

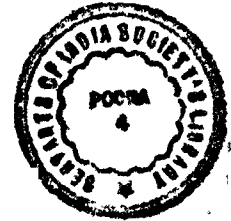
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PROCEEDINGS



OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

1868.

VOLUME VII.

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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 Poona, on Friday the 7th August 1868, midday.

PRESENT:

- The Right Honourable Sir W. R. S. V. FITZGERALD, K.C.S.I., Governor of
Bombay, *presiding.*
- The Honourable B. H. ELLIS.
- The Honourable S. MANSFIELD, C.S.I.
- The Honourable the ADVOCATE GENERAL.
- ~~The Honourable Colonel W. F. MARRIOTT, C.S.I.~~
- ~~The Honourable MUNGULDASS NUTHOOBHOY.~~
- The Honourable ALEXANDER BROWN.
- ~~The Honourable A. H. CAMPBELL.~~
- The Honourable A. D. SASSOON, C.S.I.
- His Highness the Honourable Sir JOWAN SINGJEE, Maharaja of Edur, K.C.S.I.
- The Honourable BYRAMJEE JEJEEBHOY.
- The Honourable Sir A. GRANT, Baronet.

The following Gentlemen took the usual affirmation of Office and declaration of
allegiance to Her Majesty as Additional Members of His
Affirmation of Office, &c., taken by Additional Members of the Council. Excellency's Council for making Laws and Regulations:—

The Honourable the ADVOCATE GENERAL; the Honourable Colonel W. F. MARRIOTT, C.S.I.;
the Honourable A. BROWN; the Honourable MUNGULDASS NUTHOOBHOY; the Honourable A. H.
CAMPBELL; the Honourable A. D. SASSOON, C.S.I.; His Highness the Honourable Sir JOWAN
SINGJEE, Maharaja of Edur, K.C.S.I.; the Honourable BYRAMJEE JEJEEBHOY; the Honour-
able Sir ALEXANDER GRANT, Baronet.

Papers presented to the Council.

The following papers were presented to the Council:—

Letter from the Government of India conveying the assent of His Excellency the Governor General to the "Bill to amend the Schedule annexed to Act No. XII. of 1866 (Bombay)."

Letter from the Government of India conveying the assent of His Excellency the Governor General to the "Bill for the better Sanitary Regulation of the City of Bombay."

Letter from the Government of India conveying the assent of His Excellency the Governor General to "the District Police Bill."

Letter from the Government of India conveying the assent of His Excellency the Governor General to "the Village Police Bill."

Letter from the Government of India conveying the assent of His Excellency the Governor General to the "Bill to amend the law relative to the Sale of Liquors in the City of Bombay."

The Honourable Mr. MANSFIELD moved the first reading of Bill No. 1 of 1868, and

Mr. Mansfield moves that the Kurrachee Municipal Bill be read a first time.

in doing so said the want of a Bill of this description, or some such description, was explained in the Statement of Objects and Reasons. The Kurrachee Municipality, as were all Municipalities in the interior of India, was constituted under Act XXVI. of 1850. That Act was the first attempt at Municipal legislation in the interior of India, and wherever communities that were under the operation of the Act had increased, and the receipts and disbursements had become very large, the Act was found to work imperfectly. These Municipalities were worked by a Committee, the President of which was the Collector or Magistrate, who recommended to the Government a certain number of persons as Commissioners. The President appointed these Commissioners, and by their orders all business was transacted; the Commissioners had a Secretary to carry out their orders, but he had no powers of his own. In a place like Kurrachee, the population of which now numbered between 70,000 and 80,000, and where there was a large trade, it was quite impossible for the business of the Municipality, as at present constituted, to be effectively transacted. The Secretary had no power to stop any encroachments of the public ways, or to take cognisance of any misconduct, on the part of the Municipal officers. The result was that the business was neglected, and the Commissioners were overwhelmed with duties which ought to be attended to by a properly qualified executive officer. It was therefore proposed by the new Bill to have a Municipality for Kurrachee, something upon the principle of the Bombay Municipality, and to have a certain number of Commissioners to be appointed by the Government. The only question was as to how the Commissioners were to be selected in a place where the community eligible for that office was so limited. Kurrachee was a large place now, although twenty-five years ago it was only a fishing village. There were very few of the better class of residents who were natives of the town, and although the trade was very extensive it was almost entirely in the hands of agents from Bombay, Kutch, the Punjab &c., who were continually changing. The European community was very small, consisting of, besides Government officials, a few merchants and agents of

banks. Therefore it would be a subject of discussion how the Commissioners were to be appointed under the Act, but this point would be debated, and decided on by the Committee to be appointed, and who would report to the Council on the Bill. He begged to move that the Bill be read a first time.

The Honourable Mr. MUNGULDASS NUTHOOBHAY said he had no objection to the principle of the Bill, which was a noble one, namely, to allow the people of this country to undertake the Municipal management of their own towns and cities. At the present stage of the Bill, he would only draw the attention of the Honourable Member in charge of it to one or two important points which did not appear to have been distinctly stated. As no mention had been made about it in the Bill, he thought it was intended that the proceedings of the meetings of the Commissioners as well as the budget and accounts, &c., of the Municipality of the Town of Kurrachee were to be in English. If that were the case, he could not see how twenty-five residents of the Town who were to be appointed Commissioners (besides the Justices), and who would be the only real representatives of the tax-payers of the place, could, under the existing state of things, take any intelligent part in the management and affairs of the Municipality. He believed, however (he spoke under correction) that except a few natives of Bombay who might be there for the purposes of trade or Government Service, the leading inhabitants of the place were not acquainted with the English language. The same difficulty, to some extent, existed even in Bombay, and unless they could find some means to overcome the same, the Municipal management by the representatives of the people would only be so in name. He believed he only expressed the sentiments of his countrymen when he said that they would rather see the management of Municipalities in the hands of an officer of Government, directly responsible to Government, than in the hands of a few irresponsible gentlemen who had not a permanent interest in the country, and who contributed the least towards the Municipal funds which they raised and expended. Perhaps the Honourable Member in charge of the Bill, and the Select Committee to whom it would be referred, would find out some means to remedy the evil. The Bill seemed to him to be almost an exact copy of the present Bombay Municipal Act. Now it was a well-known fact that that Act was not the success which the framers of it anxiously expected it to be. He believed the particulars of the failure of the Act would be laid before the Honourable Council at the proper time by the inhabitants and the real tax-payers of the place. If the Bombay Act had worked so in Bombay, the present Bill, which was founded on it, was not at all likely to suit a Town like Kurrachee, unless a great many modifications and alterations were made in it. He would avail himself of this opportunity to express his entire satisfaction with the principle on which it was proposed to raise a part of the funds for the Kurrachee Municipality. For some time there was a strong opposition to levy indirect taxes to which the people had hitherto been accustomed, and which appeared to be the best suited to the present state of the country. With these remarks he would vote for the first reading of the Bill.

His Excellency the PRESIDENT inquired what the revenue of the Kurrachee Municipality was.

The Honourable Mr. MANSFIELD explained that it was about Rs. 2,70,000 per annum.

The Honourable the ADVOCATE GENERAL said he wished to make a few remarks on the Bill, and to express his inability at present, to appreciate it as being the really good measure it

purported to be by its title:—"A Bill to provide for the management of the Municipal Affairs of the Town of Kurrachee, and to make better provision for the Conservancy and Improvement of the Town, and for the levying of Rates and Taxes therein." He quite agreed with the Honourable Member who had just spoken that the Bill was framed for the most part on the provisions of the Bombay Municipal Act of 1865, an Act which was admitted to be defective in many particulars. But he did not go so far as the Honourable Mr. Munguldass Nuthoobhoy as to say that that Act had been a failure. There were defects in the Bombay Act which it was proposed to rectify, for which purpose a report was or shortly would be in course of preparation by the Bench of Justices, and which he believed would be submitted to His Excellency's Council. Now he (the Honourable Mr. Bayley) thought it was injudicious to take as the basis of their legislation for Kurrachee, an Act which could not even be looked upon as a mere torso, as a mere fragment of a once perfect piece of art, but which was decidedly imperfect, and which in all probability would ere long be improved by the action of the Legislative Council. If they were to go into the case now, they would only be doing what in all probability a Committee of His Excellency's Council would do some months hence, when, with the additional light thrown on the subject of the imperfections of the Bombay Municipal Act by the report of the Committee of the Bench of Justices, a Select Committee of this Council would have better means of approaching the subject than at present. It had been said by many persons that the present Bombay Municipal Act (II. of 1865) had been a success, and he differed considerably from the Honourable Mr. Munguldass Nuthoobhoy's remarks when that gentleman said that it was a failure. But to what was its success attributable? To the sections it contained, or to its general principles. The latter he thought was the real reason why it had succeeded: and from the Act having placed the whole executive power in one individual, and by the fortunate selection by the Government of that time, of a gentleman who was probably better fitted to work such an Act, than any other person in the Presidency. He (the Honourable Mr. Bayley) put it to the Honourable Mover of the Bill, that there would be considerable difficulty in finding a body of persons under the Bill as at present framed, to act as Justices in whom large authority was to be vested, as in Bombay; and he could not help thinking that the real want of a place like Kurrachee, which was of comparatively modern growth, and the population of which was not very numerous—from 70,000 to 80,000 only—was a measure which would empower the local Government to carry out those sanitary provisions that were now pretty well known by means of an enactment somewhat after the fashion of the Cantonment Act, passed by this Council last year. Then again, he noticed that Section II. in its definition of the word "town" referred to Schedule "A," which he did not find in the Bill at all, but which he supposed had been printed as Schedule "B," which said that its contents were "referred to in Section II." And by the letter "Y" in this Schedule "B," he found it was proposed to include the whole of the Military Cantonment of Kurrachee within the limits of this Act. As Honourable Members were aware, the Council last year passed a Military Cantonment Act, which was now he believed in active operation in Poona, Ahmednuggur, and other Cantonments in this Presidency; and he did not know of there being anything so peculiar in the position or climate of Kurrachee, or in the character of the inhabitants of that town, to justify its being omitted from the operation of the Cantonment Act of last year; and he thought if the Act,—which was based on the Cantonment Act passed by the Government of India several years ago—worked well, and to the satisfaction of the Government, it was desirable that it should be extended to Kurrachee.

