and I have already taken up so much of the time of the Council that I shall endeavour to say the little that remains to be said as briefly as possible. The main objections now taken to the measure are first, that it is too complicated, and will not work; secondly, that it does not reduce taxation or make any radical alteration in its distribution; and, thirdly, that it holds out encouragement to extravagance and gives too little power to the Town Council and Corporation, and too much to the Municipal Commissioner. The Honourable Mr. Bythell will vote against the third reading both on the first and third ground. He considers that the division of power between the Municipal Commissioner and the Town Council will make the Act unworkable, and that, in consequence of the extensive authority with which the Commissioner is vested in executive matters, the scheme must be a failure. He, therefore, would not give the measure a chance of being tried. To this I answer that the simple fact that a thing is complicated is no proof that it will not work. A watch or a steam-engine is a piece of mechanism of a complex character, but the parts are so adjusted that, when properly made, there is no difficulty in setting them to work. In like manner, in the legislative experiments which we desire to make, the functions of the Commissioner and of the Town Council are so distinct and the limits placed upon the action of each are so clearly marked, that I see no reason why they should not work in concert. There will probably be a little friction at first, but if the Commissioner and Chairman of the Town Council be judiciously selected, as I feel assured they will be, I entertain no doubt that they will be able to work harmoniously together. This is a matter of opinion, the truth of which can only be tested by experiment, and to this ordeal would

I leave it. The honourable gentleman is of opinion that we have been wholly wrong in allowing any independence of action to the Municipal Commissioner. In this we have followed the example set us in Act II. of 1865, and for the same reasons which granted the powers of that Act. The mischief done under that law was not in consequence of the Commissioner possessing undivided executive authority and responsibility in carrying out the orders of the Bench of Justices, but because he managed to evade control in his expenditure, and became reckless and improvident. We have now taken care to make the control of the Town Council over the Commissioner in financial matters thoroughly effective, and there would appear to be no good ground for depriving him of freedom of action in maintaining the sanitary condition of the city, and in constructing the works that have been duly sanctioned. In matters of this description latitude is necessary, and the public will benefit by an arrangement which leaves acts of this nature to a single man instead of to a board. The honourable gentleman has misapprehended what I said on a former occasion with reference to the views entertained in England regarding local taxation and municipal administration, and the direction of sanitary action. I did not mean to imply that our present proposal was a copy of any similar institution which had been established in England. In England there are innumerable boards and committees scattered all over the country, exercising various powers, and discharging diverse functions for the purpose of carrying out the main objects of civic government. There is a chaos of authorities with intermingled and overlapping jurisdictions, conflicting interests and clashing powers, and it has been proposed to reduce this confusion to order by concentration and amalgamation, and by placing all local assemblies under some central control. I did not mean to say that it was intended to abolish all these boards, and to place them under the control of a single executive officer. This does not appear to be the case, but it would seem that there is to be but one local board in each district or territorial division, which will absorb all the rest, and these local boards will be subordinate to a central board who will send out inspectors who will direct the local boards what works to do. It is probably not possible in England at present to get rid of local boards altogether, but an attempt has been made to overcome the inertness of local boards by giving powers to the inspectors to be sent out by the central board to compel action by the local boards. By a different way we have sought to establish the same division of labour and responsibility, and I consider that by entrusting within circumscribed limits independent executive power to the Municipal Commissioner; we have been following in the direction to which affairs are gravitating in England: The honourable gentleman has sought to contradict my statements by extracts from some of Mr. Stansfeld's recent speeches, but I think that if he will look further into the matter, he will find that I have not made any mistake in saying that there is a strong feeling in England in favour of the delegation of executive authority in matters relating to the public health and safety to one competent person. My honourable friend Sir Jamsetjee cannot give his support to the Bill, because the pressure of taxation has not been sufficiently relieved in his opinion; and because there has been no new distribution of taxation; and also because he disapproves of some portion of the provisions of the Bill regarding places for the disposal of the dead. It is somewhat remarkable that these objections should be produced at the eleventh hour and that holding them, the Honourable Baronet did not think it worth while to attend the meetings of this Council during the eleven days we were considering the Bill in detail. I am aware that the honourable gentleman was prevented by a family bereavement from being present at the second reading, and I pointed out to the Advocate-General that he had not been no.