He would ask therefore, why should not the Cantonment Act be applied to Kurrachee rather than put the whole of the Military force of that place under the jurisdiction of gentlemen whom, as was stated, it would be so difficult to find to nominate as Commissioners under this Bill? Therefore, although he offered no opposition to the first reading of the Bill, he must express himself as unable at present to think it was the best one for the purposes it was intended for. There were no less than 268 sections in the Bill, of which he had compared 50 or 60 with the sections of the Bombay Municipal Act, and he found that they were the same, word for word, as the provisions of that Act. He thought, at all events, that the time for the Committee's making its report on this Bill, should be postponed until after the draft of the proposed Amended Bombay Municipal Act had been presented to His Excellency's Council. He (the Advocate General) would not offer any opposition to the first reading of this Bill, but he thought if it was to propose the appointment of one Commissioner, who in fact could rule the place as the present Commissioner of Bombay by his tact and ability ruled the Bombay Bench of Justices, they would have in Kurrachee, where especially there was a difficulty in finding properly qualified persons as Members of the Commission, all that was required; and he could not help thinking that a simple piece of legislation such as that would be quite sufficient. He did not see, therefore, why a short Act empowering the local Government to grant authority to one individual to act, with the assistance of a proper staff, as dictator in Municipal affairs, on a salary of one thousand rupees per mensem, as proposed in the Bill, and who should devote his whole time to the duties of his Office, should not be passed; for in point of fact, while the imperfections that had been described existed in the way of appointing the members of a Municipality in Kurrachee, the Executive Officer would have it all his own way. And he (the Advocate General) considered that, rather than entrust responsibility to a body such as the Commissioners, it would be better that one Executive Officer should have the duty of carrying out those improvements which science and experience had shown it was perfectly easy to carry out and maintain in all towns.

The Honourable Mr. MANSFIELD observed that with regard to the objection of the Honourable Mr. Munguldass Nuthoobhoy, that gentleman would find that English was more understood among the educated classes in Kurrachee than any other language. In that town they had Europeans, Sindees, Persians, Parsees, Arabs, and others. The greater part of the population were engaged in labour, and the really educated portion of the inhabitants, who alone would be eligible, were those who understood English. However, if any language could be substituted consistently with a proper regard to the due administration of the affairs of the Municipality, he would not have the slightest objection to it. Regarding the other objection, that of the Honourable the Advocate General, as to the appointment of one responsible Commissioner, he (the Honourable Mr. Mansfield) perfectly agreed with the Honourable Member, that a well-paid member of the Government Service would be infinitely better, but then such a principle as that was opposed to the spirit of Municipal legislation during the last twenty years, and he did not think such a provision would be welcome to the people at large. He was not aware that the Bombay Municipal Act had been such a failure, and he had no objection to postpone the introduction of the Bill until they received the report from the Bombay Bench of Justices.

The Honourable Mr. MUNGULDASS NUTHOOBHOY thought that Honourable Members had mistaken him; what he had said was, that the Bombay Municipal Act was not a success:

he had not by any means stated that it was a complete failure. But the great defect of that Act was, that unfortunately, the rate-payers, through their representatives, as at present situated, could not compete with the European Justices in the matter of the English language, and therefore could not take that part in the proceedings which they might wish to take. The result was that they were obliged to give way, for of course in a popular assembly, the man who could speak the most fluently carried the day.

The Honourable Colonel MARRIOTT remarked, in reference to what had been said about bringing the Military Cantonment of Kurrachee under the operation of the Bill, that his attention had been drawn to the subject, by a communication which had come under his notice that day. He did not think it necessary to take any part in the discussion on the point at present, as the matter would come before the Executive Government, and he would have the opportunity of drawing the attention of the Honourable Mover to the subject.

The Honourable Mr. ELLIS said he might be permitted to state with reference to the remarks of the Honourable the Advocate General upon the size of the town of Kurrachee, and its small importance as compared with Bombay, that ever since he had first known Kurrachee,—the municipal spirit of the inhabitants had been very strong, and much more developed than it was in Bombay at the present day. Therefore, although it might appear that they were proposing legislation, the dimensions of which were greater than necessary from the size of Kurrachee, yet there was reason for such legislation from the general public spirit of the people there. Many years ago, when he first knew Kurrachee, the Municipal feeling among the people was strongly developed, and it had gone on increasing. And he would undertake to say that its Municipal spirit was ahead of that of Bombay. He merely mentioned this because it seemed to have been thought that the dimensions of the proposed measure were greater than the size of the town required.

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. BROWN,
The Honourable Mr. MUNGULDASS NUTHOOBHOY,
And the MOVER,

with instructions to report upon the Bill at the next Meeting but one of the Council.

The Honourable Mr. MANSFIELD observed that the consent of the Government of India to the introduction of the Bill had not yet been received, but as its consent was only necessary as to the penal clauses, they might in the mean time discuss the provisions of the measure generally.

At the suggestion of His Excellency the PRESIDENT, it was ordered that the report of the Committee should be translated into the Sindhi language.

The Honourable Mr. ELLIS, in moving the first reading of the Ferries Bill said that in order to explain the necessity for this Bill, he must go back to the origin of Act XXXV. of 1850, which was the law at

Mr. Ellis moves that the Bill to amend the existing law

relating to the Public Ferries in the Presidency of Bombay be read a first time.

present on the subject of Public Ferries in the Bombay Presidency. In 1849, a proposition was made to establish a Steam Ferry between Panwell and Bombay. This proposition, however, could not be carried out, owing to the fact of there being no law to prevent Native boats and others plying on the same line as that of the Steam Ferry. And this being the case, the projectors of the Steam Ferry would have had no security for a monopoly of the traffic, or inducement to bring about a much-desired improvement. A draft Bill was therefore prepared, making it penal for boats to ply for hire at ferries without licences. In those days, there being no local Legislative Council all Bills had to be forwarded from Bombay to Calcutta, and accordingly a draft Bill was prepared for transmission to Calcutta, and he might mention as an amusing incident, showing the ignorance which prevailed at Calcutta in those days—although of course the case was very different now—regarding the local peculiarities of Bombay, that one of the clauses of the draft Bill as sent to Calcutta, ran thus: “nothing shall prevent persons from letting for hire bunders or other boats,” and that when the draft was returned the clause provided that nothing should “prevent persons from letting boats or bunders.” Of course the mistake was easily rectified; but a more serious mistake crept in, and it was the cause of their now being obliged to legislate on the subject again. The draft as first prepared by the Advocate General had provided against boats plying for hire within one mile of any public ferry; but the Government thought that the provision as to a distance of one mile was insufficient, and that it would be necessary to fix a limit of three miles, and they thought that even this would be insufficient for boats starting from Bombay: for, as one would naturally suppose, it would seriously interfere with the profits of ferry if boats were at liberty to start from other bunders in Bombay, even though three miles distant from the Ferry Bunder. It was therefore declared penal for boats to ply from any part of the Town and Island of Bombay without special license. The Advocate General then drafted an amended Section, and when this went to Calcutta it was understood there that the exception was intended to make it legal, and not penal, to ply across the harbour, and the draft Act as it came back gave power for boats to ply from the Island of Bombay to the mainland. This was pointed out as a mistake, and an amendment was again sent to Calcutta, which resulted in the Act being passed as it at present stood. If a reference was made to the Act, it would be seen that the mistake of making it legal to ply across the harbour of Bombay to the mainland was corrected by Section XIV., which provided—“Every person who without the special license of the Governor of Bombay in Council shall convey for hire any passenger, animal, cart, carriage, or goods from any part of the Island of Bombay and Colaba across the Harbour of Bombay to the mainland, or to any of the adjacent Islands, shall be liable to a penalty not exceeding five hundred rupees.” The next section said that—“Every person who shall convey for hire any passenger, animal, cart, carriage, or goods across any other arm of the sea, creek, or river within the said Presidency to any point or place on the opposite bank or coast within a distance of three miles on either side above or below any public ferry, without the special license of a Magistrate of the zillah or town in which the ferry is situated, shall be liable to a penalty not exceeding five hundred rupees.” By this wording, in the one clause it was made penal to convey any persons from any part of the Island of Bombay and Colaba to the mainland, and by the other it was made penal to convey any passengers or traffic of any kind across any other arm of the sea, creek, or river within a distance of three miles on either side above or

below any public ferry. But the Act entirely failed to provide for the prevention of any traffic by which passengers, &c. might be conveyed from the mainland to the Island of Bombay. This state of things had gone on for many years, until some unfortunate man plied his boat in the line of the ferry from Panwell to Bombay. This man was convicted of the offence, but, upon appeal, the sentence of the Court was reversed, and at present he and every one else were at liberty to ply their boats, and land passengers and goods from the mainland to the Island of Bombay, although it was penal to convey traffic from Bombay to the mainland. It must be clear there was a flaw in the Act, and that an amendment on this point was necessary. The opportunity had also been taken to correct one or two other clauses of the Act; these would be discussed by the Council when the Bill was considered in detail, and did not require to be noticed here. He therefore begged to move that the Bill be read a first time.

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 Colonel MARRIOTT,
The Honourable Mr. CAMPBELL,
The Honourable Mr. SASSOON,
The Honourable Mr. BYRAMJEE JEJEEBHAY,
And the MOVEE,

with instructions to report at the next meeting of the Council.

It was ordered that the report of the Committee should be translated into Marathi and Guzerathi before being brought up.

Mr. Munguldass Nuthoobhoy moves that the second reading of the Town Dues Bill be postponed.

The Honourable Mr. MUNGULDASS in moving for the postponement of the second reading of the Town Dues Bill, said as follows:—

“ Since the Orders of the day were received by me, there has been a meeting of the Bench of Justices at which the Commissioner reported that the term of the Municipal License Tax will expire at the close of the current year. The Bench unanimously resolved that the Finance Committee should report at an early date whether the License Tax should be re-imposed, and if not, from what other source its place shall be supplied. If the License Tax is not to be renewed, it will be necessary to substitute some other means to make up the deficiency in the funds of the Bombay Municipality. As constant legislation is deemed improper and is unpalatable to the public, it will be better to consider the question along with the Town Dues Bill. I would therefore crave the permission of the Council to postpone the further consideration of the Bill until the Finance Committee have made their report, and the Bench of Justices express their opinion thereon. I therefore beg to move that the further consideration of this Bill be postponed till the first meeting of the Council after 30th September next.”

His Excellency the PRESIDENT then adjourned the Council until the 28th August instant.

W. WEDDERBURN,

Under-Secretary to Government.

Poona, 7th August 1868.

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 Poona, on Friday, the 28th August 1868, at Midday.

PRESENT:

The Right Honourable Sir W. R. S. V. FITZGERALD, K.C.S.I., Governor of Bombay, *presiding.*

The Honourable B. H. ELLIS.

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

The Honourable Colonel W. F. MARRIOTT, C.S.I.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable ALEXANDER BROWN.

The Honourable A. H. CAMPBELL.

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

His Highness the Honourable Sir JOWAN SINGJEE, Maharaja of Edur, K.C.S.I.

The Honourable BYRAMJEE JEJEEBHOY.

The Honourable Sir A. GRANT, BARONET.

Report of the Select Committee on the Ferry Bill presented to the Council. The Report of the Select Committee on the Ferry Bill was presented to the Council.

The Honourable Mr. Ellis, in moving the first reading of the City Surveys and Amendment of Bombay Survey and Settlement Act Bill, said that the usual statement of objects and reasons explained briefly the reason for the introduction of this Bill into the Council.