minated to the Select Committee, but it appears to me a somewhat unusual course to stay away during the first stages of a measure, and then to come and vote against it at the third reading. I am as unable to comprehend a proceeding of this kind as I am to understand the absence of the two other native members to-day. It should be no slight indisposition which keeps a member from his post when the fate of an important measure like this is about to be decided. The Honourable Mr. Forbes shares in the objections advanced by Mr. Bythell, but he has also special objections of his own which have been urged repeatedly during the course of these discussions, and have been often replied to. He considers that the Bill goes into unnecessary details, forgetting the precedents afforded in the recent Scotch and English Acts of Parliament *in pari materia* which have been pointed out to him by the learned Advocate-General. He also considers that the Bill encourages extravagance, because it permits the Municipality to apply their funds to works of public utility when they shall be rich enough, and shall think fit to do so in the same manner as is done in other countries and in other places. In the opinion of my honourable friend economy is the one thing needed, and there is no such thing as useful and beneficial expenditure. Now there is another class of persons who object to this Bill, and these are the sanitary reformers, and they consider that we have not provided sufficiently for the sanitary wants of the town or given to the Municipal Commissioner sufficient power in the suppression of nuisances, the regulation of buildings, and in other conservancy matters. It would have been impossible for us to comply with the suggestion of all who claim to be authorities in these matters, and we have endeavoured to steer a fair middle course between extreme views, and in doing so, I believe, we have done what is best for the interests of the city, though we have satisfied none of the contending parties. The Honourable Mr. Forbes holds that the Municipality has been hardly treated in some of its pecuniary transactions with Government, but he cannot be said to have made out his case. Some of these are matters which admit of further negotiation, but this is not sufficient for the honourable gentleman, and he assigns, as a reason, for voting against the Bill, the non-settlement of these transactions. Now, these are not matters which can be dealt with by this Council, nor could the arrangement of them in any way affect the form or substance of this Bill, so it seems strange that the honourable gentleman should have brought them forward as a ground for a vote adverse to the Bill. This is not more strange, however, than his entire course of action in rejecting a measure which gives to him and the party he represents so large an instalment of what they asked for, and which places them in a better position for attaining further concessions in the course of time. If the honourable gentleman should succeed in procuring the rejection of the Bill, I do not think that the persons whose cause he advocates will have much reason to congratulate themselves on the policy he has pursued. I do not know whether I understood the honourable gentleman rightly, but I thought that he said that if he should receive an assurance that there was no intention of forcing on the city any new scheme of drainage of vast proportions, one of his chief objections to the Bill as an experiment for three years would be removed. I need scarcely say that we never have had such an intention, and are never likely while the Government is constituted as it is at present to entertain such an idea. Further, as the Bill now stands, we could not force the Corporation to enter upon such a project if we wished to do so. I trust that His Excellency may be able to give the honourable gentleman an assurance on this head, which will put an end to his difficulties. And now, Sir, I will conclude by saying that though I am conscious that the Bill is not free from imperfections, and though I cannot but fear that it may contain

errors and ambiguities which have escaped notice, yet that I believe that it will fairly answer the purposes for which it has been framed, and will effect the objects aimed at. Though, with the exception of the constitutional portion, it has been based on the report of General Marriott's Committee, as is pointed out by my honourable friend Mr. Rogers, yet it has been renewed and considerably altered while in my hands, and I have no wish to escape any of the responsibility which attaches to its preparation. I am quite willing to risk my reputation as a member of this Council upon it, and to accept the consequences of failure or of success, in accordance with the ultimate event, if it be tried. In bringing it forward I have been influenced by no other considerations than a desire to promote the general good and to do justice to all, and if I shall have failed it will not be from want of labour, but from causes which have been beyond my control. If by the decision of this Council and with the approval of higher authority, it shall become law, I trust that it may some day be found to possess a higher degree of merit than its opponents have hitherto been able to recognize in it, and that it will prove beneficial to the large body of persons who will come under its operation and whose interests will be affected by its provisions.