Mr. Ellis moves that the City Surveys and amendment of Bombay Survey and Settlement Act Bill be read a first time.

It might be well, however, to mention a few other matters connected with the provisions therein contained, as some misunderstanding appeared to prevail as to the character of the operations to be carried on under the Bill; such operations in fact were already being carried on in Ahmedabad, Surat, Broach, and Bulsar. It was in 1863, when the Guzerat Survey had completed a very great portion of its work in the Ahmedabad Zilla, that difficulties arose in regard to the assessment of certain lands in the immediate neighbourhood of Ahmedabad. Around Ahmedabad there were large plots of land, some of which were the property of private individuals, and some of which belonged to Government as the successors of the former rulers of Ahmedabad, which plots were not assessable according to the ordinary test applied to culturable lands; for if that test were used, it would give the lowest possible result, inasmuch as the land was as ill-suited as it could be to assessment on calculations based upon the agricultural qualities of the land. On the other hand, the lands themselves were of great value, from the fact of their being in the immediate neighbourhood of the city, and since the railway had been taken to Ahmedabad they had acquired a greater value than they ever possessed before. Under those circumstances, the Survey officers found themselves placed in difficulties, which were increased, from the fact that many lands that were culturable were burdened with *sant*, or assessments payable under certain conditions, when the land was cultivated. These lands originally belonged to persons who had former rights, but

whose right of possession was lost, and they were allowed to retain the right over the land to the extent of these payments. There were thus many complications, as well as the fact that a great portion of the lands in the immediate neighbourhood of the city derived their value, not from their culturable qualities, but from their being situated in the immediate neighbourhood of a great city, and their consequent qualification for building purposes. Considerable discussion took place on the subject, and at the same time, were brought to notice the difficulties at Ahmedabad from the want of maps and surveys. These difficulties were of two kinds; in the first place, it was not uncommon when some person bought a piece of land, for another individual to get up a petition, stating that the purchaser was going to build on a plot of ground which belonged to Government; and thereupon the building operations were put a stop to, and the purchaser was served with a notice from the Collector. Thus building operations were stopped for years and years in the city of Ahmedabad pending inquiry. On the other hand, there was a tendency—very often found in large towns and cities—among persons otherwise highly respectable, to encroach upon lands belonging to the Government. This circumstance arose from the want of proper maps, and he recollected one notable instance that occurred. It was a case in which a tradesman was owed two hundred rupees by some reduced member of an old family, who at the time was engaged as a Puttewalla. It occurred to the tradesman that as the Puttewalla was unable to pay him the debt, he might recover his money in another way, and what he did was this: he brought a suit against the Puttewalla, obtained a decree against him, and in satisfaction thereof attached a piece of land which the Puttewalla, as the price of being freed from his debts, admitted to have belonged to his (the Puttewalla's) ancestors. All the papers necessary were made out, and the land, to which neither trader nor Puttewalla had the slightest right, was handed over to the trader in satisfaction of the Puttewalla's debt to him. This was only one instance of the way in which encroachments had been made. It was hardly necessary in that Council, although it might be in other quarters, for him (Mr. Ellis) to remark on the advantages of a proper record, especially in large cities, securing the rights of parties to their property; and he would not take up the time of the Council by dilating upon so obvious a point. But of course there were some persons who had objections to this kind of survey, for there were dishonest people who did not like to see an easy mode of obtaining land cut off from them, and who were sorry to see their chance of infringing on the Government's or their neighbours' land taken away. There was a class of not over-scrupulous Vakeels—he did not speak of the body of Vakeels generally—who would be sorry to see so fruitful a field of litigation closed to them. Such Vakeels were always ready to conduct cases in which fictitious claims were made, but with respect to other classes of the people he had reason to believe that the work which had already been done by the Survey officers had been any thing but unpopular: for there was sufficient sense among the people in towns where the work had been carried on, to see that there were great benefits derivable from the survey. He might mention that the surveys had been carried on in immediate connection with the municipalities of towns, and that the municipalities were bearing a large portion of the expense; and although there were minorities who objected to any expense, yet sufficient grounds had been shown for inducing the belief that a very fair return for their money would be realized, and thus a large majority would be agreeable to the expenditure which was being incurred on their behalf. The survey had been conducted, not only for municipal, but for municipal and fiscal purposes, and the municipalities and the Government were sharing the expenditure as they

would share the proceeds. It would be asked what the proceeds were. The chief portion of them were to be derived from the sale of Sunnuds or title deeds, confirming holders in their possessions, and maps showing exactly the proper boundaries and limits of their property. He saw from some of the native papers that the general supposition was that the Bill was intended to disturb existing titles and to dispossess a large number of people of the properties which they had held for years. Now he had before him the Annual Progress Report of the Survey of the cities of Ahmedabad and Surat, and the towns of Broach and Bulsar, which showed that it was not proposed—as he had before stated—to introduce by this Bill, anything new. It was only the necessity for having a proper legal title for what had been and was being done that made an enactment indispensable; for he believed, that so far as the majority of persons were concerned, they might otherwise have gone on to the end without any legislative enactment on the subject. But of course to give legal effect to the measures taken it was necessary that a Bill should be introduced. Well, the report he referred to, recorded the results of the surveys made at Ahmedabad, Surat, Broach, and Bulsar, during last year. Taking the case of only Ahmedabad, it appeared that last year 5,283 cases were adjudicated on by that summary mode of inquiry which it was supposed in some quarters was to be so fatal to the titles of all landowners in towns and cities. Out of the 5,283, the holders in 149 cases were offered summary settlements, which meant that of the total number 149 of the persons had to pay two annas in the rupee of what would be the full assessment of the property. In seven cases the claimants had encroached upon public roadways, so come under the Section of the Bill which provided that recent encroachments should be vacated and taken possession of by the Collector. In one hundred of the cases the holders were decided to be liable for the full assessment. In seven cases, the occupants were found to have exposed themselves to the penalty laid down in Bombay Act I. of 1855, Section XXXIII. The bulk of 4,854 holders, out of 5,283, were confirmed in their holdings and exempted from the payment of assessment,—that was the result of the working purposes, some he might state that of those who had the option of appeal, 31 did appeal. In the cases where the decisions of the Revenue officer were upheld in 19 cases, twelve compensations were reversed. In Surat, 3,008 decisions were passed last year. Out of that down for public only came under the summary settlement and paid two annas in the rupee. The stability of three of the holdings proved to be Government land and liable to assessment. In the remaining 2,984 cases the holders were confirmed in their holdings. He proposed that this report of the Revenue Survey and Assessment should be circulated to the members of the Council, and also, with His Excellency's permission, that it should be placed at the disposal of the Press, in order that it might be seen what the operation of the survey really was, so that the public might at once have the opportunity of seeing how far the insinuation was true that the Survey was a system of confiscation, or, as had been alleged, another Inam Commission. There was one other point, of which a good deal had been said, that perhaps required explanation, and that was with regard to the powers given in the Bill to the Survey officers to enter houses. He had every reason to believe that all that had been said on that matter had been very great exaggeration, for he knew that up to the present time, in some of the towns and cities, there had not been a single complaint, and in others, they were very rare. That proved what he had said, that the people did not object to the survey, but, on the contrary, had given it the fullest and most cordial assistance. So much was it the wish of

the officers of the Survey that the feelings of the people should be consulted, that it was laid down as a rule, that no low paid subordinate should enter a house for the purposes of the survey, except with the consent of the owner; and that if he refused permission, the subordinate officer was to go to higher authority and obtain instructions. He (Mr. Ellis) need not state that it was impossible to make a survey in a thickly populated town without sometimes having to enter houses. As a rule, all the information that was required could be obtained from the measurement of the compound, but when there were no means of getting at the depth, it might be necessary to enter houses occasionally. The power to enter them, therefore, was necessary in the Bill; but it was a power—to judge from the results of the surveys hitherto—that was seldom required to be put in force. He (Mr. Ellis) did not know that at present there were any other points which he need detain the Council upon, but he would state that he proposed to proceed leisurely with the Bill, so that if any one had objections to particular clauses he might state them. He (Mr. Ellis) had taken steps to obtain for the Council, before Honourable members were finally asked to determine on the Bill, some further statements in addition to those they had before them, showing the nature of the survey, and what valuable results were being arrived at, and how it was being carried on. This statement would be in the hands of the Council before the next meeting, and if the Bill was read a first time that day he would propose, in moving for the appointment of a Select Committee, that their report should not be presented earlier than the 15th of next month, so as to give time for any one to bring before the Committee any subject that might be considered to be of importance. He begged to move that the Bill be read a first time.

The Honourable Mr. BYRAMJEE JEJEEBHOY addressed the Council as follows:—

I beg your Excellency's permission to make a few remarks on this Bill, which I trust will receive the consideration they may be thought deserving of.

I find the word "occupant" used throughout this Bill. But this word in Section II. (J) of Act I. of 1863, does not appear to convey a complete ownership of property, whereas such complete and absolute ownership will in innumerable cases of lands coming within the Bill. I think, therefore, "owner or occupant" should be substituted for the word "occupant."

Section IV. The wording of Clause 1 of this Section appears to be of a kind of negative right. It appears to me that instead of the wording "the Collector on the application of the occupant, declare lands to be not liable to the operation of (Bombay) Acts II. and VII. of 1863," some wording conveying the idea that the lands are entirely free from all right and demand whatsoever on the part of Government, should be used.

Sections IV., V., and VII. There appears to be no provision for appeals against the decisions of Collectors under these Sections. The powers given in these Sections are intended to be summarily exercised. But in my humble opinion the parties dissatisfied with the Collector's decisions should be allowed the right of appealing against such decisions.

Section V. Clause 2 regulates the assessment of lands wholly or partially exempt from assessment for a period less than twelve years and not less than five years. I do not clearly see how in cases of lands partially exempt, that is, paying quit rent, unautho-

rised possession can arise within a period of twelve years coupled with a demand on the part of Government for quit rent. Is not the levy of quit rent a recognition by Government of ownership? The Honourable mover will no doubt explain this. Perhaps it is not a point of great importance. I mention it only as a passing remark.

Section VII. In my humble opinion this Section should be carefully considered. This Section gives, as it appears to me, an uncontrolled power to the Collector:—

- 1st. To declare any land to be an encroachment on a public street or thoroughfare.
- 2nd. To clear such land of any building standing on it in the event of the owner failing to do so within a reasonable time.
- 3rd. To award compensation in respect of buildings pulled down.
- 4th. To determine what buildings should be compensated for and what not.

I would propose, as I have already stated, that the Collector's proceedings should be appealable to higher authorities.

I am not aware whether the Honourable mover means that a piece of land, supposing it to have been originally encroached upon, but which has remained in the possession of the owner for a period of thirty or forty years, should now be considered as an encroachment and treated as such, notwithstanding the length of time that has elapsed since the original wrongful acquisition. If so, it would appear a hard measure. I think some period limiting the right of the Collector to resume the encroached land should be specified.

I also think that the words "of a permanent character" occurring in this Section should be omitted, as they would, in disputed cases, lead to much doubt and uncertainty. Besides, the hut of a poor man, though not of a "permanent character," is perhaps more valuable to him than the house of a "permanent character" of a rich man.

I am further humbly of opinion that, as is the case in the Act for lands for public purposes, some provision should be made for fixing the amount of compensation by arbitration in cases where parties are dissatisfied with the Collector's award. I also think that compensation should be awarded for porches, doorsteps, verandahs, &c., that may be pulled down for public purposes only. Though the destruction of these things may not impair the stability of the buildings to which they are attached, they are often very valuable property in large and flourishing towns.

Section VIII. invests Survey officers with power to enter lands and premises for the purpose of measurement, fixing boundaries, &c. From the expression "lands and premises" all places of worship, such as fire temples, temples, mosques, &c., should be excluded. It would wound the most cherished feelings of the people if the Survey officers were empowered to enter such places. I also think twenty-four hours' notice insufficient. A longer notice should be given, and some provision should be made, either in the Act or in the rules to be framed by the Government, by which the religious usages, customs, and feelings of the occupants of the house shall not in any way be offended while such survey is being made.

Section XVIII. I should also wish to be enlightened as to what is meant in this Section by "things attached to the earth, &c." Does this include buildings, and if so, will the assessment contemplated in Section V: be levied on both lands and buildings, or how?

In conclusion, I beg to bring to your Excellency's and my Honourable colleagues' notice that the Bill has excited great apprehensions among the people as to its nature and object. In order, therefore, to give all who are interested an opportunity of fully expressing their views, I would respectfully suggest to the Honourable mover to postpone the second reading of the Bill to a distant date.

His Excellency The PRESIDENT said he had not interrupted the Honourable member, but the suggestions he had just made would have been more properly addressed to the Council when the Bill was in Committee; the Honourable member having dealt with the details, not with the general principle of the measure. The Honourable member was not quite in order, but he (the President) did not like to interrupt him, as that was the first time the Honourable member had addressed the Council.

The Honourable Mr. MUNGULDASS NUTHOOBHOY addressed the Council as follows:—

SIR,—As this Bill is apparently intended to explain the meaning and applicability of former enactments, and to modify some of their provisions, I cannot raise any objection to the first reading of it.

I have the highest respect for the opinion and experience of the Honourable member who introduces this Bill, but I regret I cannot agree with him in opinion in regard to the propriety of several of the clauses as they at present stand. To enter now into a discussion of them in detail would be premature. When the Bill has been settled by the Select Committee and comes up for a second reading then it will be time to submit to the Council any objection which might be found to exist to any of the provisions.

(And I may say, sir, that I think that the time mentioned for the second reading, the 15th of next month, is too short.)

For the information of the Honourable member and his colleagues in the Select Committee, I would simply name the Sections which in my opinion require careful consideration, and make some general observations. I understand that representations are about to be made to your Excellency's Government regarding this Bill, and it is but proper to see and consider what the people to be affected by the proposed measure have to say. I make this incidental remark that a short time may not be fixed for the Select Committee to make their report. I feel fully confident that the Honourable member, when convinced of the justness of the objections, would be the first to strike them out. The Sections I allude to are chiefly 4, 5, 6, 7, and 8. I would like to know in the first place whether this proposed measure is to be applicable to the city of Bombay. [The Honourable Mr. Ellis. No.] The Honourable Mr. Munguldass. Being assured by the Honourable Member that the town and island of Bombay is to be excepted from the operation of the intended law, still in its application to the Mofussil, I look upon it with great concern and anxiety. I conceive the intention of the Bill to be to try the title to exemption from the payment of revenue of lands situated in towns and cities, and where no such title is made out to settle an assessment thereon. The Bill does not profess to bring under assessment, lands which have not been held wholly or partially free from assessment for more than twenty years, and which have not hitherto been used for cultivation only. There does not appear to have been any complaint that public lands liable to assessment have been appropriated by the people within the last twenty years. And on the first principle, which guides all legislation, viz., that there should be a need for an enactment before it is passed,

I trust that the Honourable Council will not pass a law on this subject, unless it is clearly shown that within the last twenty years the people in towns and cities have appropriated lands to such an extent as to make such practice a crying evil, for which Government have no ordinary remedies, and which nothing but a legislative enactment will remedy. I think whilst the necessity of the measure is doubtful, and the advantage to the Government revenue so inconsiderable, the evils to be apprehended from the working of the Act will be serious. It will unsettle and rip up titles to lands which have long since been quietly enjoyed, and set on foot an unpleasant and vexatious investigation into them. Although for the survey and settlement of land used for cultivation only, the power of entry as provided by Section XI. of Bombay Act I. of 1865, was unobjectionable, yet there is the most serious objection to a similar provision being enacted in respect of people's houses. Though without any legislative sanction whatever, such an experiment has been already tried in Surat and other cities in Guzerat, the result has been an intense degree of dissatisfaction. Such intrusions directly interfere with the seclusion and retirement in which the females of the Hindoo, Mahomedan, and other Indian tribes live, as well as with the religious usages and beliefs of the Hindoo nation. Hardly any notice will obviate the annoyance and inconvenience to which native females would be subject by the entry; whilst no amount of notice will remove the objection on the ground of their religious usages and beliefs. The effect of this Bill will be again to invade the proper functions of the ordinary tribunals of Justice. In the words of the statement of objects and reasons, "the record and preservation of proprietary and other rights connected with the land" is one of the objects of Bombay Act I. of 1865. A survey to ascertain what assessment each occupant is liable to pay for the land he cultivates, involves a definement of his possession, but where (as in towns and cities) hardly any assessment is claimable, a survey simply to determine and record people's rights is uncalled for and injudicious, and a direct entrenchment upon the province of the regular Courts of Law.

The Honourable member added:—I would not raise any objection to the first reading of the Bill, but I would entreat the Honourable member to agree to an adjournment of two or three months. Granting the necessity of such a measure, the Council will I hope agree with me that two or three months will make no difference, and in the meantime let the people represent what they have to say.

His Highness the Honourable Sir JOWAN SINGHIE addressed the Council as follows:—

"It is enacted in Section 8, that it would be lawful for any duly authorised Survey officer to enter dwelling houses for the purpose of measurement, fixing boundaries, or for any other purpose connected with the survey, and that twenty-four hours' previous notice shall be left before such entry. For this, at least fifteen days' notice should be left, to enable the occupant to make the necessary preparations for putting the household furniture, &c., in proper order, so that there might be no objection on the score of interference with private property or religious affairs."

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 Mr. MANSFIELD.

The Honourable Mr. MUNGULDASS NUTHOOBHOY.

The Honourable Sir ALEXANDER GEANT.

The Honourable Mr. ELLIS.

The Honourable Mr. ELLIS observed that if there was to be a postponement of two or three months, the Committee would have nothing to do for that time. He thought it was much better that the original date proposed should stand. There could be no difficulty in the matter, for those who wished to discuss it would have plenty of time for discussion, and persons who desired to petition against the Bill would have time to send in papers, even from the most distant districts. If the Committee found that the representations made required further deliberation, they could then ask the Council to extend the time for presenting their report. It was the character of the people of this country to postpone and put off, but such delay as that asked for by the Honourable member was not necessary; for if it were found that the Committee could not make their report within the time first proposed, he (Mr. Ellis) should certainly beg the Council to extend the time for presenting the report. He might add, that he had no wish to hurry on the second reading at the next meeting.

The Honourable Mr. MUNGULDASS NUTHOQBHOY hoped at any rate that the Honourable member would agree to leave the report over for two months.

The Honourable Mr. ELLIS said the objection he had was this, that if such a long time was allowed the Bill would not be discussed at all during the present course of meetings. He only wished to secure the measure being proceeded with in the present Session, as it was a very bad practice to introduce a Bill during one Session and then hold it over, because when it came on again some of the members present at the early stages of the Bill might have gone away. He would agree to a month's adjournment.

His Excellency The PRESIDENT thought that one month was quite sufficient.

The Honourable Mr. ELLIS intimated that he had intended to propose a somewhat lengthened adjournment of the proceedings in connection with the Bill after the details had been settled.

It was agreed that the Committee report to the meeting of the Council which should be held next after the 28th September 1868, and that the report of the Committee should be translated into Gujarati and Marathi.

The Honourable Mr. ELLIS moved that the Bill to amend the law relating to Public Ferries in the Presidency of Bombay (No. II. of 1868) be read a second time. The Honourable member said he thought it quite unnecessary to trouble the Council at any length upon the subject of this Bill, as he had already explained, in moving its first reading, the objects for which it had been introduced into the Council. The Select Committee had made several minor alterations, and also introduced one alteration of, apparently, some little moment, although it was not really so, in making the Collector of the district, as the President of the Local Funds Committee, the person to superintend the ferries, rather than the same officer in his Magisterial capacity. Since the report was drawn up, the Collector of Tanna had sent in a suggestion made by Mr. Shepherd, which was well worthy of adoption as securing the public against negligent acts on the part of servants employed by the steam ferries' contractor, and he (Mr. Ellis) would therefore, move the insertion of a Section, embodying the suggestion, in its proper place in the Bill. The suggestion was not received in time for the report of the Committee, and therefore he was not able to consult his colleagues, but he had no doubt they would all agree with him in thinking that

its introduction to the Bill would be an improvement. With these remarks, he begged to move that the Bill, with the addition of this Section, be read a second time!

Bill read a second time, and considered in detail. The Bill was then read a second time, and considered in detail.

On Section IX. His Excellency The PRESIDENT suggested that there should be some clause in the Bill defining the jurisdiction in cases, where one terminus of a ferry is in one district, and the other in another district, as for instance in the case of the Bhima River, where one side of the shore is in the Sholapoor District, and the other in the Kulladghee District. Some provision should also be made as to the distribution of the tolls and the fines under the Act.

The Honourable Mr. ELLIS said the fines might be divided between the Local Funds of two districts by direction of the Government.

His Excellency The PRESIDENT said there was no power in the Bill enabling Government to do so, but there ought to be some provision for meeting such a case.

After the Section had been considered in detail—

Mr. Ellis moves the insertion of an additional Section. The Honourable Mr. ELLIS moved the insertion of the following Section after Section V. :—

“When a public ferry has been duly leased or farmed out, every servant of the lessee, contractor, or farmer shall be deemed to be legally bound to do everything necessary for, or conducive to, the safety of the public which he shall be required to do by any regulation made by the lessee, contractor, or farmer, and approved by Government, and of which regulation such servant shall have had notice; and every such servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such regulation he shall be prohibited from doing; and every person employed by or on behalf of such lessee, contractor, or farmer to do any act upon the ferries shall be deemed to be a servant of the lessee, contractor, or farmer.”