His Excellency the PRESIDENT—Considering the peculiar position in which Government seems likely to be placed as regards this Bill, I shall say one or two words upon the points raised in the discussions that have taken place upon it. But in the first place, I must express my regret along with the Honourable Mr. Tucker that the Honourable Mr. Munguldass and the Honourable Mr. Narayan have been unfortunately prevented by sickness from being present to-day to give their vote either for or against the Bill. But this is a matter beyond our control, and however we might have desired their presence we cannot help ourselves. The Honourable Mr. Tucker has alluded to the remarks made by the Honourable Mr. Forbes, and I may say that I also certainly understood the Honourable Mr. Forbes to say that if he could get a certain assurance from Government with reference to the bludgeon clause, he would vote for the third reading of the Bill. I have always taken a great interest in this bludgeon clause, and I should like the honourable member to consider the alterations which I have endeavoured to effect in its terms. In the first place, I objected to the power being given to Government to step in and interfere regarding every clause, and the result is that the sections to which the bludgeon power is to apply are now specified in Section 40. By Section 137, as it stood formerly, the municipal property and funds were to be rigidly applied to certain objects, but now we have decided that the words of the section shall express that these funds may or may not be applied to these objects. Each section to which the bludgeon clause is to apply has been most carefully considered in the full committee of this Council, and now there are but nine sections to which it will be applicable. The matter of Government enforcing a large drainage scheme has been a source of inquietude to honourable members, but the bludgeon clause is only applicable to surface draining, and I maintain that, under this Act, we have no power to enforce anything but this as regards draining. If ever it be thought expedient to do anything beyond this, the honourable gentleman may receive my most positive assurance, not as a private individual, but as Governor, that we shall do nothing without first consulting with the municipal authorities. I hope this assurance will guide him to accept the Bill, and give his vote in favour of it. Another objection which has been made to the Bill is that it divides authority; but, in maintaining some system of divided authority, we are only acting in consistency with the whole spirit of the Government of India in its relations to the natives of the country, and we have no right, even in legislating for a great city like Bombay to cast aside the principle upon which our existence in India

depends at present, and upon which we must rely for many generations to come. The Honourable Mr. Forbes has been placed in the position of head of the reform movement in Bombay, and has been sailing before the breeze of public admiration, but I am not certain that the honourable gentleman is exactly sure of the port to which he is steering. Give the honourable gentleman all that he and his friends want, and the city of Bombay will be withdrawn altogether from British control. In the constituency created by this Bill the votes of those of European descent can only be as 150 to 4,000. And will not such an enormous preponderance of the native element seek to elect its own representatives, and get the management of the city into its own hands? I speak in no spirit of captiousness, but I say that this is what we must look to. The Bill has been greatly blamed and censured by the public for its elaborateness in respect of details, but it has simply endeavoured to restrain the heat of parties and preserve the proper equilibrium between the several classes of the community. There is only one other point to be considered, and that is, the action which shall be taken supposing this Bill is rejected. I have seen nothing in these discussions to guide me to the conclusion that an entirely new Municipal Bill is necessary, and therefore I do not think that it would be right, on the part of Government, to hold out any hope that if this Bill is not accepted we shall institute any fresh legislation on the subject. We have already spared no pains to make the Bill acceptable, and I think this Council will do well to accept it as it stands.

The Honourable Mr. FORBES—With regard to the assurance which I referred to, I am extremely glad to hear it mentioned not only by His Excellency but by the Honourable Mr. Tucker, that the Government have no intention whatever of imposing expensive works upon the town without first having due consultation with its representatives; but I am sorry to say that I hardly think any mere general assurances, however valuable they may be, should influence my vote upon this occasion. Changes in this country are very frequent, and a few months hence may see many alterations in the present government and the assurances would be gone.

His Excellency the PRESIDENT—The honourable member certainly held out the hope to us that if he could get an assurance respecting the bludgeon clause he would withdraw his opposition.

The Honourable Mr. FORBES—I have more objections to the Bill than that, and I therefore must give my vote against the third reading of this Bill.

The Council divided on the Honourable Mr. Tucker's motion :—

Ayes—8.

His Excellency the Honourable Sir PHILIP
EDMOND WODEHOUSE.
His Excellency the Honourable Sir AUGUSTUS
ALMERIO SPENNER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-
GENERAL.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable GUNPUTRAO TATYA SAHIB
PUTWURDHUN.
The motion was therefore carried.