The Honourable member observed that the Section had been adopted from the Act for the regulation of Railway Company servants. The adoption of the clause into the Bill to amend the law relating to public ferries in the Presidency of Bombay, would give powers for exercising similar control over the servants of the steam ferries contractor, and prevent negligence and culpable negligence on their parts.

The introduction of the Section was agreed to.

After Clause II. of Section XV., the following clause was inserted :—

“When a public ferry is partly in one district, and partly in another, it shall be lawful for Government to assign to each district such proportion of the proceeds of the said ferry as they shall deem fit.”

The Honourable Mr. MANSFIELD said a petition had arrived from the inhabitants of Kurrachee against the passing of the “Kurrachee Municipal Act,” and that he was not prepared to state, until that and other petitions that might be received, when he proposed to proceed with the Bill.

His Excellency The PRESIDENT then adjourned the Council.

W. WEDDERBURN,

Poona, 28th August 1868.

Under-Secretary to Government.

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 Poona, on Monday, the 5th October 1868, at midday.

PRESENT:

The Right Honourable Sir W. R. S. V. FITZGERALD, K.C.S.I., Governor of Bombay, *presiding.*

The Honourable B. H. ELLIS.

The Honourable S. MANSFIELD.

The Honourable the ADVOCATE GENERAL.

The Honourable Colonel W. F. MARRIOTT, C.S.I.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable ALEXANDER BROWN.

The Honourable A. H. CAMPBELL.

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

His Highness the Honourable Sir JOWAN SINGJEE, Maharaja of Edur, K.C.S.I.

The Honourable BYRAMJEE JEJEEBHOY.

The following report of the Select Committee appointed to consider a "Bill to provide for the management of the Municipal affairs of the Town of Kurrachee, and to make better provision for the conservancy and improvement of the Town, and for the levying of rates and taxes therein," was presented to the Council.

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

A meeting of rate-payers has been held at Kurrachee at which the Kurrachee Municipal Bill was objected to, and the proposition of drafting a new Bill was carried by a considerable majority. We have written to the Commissioner in Sind to obtain the draft of a new Bill from the rate-payers, and to forward the same with his opinion at his earliest convenience. We propose therefore to adjourn the consideration of the Kurrachee Municipal Bill to the next meeting of Council in Bombay.

S. MANSFIELD.

L. H. BAYLEY.

A. BROWN.

MUNGULDASS NUTHOOBHOY.

2nd October 1868."

The report was read, and the consideration of the Bill was postponed until the next meeting of the Council in Bombay.

The following Report of the Select Committee on the "City Surveys, and Amendment of Bombay Survey and Settlement Act Bill," was presented to the Council:—

Report of the Select Committee on the City Surveys and Amendment of Bombay Survey and Settlement Act Bill presented to the Council.

Report of the Select Committee appointed on the 28th August to report on Bill No. 3 of 1868, A Bill to remove doubts as to the applicability of (Bombay) Act I. of 1865 to Towns and Cities, and to extend the term for which Government may fix the Assessment of Lands in Towns and Cities, and to confirm existing rights of occupancy of such lands, so far as the interest of Government is concerned; and to make further provision regarding the application of (Bombay) Acts II. and VII. of 1863 and I. of 1865 to Towns and Cities, and otherwise to amend (Bombay) Act I. of 1865.

Your Committee have carefully considered the provisions of the Bill. They have also

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| 1. Petition from the Members of the Bombay Association. | had under consideration |
| 2. Do. from do. of the Sattara Association. | the Petitions noted in the |
| 3. Do. from the Inhabitants of Broach. | margin. These Petitions |
| 4. Do. from the Inhabitants of Neriad, in Kaira. | have been printed, and are |
| 5. Do. from the Inhabitants of Ahmedabad. | now before the Council. |
| 6. Do. from the Inhabitants of Tanna District. | There have also been re- |
| 7. Do. from the Inhabitants of Moondha, in Kaira. | ceived certain Petitions in |
| 8. } Letters from Mr. Shantaram Narayen. | the Vernacular, unaccom- |
| 9. } | |
| 10. } | |
| 11. Petition from Hormusjee Jehangeer, Proprietor of Suza Exeer, Talooka Salsette. | |

panied by translations as required by No. 41 of the Council Rules.

2. Your Committee deem it unnecessary to enter into the question of the applicability of previous enactments to Towns and Cities, as they are clearly of opinion that a Survey for the measurement and definition of lands in Towns and Cities is in itself beneficial and proper. And in respect to the fears entertained that the present Bill is a measure for the general assessment of such lands, your Committee would refer to the Sections of the Bill relating to Assessment, from which it will appear that there is no intention of assessing any lands hitherto exempt, unless they have been unauthorizedly occupied within a period of five years.

3. In considering the details of the Bill, your Committee have had special regard to the observations made by their Honourable colleague, Mr. Byramjee Jejeebhoy, at the last Meeting of Council. It will be seen from the following brief summary that the greater part of his suggestions have been adopted. Many of the recommendations contained in the Memorial from the Bombay Association, and in some of the more intelligent of the Petitions, have also been adopted.

4. In the following summary the numbering of the Sections refers to the Bill as amended, the numbers in brackets showing the sections in the original Bill.

5. Section II. has been added. This Section has the effect of restricting the application of the Summary Settlement Acts in Towns and Cities, to the case of lands now used for cultivation only, see Section VII.

6. In Section III. (II.) the word "assessable" has been introduced before the words "lands in Towns and Cities" in the fifth line, and other verbal alterations have been adopted, in order to make it clear that the object of this Section is not to introduce any new assessment, but simply, in the case of assessments leviable under existing laws, to allow Government to fix a longer period than 30 years, the limit allowed to settlements by Section XXVIII. of (Bombay) Act I. of 1865.

7. The benefits conferred by Section V. (IV.) have been extended to all holders of land for a period of 5 years and upwards. The original Section fixed the limit at 20 years.

As suggested by the Honourable Mr. Byramjee Jejeebhoy, the words "owner or occupant" have been substituted for the word "occupant."

8. Section VI. (V.) has been recast to bring it into conformity with the preceding Section. As it now stands no appropriation of Government or public lands of older date than 5 years will be interfered with. Government lands unauthorisedly taken possession of within 5 years will become liable to assessment for the future; and where the appropriation is shown to have taken place within 2 years, the holder will also be called upon to pay the occupancy valuation, on the same terms as his neighbours who have obtained plots of Government land after due application made to the authorities.

9. A proviso has been added to Section VII. (VI.) in order to meet the case of Town lands coming under the Summary Settlement now used for cultivation, but which may eventually be used as building sites. As long as these lands are used for cultivation they cannot bear the rate appropriate to building sites. Provision has therefore been made so that the building rate may not be levied until the land is used for building purposes.

10. Section VIII. (VII.) which provides the remedy for unauthorized encroachments on the public roadway has been much modified. Owing to a clerical error, by which Section III. was referred to in line 4 of the original Bill instead of Section IV., it appeared as if no period was fixed within which encroachments on roadways might be resumed. With this error corrected the limit of time provided by the original Bill was 20 years. It is now proposed to reduce this limit to 12 years. As regards the buildings for which compensation is to be granted, the words "of a permanent character;" objected to by the Honourable Mr. Byramjee Jejeebhoy, have been omitted, and by the further omission of the words next following compensation is allowed in the case of buildings used for whatever purpose. It will be seen also that the rule regarding compensation has been relaxed in favour of verandahs and porches. A proviso has also been added to allow of arbitrators being appointed in cases where the owner of the building is not satisfied with the compensation tendered by the Collector.

11. The provisions of Section IX. (VIII.) have also been considerably modified. Unnecessary entries on lands and premises have been provided against; the term of notice before entry in the case of a dwelling-house has been extended from 24 hours to seven days; and it is provided that in entering dwelling-houses due regard shall be paid to the social and religious prejudices of the occupiers.

12. The delegation of a Collector's powers under Section XII. (XI.) is restricted in the case of Survey Officers to those of not lower rank than a Sub-Assistant Superintendent of Survey.

13. A Section has been added as No. XVIII., to provide powers to sub-divide a Talookdaree estate in Goojerat at the request of a majority of the holders. Clause 2 of this Section provides by whom the cost of subdividing Talookdaree estates shall be borne.

14. A new Section XIX. has also been added to obviate inconveniences which have been felt when the Survey Act (Bombay) I. of 1865 has been applied to alienated villages. This matter was brought to the notice of the Select Committee by Mr. Hormusjee Jehangirjee, the holder of certain alienated villages in Salsette.

15. The wording of the Title and Preamble has been altered to suit the amended provisions of the Bill.

16. The above summary of the chief points regarding which amendments are proposed, shows that very extensive alterations have been made in the details of the Bill, and that the original provisions have been very greatly relaxed in favour of the people affected thereby.

17. Your Committee recommend that the Bill be passed in its present form.

B. H. ELLIS.

S. MANSFIELD.

MUNGULDASS NUTHOOBHOY.

2nd October 1868.

The Honourable Mr. Ellis said that as the provisions of this Bill had been very much modified in Committee, he proposed that an early day should not be fixed for the further consideration of the Bill, with the view that the modifications which had been made, might become fully known, and that the Bill in its present form might have a sufficiently wide circulation. But as there would be this delay, he would beg permission, in stating the course which he proposed to pursue, to offer a few observations upon certain points in respect to which considerable misapprehension appeared to exist; and he would do so, without troubling the Council with those points that would more properly be dealt with on the occasion of the second reading. But as there would be some delay, he would merely submit a few remarks in reference to the misunderstanding as to the intentions of the framers of the Bill. In the first place there had been some misapprehension as to the principle of the Bill, but it was hardly necessary to deal with that now, as a proper opportunity for explaining what that principle really was, would be afforded him in moving the second reading of the Bill. But in one very prominent point of detail, apprehension had been excited in the minds of the people of the City of Bombay; lest the provisions of the Bill should be made applicable to them. Now he would mention that it never was intended to make the Bill applicable to Bombay, for in the first place, there existed already under the Bombay Municipal Act of 1865, ample powers for carrying out the field portion of the survey of the City of Bombay, and in the second place, the Regulations on which this Bill was based were not applicable to that city. It was never intended therefore to apply this Bill to Bombay; but in order to do away with the misapprehension on that point, the Select Committee had inserted a clause in the Bill, declaring specifically that the Act should not apply to the City of Bombay. Then again there was some misunderstanding as to the second Section of the Bill, which as originally worded was one intended solely for the advantage of the holders of lands in towns and cities, but the Section was misconstrued so as to lead to the belief that the object was to give the Government power to levy assessments where no assessments had been levied before. But this was not the case. The clause was framed in order that when assessment was leviable under other Acts, the Government should have the power to fix such assessment for a longer period than was permissible under those other Acts. He might mention that under the Bombay Survey and Settlement Act, settlements could be fixed for only thirty years, but it was obvious that in cities and towns, the term should be longer. He need hardly state that there was not the slightest intention of using this Section to impose any new assessment; but the Committee had made an alteration in the Bill that he hoped would