Noes—3.

The Honourable Sir JAMSETJEE JEJEEBHO Y.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

The Bill read a third time and passed.

The Honourable Mr. TUCKER—I move that this Bill be passed.

The motion was agreed to, and the Bill was passed.

In moving the first reading of the "Bombay Port Trust Bill" (No. 5 of 1872), the Honourable Colonel KENNEDY said—When in 1870 I introduced into the Council Act V.

Colonel Kennedy moves that the Bombay Port Trust Bill, No. 5 of 1872, be read a first time. of that year, the Bunder Fees Act, I stated that the measure was preliminary to one of greater scope, which had for its object the establishment of a Trust for the management of all the Government wharves and bunders on the foreshore of the harbour of Bombay.

It is this measure that I now beg leave to introduce, and though a greater time has elapsed in maturing it than I thought would be required in 1870, I think it will be allowed that the time has not been wasted, since it has given opportunity for negotiations which have resulted in reducing the liabilities that the Trust will be required to assume to the extent of about £800,000 of capital, £20,000 per annum of revenue, as I will shortly proceed to show in detail. I need not enter into a history of the acquisition of the Elphinstone property, which forms the basis of what will constitute the Trust property; that is well known to His Excellency's Council and to the public, and the arrangement has been the cause of considerable discussion elsewhere. Objections have been raised, which it would serve no practical purposes now to endeavour to answer. It may suffice to say, generally, that the Governments here, in Calcutta and in England, were satisfied that it was not for the interests of the trade of this port to permit a private company to retain a monopoly of an extensive part of the foreshore of the harbour, and that in their interests it was advisable to retrace a step that had been some years previously taken, and to resume a concession that had been given before its value had attained such proportions as would have rendered its resumption impracticable.

The correspondence that has passed between this Government and the Government of India on the subject of the arrangement of the Trust has been put before the public in a printed form, and has been published in extenso in the public prints, and, among the rest, the conditions under which the Government of India at first proposed that a Trust should undertake the management of the Government properties on the foreshore, are specified. I will not follow these conditions one by one, but will only state that, had these conditions been strictly adhered to, the Trust would have had to commence with a capital debt bearing interest at $4\frac{1}{2}$ per cent. of Rs. 3,00,97,419, and would have been under the further liability of having to pay off that capital debt within a period of 30 years. It is quite clear that without increasing the burdens on trade to an extent that could have been borne with great difficulty, these arrangements could not have been carried out, and the whole efforts of this Government were, therefore, directed to start the Trust with such reasonable liabilities as could be dealt with without making further material demands upon the trade. The negotiations I have referred to have effected this, and have resulted in reducing the capital debt to Rs. 2,62,52,955, of which Rs. 53,69,852 does not bear interest, and Rs. 41,89,079 is not to be repaid at all. There is now, moreover, no obligation to pay off the capital debt within any fixed period, the Government of India having abandoned this condition, leaving the future Trust to reduce its debt when it is in a position to do so, and a further concession has been made in the amount of interest which, for the next 10 years, is fixed at 4 per cent. on that portion of the capital which does bear interest, the original

rate being reverted to on the expiration of this period. The items under which relief has been afforded are as follow :—

Government have retained in their hands and have not required the Trust to take over the Moody Bay property, west of the Frere road, the value of which is Rs. 21,67,695

The Trust are not required to assume any liability in regard to the Prongs Light-house, and the capital account is relieved of ,, 4,76,770

The Moody Bay property east of the proposed New Frere road has been granted as a free gift to the Trust. Its estimated value is ,, 24,48,337

The Apollo Bay and Wellington reclamations have also been granted as gifts, their value being ,, 17,40,742

The total value of these gifts represented by the last two items amounts to Rs. 41,89,079, and may be taken as an equivalent for the value of the land reclaimed by the late Elphinstone Company, and handed over free to the Government for the railway company's station at Warree Bunder. This amount, though representing a free gift, is retained in the capital schedule as capital not bearing interest, and not to be repaid in order to preserve a complete record of the real value of the Trust property.