do away with such an impression. Then again there had been a misconception as to the use of the word "occupant" instead of "owner." The former word was used because the survey dealt with occupancy—not with ownership. For this, and for no other reason, had the word "occupant" been used. He would refer to the wording of the Sunnuds, from which it would be seen that Government admitted that property in Town lands was private property. But as there was no objection to insert the word "owner" the draft bill had been altered accordingly. There was also a misconception as to the Sunnuds themselves, and it had been said that the Government were professing to issue documents conferring a valid title when no such title was conferred. Now it never was pretended that sunnuds issued under the Act would confer an absolute title, but what the sunnud would do was this, it would give a title against Government; and in the next place, the sunnud, in course of years, became the very best evidence that could be produced, of possession and occupancy at the time when the survey was made, and looking at the value of a prescriptive right, he thought it would be no small thing to give the means of a proof of prescription. Then again there was a misconception in the matter of encroachments on the public roadway, for which provision had been made in Section VII. of the Bill as originally presented, but this, he (Mr. Ellis) must admit was owing rather to the fault of those in charge of the Bill, than to that of the public, because on account of a clerical error (by which Section III. was referred to in the original bill, instead of Section IV.) it had appeared that the right of resumption was unlimited in cases of encroachment. But as this error had been pointed out in the report he would not further allude to it. Then there had been some agitation as to the provisions of Section VIII. and the right of survey officers to enter on lands and premises for the purposes of survey. There had been great exaggeration and he thought it was pretty well admitted now, that no great danger was to be apprehended from the powers given under the section; the right was one which very seldom need be exercised; still it was necessary that such a power should be given to the officers of Government, because the want of it in one or two cases might be an obstacle to the work of the survey. The Committee had secured the right but had placed restrictions on its exercise as would prevent any interference with the social customs and religious prejudices of the people. He hoped therefore, that those who had raised, or countenanced the agitation, would now take steps to reassure the public mind, and convince those who had been frightened, that their alarm was groundless and without foundation. There was one other point of considerable importance to which he would refer. It was supposed that the bill was devised with one principal object—that of depriving people of a remedy in the civil courts in respect to land of which they might be deprived by the Collector, or of damages for wrong which they might suffer by his decisions. The fact was that the only cases in which, under the draft bill, remedy under the Jurisdiction of the Civil Courts would have been barred, were those occurring under Acts II. and VII. of 1863, a very limited class of cases. But for all decisions under Act I. of 1865 and for all the new provisions of this draft Bill, no such provision was proposed. On the contrary, the sections of Acts II. and VII. which gave such power had been expressly omitted, for sections XIII. and XXVIII. of those Acts respectively, which prevented the Civil Courts from questioning the Collector's decisions, were not contained in Section XIV. of the draft Bill. That Section merely provided that officers of Government should not be liable to be sued for actions done under this Bill *bonâ fide* in the discharge of their duty: but there was nothing to prevent any officer from being sued for misconduct, or for

acts caused by gross negligence on his part. That was to say if the Collector were to do something which was grossly and obviously wrong, he would not be protected by pleading that he had acted *bona fide*; nor, on the other hand, would there be anything to prevent an aggrieved individual from taking proceedings against Government on account of any wrong or damages that he had been subjected to by an officer of Government. But in order to do away with the objection the Select Committee had removed that provision in the original Bill. There was therefore no provision in the Bill as presented now, which could prevent the civil courts from taking cognizance of the acts of the Collector in respect to the title to any town or city lands. He would not detain the Council by going into all the sections of the Bill, because the opportunity for so doing would be offered on another occasion; and he had troubled the Council with these remarks solely as to the misapprehensions which had existed, but which he trusted would now be removed. He would have no other opportunity, as most of the sections in relation to which the misunderstanding had arisen, had been either entirely removed from the bill or now appeared under a different form. He might add that besides the petitions mentioned in the margin of the Select Committee's report, there were others sent in the vernacular, which being unaccompanied with translations required by the rules of the Council, ought to have been returned; but as the Committee were desirous of having all the information possible on the subject, they had the petitions translated for their own information, though of course those petitions could not be presented to the Council. In conclusion he would beg to say that he should be prepared to proceed with the Bill at the first meeting after the Dewalli holidays, which would afford ample time to consider the measure in its amended form.

The Honourable Mr. ELLIS in moving the first reading of Bill No. 4 of 1868 (*A Bill to repeal Section III. of Act XXI. of 1852, and to remove*

Mr. Ellis moves that the Bill to repeal Section III. of Act XXI. of 1852, and to remove doubts as to what powers and duties of a Collector may be legally exercised and performed by an Assistant, or Deputy Collector, be read a first time.

doubts as to what powers and duties of a Collector may be legally exercised and performed by an Assistant or Deputy Collector), said the Bill before the Council was one, the necessity for which had arisen in consequence of doubts whether Deputy Collectors appointed under Act XXI. of 1852; and Assistant Collectors, could legally exercise any of

the powers of a Collector within their respective districts, without a special delegation of such powers in each individual case. In consequence of the want of a general authority being vested in Deputy and Assistant Collectors, a great deal of vexation and trouble had been caused in minor cases of breach of the Abkaree and other laws. Under the existing law, owing to the Deputy and Assistant Collectors not having a general authority, cases had to be sent many miles, at much trouble and expense, for hearing before the Collectors. This was found to be a hardship, as a proper disposal of such cases might be had before the Deputy or Assistant Collector were they empowered to take cognizance of them. It was chiefly in reference to Abkaree cases that the difficulty had arisen, but it was a general one. The Regulations of the Bombay Government did not allow of a Deputy Collector exercising the authority of a Collector without a special delegation of power in each individual case, but in Bengal no such regulation was in force, and it had been suggested by the Government of India, that the local Government should take cognizance of the matter and pass a Bill to remedy the defect. In the same way with Assistant Collectors, the Legal Remembrancer of the Government had advised, that in accordance with the Regulation, a special delegation in each case was required

to allow of an Assistant Collector's trying Abkaree cases. It was obvious, under these circumstances, that many delays and much inconvenience must occur from the want of such powers on the part of Deputy and Assistant Collectors, and therefore it had been deemed necessary to legislate and introduce the present bill into the Council. He could hardly suppose that any one would offer objection to the measure, and as there was no necessity to refer it to a Select Committee, he begged to state that he should propose to proceed with as much rapidity as the rules allowed, and go through all the stages that day.

Bill read a second and third time and passed.

The bill was then read a second and third time and passed.

Mr. Munguldass Nuthoobhoy moves that the Bill (No. 9 of 1866) for the levy of Town Dues, be read a second time, and that an amendment be made in the Preamble and Section I. of the Bill.

The Honourable Mr. MUNGULDASS NUTHOOBHOY moved the second reading of the Town Dues Bill, and the following amendment in the Preamble and Section I. of the Bill; of which he had previously given notice.

“Whereas it is necessary to provide funds for the deficiency in the revenue of the Municipality of Bombay caused by the extinction of the License Tax on Professions, Trades, and Callings, imposed by virtue of Section XCVII. of the Bombay Municipal Act (Bombay) Act II. of 1865, the duration of which terminates on the 31st December 1868, and whereas it is further necessary to provide additional funds for Municipal purposes within the City of Bombay; It is enacted as follows :—

- I. The duties leviable under this Act shall be called Town Duties, and shall be leviable in addition to any Customs' Duties prescribed by Law.
- II. Duties at the rates specified in the Schedule annexed to this Act shall be levied from the 1st January 1869 to 31st December 1869 in respect of the several things therein mentioned, when imported from any place into the City of Bombay.
- III. At a Special General Meeting of the Justices of the Peace for the Town and Island of Bombay, to be held according to Section XXXIII. of (Bombay) Act II. of 1865, in October next, it shall be lawful for the said Justices to fix the rates for the said Town Duties to be levied for the year next following, and it shall be lawful for the said Justices further at the Special General Meeting of Justices in 1870, and in each subsequent year, to fix the rates for the year following after such meeting in respect to any or all things in the Schedule annexed to this Act, provided such rates shall not in any case exceed the rates specified in the said Schedule.”

The Honourable member said :—In moving the second reading of this Bill, with the amendments, of which I have given notice, I will again briefly sketch its history from the outset. Town Duties had been levied for years in Bombay prior to 1865. In that year Mr. Cassels introduced the present Municipal Act into this Council. In his original draft of the measure, he provided for the abolition of the existing Town Duties after three years, while he gave as its eventual substitute the License Tax, a trial tax, which he desired to impose in the first instance for three years in addition to the Town Duties. In this form the measure was placed before the Public and the Bench of Justices. The Town Duties and the License Tax would have run the appointed course of 3 years side by side, and it would now have been for the Bench and ultimately for this Council to decide after three

years' experience whether both forms of taxation should continue, or, if one of them should be abolished, which of them it should be. Unfortunately however Town Duties were summarily and suddenly abolished as being too wicked to exist. The moment selected for this wanton destruction of six lakhs of revenue, was also that for the introduction of a new and expensive measure. When we remember that this large income was sacrificed in the face of a deficiency of 19 lakhs in that year, we cannot but pronounce this piece of legislation as the greatest of our many failures of that time.

A very short experience of the new Act and the new License Tax brought home to the public the gravity of the error that had been committed; and the present Bill is the result of the agitation on the subject. But before it had progressed beyond the first reading, the Bench had determined to enlarge the scope of the License Tax to increase its yield, so that with the addition of the recently acquired Tobacco duties, and an enhanced House Rate (6 per cent.) it might perhaps be possible to do without Town duties. The License tax with the enlarged Schedule has been fairly tried and has utterly failed. The Bench have even advanced the House Rate to 7 per cent. In short the Bench has now fairly and honestly exhausted all the means placed at its disposal by the Municipal Act of 1865.

The direct taxes, from which the present income of the Municipality is solely derived, having reached their maximum limit, do not admit of any increase without inflicting excessive and extortionate imposts on the people, who are already taxed so heavily that it would be highly impolitic and unjust to subject them to fresh burdens, which they are unable to bear. All the rates and taxes at present fall on about 17,000 persons, whilst the mass of the population, numbering about 800,000 souls, contribute little or nothing to the Municipality. It is therefore absolutely necessary to have recourse to indirect taxation to supply the deficiency caused by the extinction of the License Tax,—to extricate the Municipality of Bombay from its embarrassment, and provide the funds that are required for the increasing expenditure and conservancy of this great emporium of British India. The measure which I have introduced into the Council in conformity to the wishes of a large majority of Her Majesty's Justices is adapted to serve the purpose I have just referred to.

As to how much money we require, I hold in my hand the Municipal Commissioner's Budget for 1869. I find he has provided in it only for the bare cost of conservancy; he has reduced this cost by two lakhs of Rupees; he proposes no new works, and yet while he calculates on a substitute for the License Tax equal to 3 lakhs of Rupees, the Income barely covers the cost of conservancy, and the legal claims upon the Corporation. It is clear then that an addition of 3 lakhs will not suffice, for we have many and increasing wants to supply; many improvements which it is our duty to make. In this respect our need is even greater than when this Bill was first read, or, at any rate, it is more generally and fully recognised. Now it seems that whereas in 1864 with a 5 per cent. House Rate and Town duties, the Income of the Municipal Fund was 20,09,500 Rs. it will only be 14,20,000 Rs. in 1869, with a seven per cent. House Rate. This latter amount is exclusive of rates and duties for special purposes. In other words six lakhs of Rupees at least are needed merely to place the Municipal Revenue in the position it held in 1864.

I avail myself of this opportunity to show that the duties proposed to be levied for Municipal improvements are not objectionable, and are so light as to be almost inappreciable. They will not fall directly on the classes who are already so heavily taxed, but will

fall indirectly on the mass of the people, who contribute little or nothing to the Municipality. The interests of fairness and justice require that the generality of the people, who get the benefit of Municipal improvements and conveniences in this large town, should be called upon to provide their quota towards the heavy and increasing expenditure of the Municipality.

Some of our European Merchants will object to the levy of a trifling due on Cotton and some other articles as proposed in the Bill before the Council. My Honourable colleague Mr. Brown, who fairly represents the interests I have just referred to, objects to the levy of any duty however light on articles of "external and *in transitu* trade" on the ground of their being detrimental to the commerce on which "our progress and prosperity mainly depend." I beg leave to differ from the opinion which the Honourable gentleman entertains on this important subject. I cannot agree with him that the proposed duties will hamper commerce and impose restrictions from which it ought to be perfectly free. The Council will bear with me whilst I endeavour to show that the proposed levy is not calculated to produce the injury which is apprehended. Let us take the chief article of export, cotton. A small portion of it is consumed in Bombay for manufacturing and other purposes, whilst the bulk of it is exported to Great Britain and other countries of Europe. It is subject to several imposts and charges of no inconsiderable amount in this country, besides a duty of 3*d.* per bale levied at Liverpool for Dock and Town dues:—

1. Dues levied in the interior for religious, charitable and Municipal purposes from 3 to 5 per cent.
2. Cess levied in Bombay for the Panjrapole, 4 annas per candy, say $\frac{1}{8}$ th per cent.
3. Do. for feeding pigeons and other charities, $\frac{1}{2}$ anna per candy.
4. Fee charged by the Esplanade Fund Committee on Cotton landed at the Apollo Bunder, 4 annas per candy, say $\frac{1}{8}$ th per cent.
5. Fee levied under the Cotton Frauds' Act, $\frac{1}{4}$ th per cent.

Thus, exclusive of charges for commission, brokerage, carriage, transport, pressing, shipping, &c. which amount to a considerable sum, the charges and imposts I have enumerated come to more than 8 or 9 per cent. on an average. Compared with all the charges and imposts, to which cotton is subject, so trifling an addition as one anna per cwt. or $\frac{1}{8}$ th per cent. for the Municipal requirements of this great emporium, will have as much effect on the merchantable value of cotton as a feather affects the weight of a bale.

These facts and circumstances will, I trust, satisfy the Council that the levy of the proposed duty on Cotton will scarcely be felt or appreciated, and that it will not affect the market value of the staple, which depends not so much on the cost of production and charges of transit or export, as on the quantity produced and exported from America, and which value is subject to fluctuations ranging from 5 to 20 per cent. and upwards in ordinary times, and more than 100 per cent. in exceptional times. It cannot therefore be contended with any degree of justice or propriety that the light due, which the Select Committee of the Council, in common with a large majority of the justices and the Native merchants and brokers of Bombay, have proposed, is detrimental to the commerce on which our progress and prosperity mainly depend, or that it is at all calculated to fetter, obstruct, or injure the transit trade of this imperial city.

In levying a light town duty on Cotton we shall do no more than follow the example of the great Cotton mart and commercial emporium of Great Britain. In fact nothing

can be more just and equitable than the levy of a small fee on an important article of trade like cotton, which is brought to market in this large town, which is stored here, which encumbers our roads, which is protected from fire and robbery by our Police, without being made to contribute one iota to our Municipality.

Before leaving this part of the subject, I would ask my European friends how Liverpool could ever have constructed St. George's Hall, and have converted itself into a handsome city, if it had been dependent entirely on direct taxation, if it had not had the enormous revenue from its Town dues?

Again, how could London have paid for its costly drainage system, and for the gigantic improvements now in progress, if it had only the House Rate to fall back upon? Imagine the folly of attempting to recover by direct taxation in London the enormous Municipal income it requires. Recent debates on this very subject in the House of Commons are remarkably applicable to the matter now before us. I will apply the words of many of the speakers, which hardly require any modification to meet our case. Just as Lord John Manners said, so I say now, "This Council remembers that the Corporation proposed to make most necessary improvements in the Town, but they found they had not the requisite funds. They determined to carry them out by a system of Town duties. No petition against the old Town duties was ever presented, and those proposed have the concurrence of the entire native population. Under these circumstances without saying that this is the best system of taxation or that some better may not in course of time be devised, I am confident that if the Council wish the Town to be improved, it will support this Bill."

Adapting Mr. Goschen's words, I would say—"The Council has passed a law enjoining the necessity for various improvements in the Town, and the question is, how are they to be paid for? The people in Bombay are the best judges of what fall heaviest on them and all classes would protest strongly against an increase of the present rates, and unequivocally declare themselves in favour of the proposed Town duties."

Applying Lord Malmesbury's words, I should say—"These duties provide almost the only fund by which improvements can be executed in this Town."

However, after a short trial, if it be found that the light and inappreciable duty of $\frac{1}{8}$ th per cent. on cotton does really and truly injure the transit trade, it will be in the power of the Justices to discontinue the levy by virtue of the authority vested in them by Section III. of the amended Bill, which authorises the Bench to reduce or totally to abrogate any duty or duties mentioned in the Schedule.

The Committee of the Bench recommended a duty on opium, but it has since been ascertained that the Supreme Government will not agree to this item. Might is right, and we cannot help ourselves here.

With regard to the other articles comprised in the Schedule of the proposed Bill, I am not aware of any objections, which require special notice.

Under these circumstances the Council will, I trust, hold that there is no objection to pass the measure, as recommended by the Select Committee after mature consideration, with the amendments which I propose,—a measure which is in consonance with the wishes not only of a majority of the Bench of Justices, but also of the generality of my countrymen.

The Honourable Mr. Brown begged to move as an amendment to the motion of his Honourable friend Mr. Munguldass Nathoobhoy: "That the further consideration of the Town Dues Bill be adjourned to a day to be fixed after the assembling of the Council in Bombay, and that a Select Committee be appointed in the meantime to inquire into the allegations contained in a petition to the Council from the Chamber of Commerce of Bombay in reference thereto, and report to this Council before the bill is again brought on for second reading." In proposing this amendment, he would disclaim most emphatically any desire to offer any needless or factious opposition to the progress of this Bill. His only desire was that it should be fully and carefully considered by the Council in a constitutional way, and that the public should have a better and fuller opportunity of judging of it than his honourable friend had thought fit to give. He (Mr. Brown) trusted his honourable friend would not press his motion for the second reading, for although he (Mr. Brown) would not say much about the short notice which he—together with other members of the Council he supposed—had received of the Bill's being brought on, he would observe that he was somewhat surprised, when three days ago, on receiving notice of the list of business to be transacted at the Council, he found that this motion was included. He might also state that he had only that morning received a copy of the Bill itself and of the Committee's report on the Bill. Now in dealing with this question, he thought the Council ought to take into consideration the fact that this bill was brought forward two years ago; for it was in September 1866, when it was introduced into the Council, read a first time, and referred to a Select Committee. He did not know how far it might be constitutional for the Council to take it up again under those circumstances, for he would remind honourable members that the *personnel* of the Council had been almost entirely altered since then, and that many honourable members now present were not in the Council at the time. But he would say this; that whether constitutional or not, he did not think it would be politic or expedient, on general grounds, for the Council to proceed with the Bill under such circumstances; and he contended also, that there were special reasons why the most mature consideration should be given to the subject before they assented to the principle of the Bill. He had looked into the history of the Bill, and he proposed to state it a little more fully than his Honourable friend had seen fit to do. In the year 1865 the Municipal Commissioner, Mr. Crawford, brought to the notice of the bench, the necessity which existed for the Municipality's undertaking certain great works, in Bombay, including a system of drainage, estimated to cost one crore of Rupees, the extension of the Vehar water supply, at an outlay of thirty-five lacs, and certain improvements connected with the G. I. P. Railway crossings in the native town—which he (Mr. Brown) presumed, referred to the construction of overbridges—at a cost of fifteen or twenty lacs, in all, an outlay of one crore and a half of rupees. It was proposed that those great works should be undertaken, and that their cost should be defrayed by a municipal loan; to meet the interest on which and provide a sinking fund, a special tax was considered necessary. After very great difference of opinion, the Bench of Justices appointed a committee to consider a scheme of taxation, of which his honourable friend, and Mr. Crawford in particular, seemed very much enamoured, namely, a system of town duties. He (Mr. Brown) had the honour to serve upon the committee, and without disparagement to them he would say that the principle of town dues was scarcely considered by the committee. They assented to the statement that the improvements proposed were desirable, and that they should be met by town duties; and their inquiries were principally directed towards ascertaining how the

duties could best be distributed. He differed with his colleagues and appended a minute to their report. The report was discussed at two meetings of the Bench, at the first of which there was very considerable difference of opinion, and he believed he was justified in saying that its further progress was nearly stopped on that occasion. It was brought on again at another meeting, when the motion for its adoption was carried by a bare majority of the Bench, and, as he considered he might say, by a fluke, the Honourable Mr. Mungaldass Nuthoobhoy being requested to bring a Bill on the subject before the Legislative Council. Leave to introduce the Bill was moved for by the Honourable Mr. Mungaldass, at the meeting of the Council held on the 3rd September 1866, and on the 17th of the same month, it was read a first time, when a committee was appointed upon it, but His Excellency Sir Bartle Frere and the Honourable Mr. Erskine, opposed it in the strongest terms, and they expressed insuperable objection to its provisions. The mercantile members of the Council were likewise opposed to the Bill, and the first reading was only allowed because it was thought that a *prima facie* case had been made out for the undertaking of the proposed municipal improvements, and in deference to the vote of the Bench. On the 28th February 1867, about six months afterwards, the committee's Report—which he had only seen for the first time this day—was presented. It would appear there was a difference of opinion among the members of the committee, but however that might be, the Report seemed at once to have passed into oblivion, for he did not remember any discussion taking place on it in the public press, or at the Chamber of Commerce, or elsewhere. Well the next proceeding in connection with the bill was on the 3rd September 1867, when the Honourable Mr. Mungaldass moved that the second reading be postponed until the end of November 1867, because, as he said, since the introduction of the bill, the municipal income had greatly increased, and Government had made over to the Municipality the revenue derivable from the duty on ganja and tobacco, which it was expected would yield one lac and a half of rupees a year, and that moreover as the municipal license tax had been increased it was hoped there would be no necessity for resorting to fresh taxation. Well, the bill next came on on the 7th August of this year, when the honourable member brought forward, what at the time, he (Mr. Brown) considered was merely a formal notice, of his intention to bring the matter on again, at the meeting of the Council next after the 30th September, and now at three days' notice, a notice so short that it could hardly be called Parliamentary, he proposes to press on the discussion. He (Mr. Brown) had called the attention of honourable members to the fact that the personnel of the Council was quite different from what it was when the bill was first introduced; and he could not but think that his honourable friend on reconsidering the matter would see that it was desirable to postpone the consideration of the Bill. He (Mr. Brown) thought that to meet the case, the honourable member should withdraw the bill, and reintroduce it, so as to let it again go through the preliminary stages properly. That there was a complete difference of circumstances, he (Mr. Brown) would point to the amendment in the Preamble and Section I. of the Bill, of which notice had been given by the honourable mover. The Preamble of the original Bill ran thus—"Whereas it is necessary to provide additional funds for the construction of the Drainage Works, improvement of the water supply, and other permanent municipal improvements within the City of Bombay." This Preamble, which had been set forth thus, by the Bench of Justices themselves, the honourable member now proposed should run as follows: "Whereas it is necessary to provide funds for the deficiency in the revenue of the Municipality of Bombay, caused by the extinction of the License Tax on Professions, Trades,