As regards the Warree Bunder land a great deal of discussion has passed. On behalf of the Trust it was argued that it was not fair to make them pay for what they were not to receive, and virtually to throw on the local trade of this port, the cost of an Imperial Railway Station. On the other hand, it was urged, and not without reason, that this arrangement was part of the bargain, and that the Elphinstone property was acquired with its advantages and its liabilities. It is needless now to resume the discussion; but though the Government of India have been firm on the point of principle, and have declined to credit the Trust with the value of the Warree Bunder land, estimated by this Government at 40 lakhs of rupees, they have practically conceded the matter by granting, as near an equivalent as possible, in the properties just mentioned. For purposes of trade these properties are of more value than the Warree Bunder land would be, the Apollo Bay in the present, and the Moody Bay in the prospective.

It was originally contemplated to hand over to the Trust certain properties already producing revenue at the capitalized value of the net receipts, the concession of this revenue has now, however, been made without a capital debit, the value being Rs. 10,00,000

A debt due by the Harbour Board of the Imperial Revenue has been altogether remitted, the amount as far as can be at present ascertained is ,, 2,00,000

If these items be added up, it will be found that the Trust is not to be debited with an actual capital sum of Rs. 8,33,544 which it would have had to bear, had the conditions originally imposed by the Government of India been adhered to.

But it gets further relief in the following particulars as regards annual payments :—

The interest on the capital bearing interest has been reduced for the next ten years from $4\frac{1}{2}$ to 4 per cent., the annual liabilities are thus reduced by a sum of ,, 1,04,415

The interest on the capital expended up to the 31st March 1870 on certain Government properties made over to the Trust has been remitted, the

alue of their property is Rs. 11,80,773, and the interest on that sum at $4\frac{1}{2}$ cent. which the Trust is not now called on to pay is, therefore, per annum ,, 53,135

Concessions of another class have also been made. Formerly the Elphinstone Company bore the whole cost of the Government Preventive Establishment employed on its Bunders, and this, in due course, became a liability of the Trust; but the Government of India have now agreed to bear these charges themselves, and to relieve the Trust of this—that amount is per annum..... ,, 14,000

By the agreement with the Elphinstone Company, Railway and Government Stores were free of Wharfage Dues, and the former will still continue to be so under the agreement, but the Government of India have agreed, subject to the approval of the Military Department, which no doubt will not be withheld, to pay for the landing of troops and some stores, and this item has been estimated at per annum ,, 23,424

The last item is that which relates to the use of the Moody Bay property, west of Frere road, retained by Government, and of which the Trust will have the use for 10 years, the value of this concession is estimated at per annum... ,, 5,000

Total Rs. 1,99,974

It will thus be seen that in demands forgone and in additional sources of revenue conceded, the Trust obtains an advantage which amounts to nearly £20,000 per annum.

The capital debt as ascertained to 31st. March 1872 we have to deal with is Rs. 2,08,83,103 and it bears interest at 4 per cent. for 10 years and thereafter at $4\frac{1}{2}$ per cent. I do not notice the capital not bearing interest that carries no present burden and may be paid off as opportunity arises, either by the sale of land or by surplus revenue when the Trust becomes prosperous, as no doubt it will do in course of time; neither need we at present regard with any anxiety what may happen ten years hence. It is to present liability only that it is incumbent now to look to. The interest on this capital debt at 4 per cent. is Rs. 8,35,324

The existing net revenue that the Trust may reckon on to meet this liability is as follows, according to the best estimate that can be made and in the majority of instances from actual net results:—

Elphinstone Property Rs. 4,73,164
Other Government Bunders ,, 2,73,405

Rs. 7,46,569

Apollo Bunder Warehouse Rs. 21,170
Increased Wharfage charge on Troops }
Wharfage Fee on Commissariat Stores } ,, 23,424
Rents as per Schedule E ,, 15,262
Estimated Surplus, Harbour Board, ,, 70,000

8,76,425

Apparent Surplus.....Rs. 41,101

It will thus be seen that the Trust will be started with a revenue sufficient to enable it to meet the demands upon it and with a small surplus; but without, at present, any means of reducing the capital debt, or of undertaking any extensive new works. It will in fact be in a position to pay its way and to maintain the *status quo*, but no more.

I will now turn to the Bill itself. I may briefly observe that in its form and provisions it very closely follows the Calcutta Port Trust Act, a majority of its clauses being nearly identical with the corresponding clauses of that Act.

The principle of the Bill is to place in the hands of a corporate body the wharves and bunders of the harbour and the harbour itself to be held in trust and managed for the benefit of the trade, subject to such control as Government, who will make over to the Trust much valuable public property free of charge, and who are the sole creditors as regards the whole of the property not made over as a gift, are entitled and required, in the interest of the general public, to retain in their own hands. It is possible on this point that before the Bill passed through its various stages, some remarks may be made and some opposition will have to be met; but it may save some needless discussion if I at the outset state that the solution which has been arrived at, and now exhibited in this Bill, has not been come to without some difficulty, and that I do not think the Government, as donors of some of the properties and sole creditors in regard to others, will be disposed to recede in any material point from the provisions of precaution that have been incorporated in the Bill, and I should fear that any alteration the Bill might undergo which would tend to any material extent to relax the hold on the Trust which Government will probably think it right or not incumbent on them to maintain, would, perhaps, altogether lead to the abandonment of the measure in favour of an arrangement by which the Government would themselves manage the property. Whether the public would desire this, I very much doubt. I hardly think they would, but it is not reasonable to suppose that the Government in the interests of the general public could allow this valuable property to pass out of their own hands entirely without retaining such powers as will enable them to exercise a full and legitimate influence over matters which, though they are of great local importance, are also closely bound up with imperial interests. It has been said, I believe, that like the Municipal Bill, this Bill provides everywhere for Government interference and control, but I would observe that in this case we have to deal with public property and a large amount of public debt for which Government is liable. It is, therefore, imperative that an effective Government control should be retained, and if such control is held to be needed in Municipal matters it is, *a fortiori*, necessary in this case.

These remarks will for the present cover in a general way a good deal of the Bill, but I may observe that nearly all the restrictions placed on the Trust, and all the power that it is proposed to give to the Government, are to be found in the Calcutta Act, which is understood to have worked very well, and which does not deal with a case in which the State is so heavily interested as it will be in the Bombay Port Trust.

As it is now getting very late I will only trouble the Council with a few brief remarks as regards the constitution of the Trust body. I believe it has been objected that the mercantile interest is not sufficiently largely represented; but the Bill provides that at least one-third of the Trustees shall be "persons connected with the trade of Bombay and not holding any situation under Government." In the Calcutta Act there is no such

limitation, and so far there is a concession in this Bill. But it by no means follows that this minimum will be adhered to, or that Government will not appoint a greater number of mercantile gentlemen if they find it advantageous to do so.

Neither does it follow, and it certainly will not, I think, follow that the remaining two-thirds will be composed of Government officials. There are gentlemen who are not servants of Government and who are not directly engaged in commercial pursuits whom Government would no doubt desire to place upon the Trust.

The class I allude to is represented by my Honourable friends Mr. Munguldass Nuthoobhoy and Mr. Narayan Vasudevjee, holders of real property in this City, who are as much, though not so directly, interested in the trade of the Port as the merchants themselves, inasmuch as the value of their property greatly if not wholly depends upon the commercial prosperity of the place. As the trade increases or declines so will the value of lands and houses in Bombay increase or decline, and if the trade were to be extinguished altogether, Bombay would, perhaps, revert to its original condition of a fishing village. If allowances be made for the admission on the Trust of these interests and of a fair proportion of the representatives of the sole creditor, the Government, it will, I think, be admitted that a minimum of one-third of mercantile members is a very reasonable limit to enact by law.

The Honourable Mr. BYTHELL said that he was sure the mercantile community were glad to see the long-promised Port Trust Bill brought forward, and that, although very large power of interference was given to Government, he did not object to the Bill on that account. On the contrary, he thought that while very full power of action should be given to the Trust in all that pertained to the management of the harbour, Government ought to be able to step in at any time if they considered it necessary to do so. The Trustees would not, as in the case of the Municipal Corporation, be managing their own property, but an estate belonging to the country and costing between two and three millions sterling. Consequently it was only right and proper that the Trustees should be subject to Government control. He would not occupy the time of the Council at that late hour by going into details, but he wished to state that in some matters a little more power might, he thought, be given to the Trustees without any risk to Government. The Honourable Colonel Kennedy had said that the Elphinstone property had been purchased because the Secretary of State for India, the Government of India, and the Government of Bombay were of opinion that such a large portion of the foreshore of the harbour should not be allowed to remain in the hands of a private company. With all deference to such high authority, he (Mr. Bythell) however thought the purchase was a most unfortunate occurrence both for the country and the trade of Bombay. When the property was in the possession of the company, any merchant could land or ship goods at the Elphinstone Company's Bunders on payment of fixed rates which were approved by Government, and if it suited his, the merchant's, convenience better he could land his goods at Bunders that were free; but now even the merchants who land goods at the Bunders which formerly were free, have to pay heavy Bunder Fees in order that revenue may be raised to pay the interest on the cost of the Elphinstone property. Formerly only those who made use of the property contributed to its revenue, but now traders who never use it help to pay for its cost and maintenance. There was also one other important matter to which he must refer. The Bill provided that all money advanced

by Government to be expended on harbour works should from the day it was paid over to the Trustees bear interest at $4\frac{1}{2}$ per cent. per annum. Now it was only because the mercantile community believed the million sterling needed to complete the deep water basins on the Elphinstone property would be advanced free of all charge for interest while the works were in progress, that the financial position as laid down by the correspondence published early in the year was accepted without a great effort being made to induce the Government of India to take the land estate off the hands of the Port Trustees. He (Mr. Bythell) hoped, therefore, that some provision would be introduced into the Bill for the very necessary financial arrangement to which he had adverted being carried out. To leave unaltered the section stipulating that interest at $4\frac{1}{2}$ per cent. shall be paid on all money lent to the Trust would simply be to put a stop to improvements in the harbour and indefinitely to postpone the construction of much needed works; for it would be impossible to increase the harbour revenue without first providing either wet docks or piers. If the money now expended in boat hire were saved to the trade an enhanced revenue would be obtained, but this saving cannot be effected except by the expenditure of a very large sum of money. He would not therefore like to see the Port Trust Bill become law without provision being made for the postponement of the payment of interest by the Trust on the capital required to complete the deep water basins until those basins were handed over ready to be used by large vessels.

The Bill was then read a first time.

The Honourable COLONEL KENNEDY moved that this Bill be referred to a Select Committee consisting of the Honourable Mr. Rogers, the Honourable the Advocate-General, the Honourable Mr. Ravenscroft, the Honourable Mr. Forbes, the Honourable Mr. Narayan Vasudevjee, the Honourable Mr. Bythell, and the mover; and that the report be translated into Guzerathi.

Bill read a first time and referred to a Select Committee.

The motion was agreed to.

It was also agreed that the report should be returnable on the 20th December.

In moving the first reading of the Bill No. 4 of 1872, "A Bill to extend and make compulsory the practice of Vaccination in the City of Bombay, the Honourable Mr. TUCKER said—I need not do more at present than call attention to the statement of objects and reasons, and shall defer further remarks until the second reading.

Mr. Tucker moves that the Vaccination Bill be read a first time.

The motion was carried, and the Bill was read a first time.

The Honourable Mr. TUCKER then proposed that the Bill be referred to a Select Committee consisting of the Honourable the Advocate-General, the Honourable Sir Jamsetjee Jejeebhoy, the Honourable Mr. Bythell, the Honourable Mr. Narayan Vasudevjee, and the mover; and that the report be translated into Guzerathi and Marathi.

Bill read a first time and referred to a Select Committee.

The motion was agreed to.

It was also agreed that the report should be made returnable on the 20th December.

The Honourable Sir JAMSETJEE JEJEEBHoy :—Before we leave this room I may be permitted to say a few words with regard to my absence during the second reading of the Municipal Bill as noticed by my honourable friend Mr. Tucker. I may observe that His Excellency the President kindly granted me leave to be absent till the end of September, and on this point His Excellency will, I am sure, bear me out. I was obliged to be absent on account of severe family bereavement combined with ill-health.

His Excellency the PRESIDENT said that Sir Jamsetjee Jejeebhoy had told him that he would not be able to attend the Council, and he had assented.

His Excellency the President then adjourned the Council.

J. NUGENT,

Acting Under-Secretary to Government.

Puna, 17th October 1872.