and callings, imposed by virtue of Section XCVII. of the (Bombay) Municipal Act II. of 1865, the duration of which terminates on the 31st December 1868, and whereas it is further necessary to provide additional funds for municipal purposes within the City of Bombay." He (Mr. Brown) thought, therefore, the case of necessity made out by the Bench of Justices when the bill was originally brought forward, fell to the ground. There was no pretence for saying that the works which were to have been undertaken were now to be gone on with; the deficiency arose from the fact that by a hasty vote of the Bench, it was resolved that the License Tax should expire. That vote, he might mention, was passed in express opposition to the recommendation of the Finance Committee of the Bench of Justices, a body to whom the Bench as a whole, were mainly indebted for guidance in the details of matters of finance. The Justices therefore, he said, had placed themselves in a most anomalous position, for they had practically set aside the Finance Committee, and taken from them the onus of providing for the financial wants of the Municipality, and now asked the Council to endorse the hasty vote they had passed. He (Mr. Brown) had been favoured with a copy of Mr. Crawford's forthcoming budget, which showed that but for the doing away with the licence tax there would have been no deficit in the income. The Honourable Mr. Mungaldass had ignored all this in bringing up again his Bill for Town Duties, patched up and rehabilitated, in such a manner that he (Mr. Brown) did not think the Council could possibly pass it in. He (Mr. Brown) desired to see his honourable friend begin *de novo*, but in any case he hoped the honourable member would see the necessity for the passing of the amendment which he (Mr. Brown) now proposed. He did not desire at this stage to say anything about the principle involved, further than this, that whatever might be said in condemnation of the hasty abolition of the old town dues, he sincerely trusted the Council would consider well, and pause before they sanctioned the reimposing of any such tax. In a case of dire necessity *octroi* duties might perhaps be allowed, but as to transit duties, universal opinion pronounced them bad and objectionable. If the Council passed a Bill for the levy of the transit dues, the Bengal Government would certainly negative it, or, if not in Calcutta, it would be done at Westminster, and the Council would only suffer in dignity. He considered it was child's play to ask the Council to reimpose town dues and transit duties when a sum of only three lakhs had to be raised: it would be placing an edged tool in the hands of the Municipality, the danger of which was not considered by those who asked for it. For his own part, he would greatly prefer to see the license tax continued, and would cheerfully pay it rather than see Town Duties imposed, and he thought he could answer for other mercantile men in that respect. He knew that there was the greatest objection and opposition to transit duties among the European and Native mercantile community, whatever might be said about *octroi* duties: and he thought his honourable friend would be consulting the dignity of his own order—that of the landed proprietors of Bombay, if he were to abandon a bill which was intended to give power for the raising of a paltry sum of three lakhs of rupees, in so objectionable a way. The honourable member (Mr. Mungaldass) owed much of his princely income to the prosperity and commerce of Bombay, and he would not be consulting his own interest were he to take any steps which would lead to the injury of that commerce and prosperity. As to the Government he (Mr. Brown) did not think they would desire to throw any impediment in the way of trade, for there was no doubt that under the present Government, Bombay had been advancing in importance in a way which must be gratifying to every member of the

Government, and he did not think that they would do any thing to interfere with that progress either by taxing trade, or allowing taxes to be imposed on the poorer classes in Bombay, on whom so much of the prosperity of the city depended. Before concluding he begged to say that before he left Bombay on Sunday morning a petition was put into his hands from the Chamber of Commerce, which he had already handed to the Secretary to the Council, but as it was very long, he (Mr. Brown) would not at this stage ask to have it read.

His Excellency the PRESIDENT: Is it a petition against the Bill?

The Honourable Mr. BROWN said it was, and he should ask to have it read if his honourable friend was determined to go to the vote.

The Honourable Mr. MUNGULDASS NUTHOOBHOY did not think that Mr. Brown's amendment could be put, as three days' notice of it had not been previously given.

The Honourable Mr. BROWN said he had only received three days' notice of Mr. Munguldass' intention to move the second reading.

His Excellency the PRESIDENT said he thought the Honourable Mr. Brown would be quite in order in moving the amendment, as an amendment to the original proposition.

The Honourable Mr. BROWN said he believed that at least one other petition from the representatives of the Railway Companies in Bombay, was to be presented against the Bill.

His Excellency THE PRESIDENT stated that he had received petitions against the Bill from the P. and O. Company, and from the two Railway Companies, but they were addressed to the Governor in Council and not to this Council.

The Honourable Mr. ELLIS begged permission to say a few words. As a general rule he would not take any prominent part in a discussion which affected the Municipality of a large city like Bombay, being of opinion as he was, that in all matters of taxation and self-government, the members of Government should leave the Municipality, as much as possible, to its own views and its own devices; but upon such an occasion as the present, there would appear to be more than one reason why he should deviate from the usual rule. In the first place, it might be assumed by those who were opponents of the Honourable Mr. Munguldass' motion that Imperial interests were concerned; and secondly, it would appear that there was a good deal of discordance of opinion on the subject, among the leading members of the Bombay Municipality. These considerations therefore might excuse his breaking through the usual rule, and offering a few observations. In the first place, he would beg to point out that there could be no doubt upon the constitutional principle touched upon by the Honourable Mr. Brown; the Honourable Mr. Munguldass was at liberty to bring forward the Bill at any time, and there was no reason why a Bill should not be carried on in the Council for an indefinite period, for the Council had been directed by Her Majesty's Secretary of State not to hold sessions or to transact their business after the fashion of Parliament; so that they could not apply the rule under which a measure introduced during one Session of Parliament and not carried through in it, necessarily fell to the ground. He had also to express his sympathy with the Honourable Mr. Munguldass Nuthoobhoy, who usually, when a Government measure was introduced, deprecated hasty legislation; and who had now been himself accused, although he (Mr. Ellis) thought unjustly, of hasty legislation here. He said unjustly, because he thought the honourable member had taken every means in his power to give time for the full consideration of the

measure, and he (Mr. Ellis) must express some surprise at the accusation made by the Honourable Mr. Brown, for he had before him the proceedings of the Council at the meeting held on the 7th August last, at which that honourable member was present. On that day the Honourable Mr. Munguldass, in accordance with one of the notices for the day, moved that the second reading of the Bill for the levy of town dues, be appointed for the first meeting of the Council held after the 30th September. It seemed to him (Mr. Ellis) that that in itself was a very strong proof of the intention to proceed with the Bill on the present occasion, for there was a circumstantiality about the notice which forbade its being supposed that the motion was merely a formal one. And he thought that apart from the circumstance that the Bill was introduced so far back as 1866, and had been under discussion by the Bench of Justices on several occasions in the meantime, the fact that the honourable member made a motion two months ago distinctly declaring the course he would follow, precluded the Council from charging him with any wish or intention to legislate hastily. For those reasons, he (Mr. Ellis) considered that the Honourable Mr. Brown's motion for further postponement was hardly reasonable, and he proposed to vote against it. He did not know whether he ought now to make any further observations which he might have to offer in reference to the substantive proposition to read the Bill a second time, or whether he should defer them until after the amendment had been disposed of.

His Excellency The PRESIDENT said he should put the question to the Council in this way—that the Honourable Mr. Brown's proposition be substituted for the original proposition, and if the amendment was lost it could then be moved that the Bill be now read a second time.

The Honourable Mr. ELLIS said that that being so he would confine himself to what he had said as to the amendment.

The Honourable the ADVOCATE GENERAL said that upon this question, speaking as a Justice of the Peace and Chairman of the Bench of Justices, he thought it undesirable that there should be any further postponement. He intended to make some observations when the discussion upon the principle of the measure came on, but he thought it was of the utmost importance now—especially as the budget of the Municipal Commissioner would be laid before the Bench of Justices during the course of the present month—that the Justices should know the result of this discussion upon the principle of the Bill. He should therefore vote against the Honourable Mr. Brown's motion for the postponement, and he might add that, having served upon the Select Committee appointed by this Council, and signed their report, he should have a very great objection to go through the whole matter again, and with apparently no further materials than were formerly available. With these remarks he should certainly vote against the Honourable Mr. Brown's amendment.

The Honourable Colonel MARRIOTT said that without saying there was any ground for the reflection cast upon the honourable Member, the mover of the second reading, after the way in which the Honourable Mr. Ellis had explained the Honourable Mr. Munguldass' procedure in the matter,—he yet so far agreed with the honourable Member the mover of the amendment that, practically, he thought the objection valid. He was present at the meeting of the Council on the 7th August last, and certainly—although it might be his own fault—he had not been left with the impression, that so important a

question as the one involved in the motion would come forward on the present occasion, especially with the preamble in so entirely altered a form. His (Colonel Marriott's) feeling was very much the same as that of the honourable mover of the amendment, when he had seen on the paper of the proceedings of that day, notice of the Honourable Mr. Munguldass Nuthoobhoy's motion. The change which the Honourable Mr. Brown had noticed was so great that the nature of the Bill was almost entirely changed by the new preamble. In the first instance, as the honourable mover of the amendment had pointed out, the Bill was introduced upon the assumed necessity of providing for drainage works, the extension of the Vehar water supply, and certain other permanent improvements; but the Preamble which it was proposed to substitute for the original one, ran thus: "Whereas it is necessary to provide funds for the deficiency in the revenue of the Municipality of Bombay caused by the extinction of the License Tax on Professions, Trades, and Callings imposed by virtue of Section XCVII. of the Bombay Municipal Act, (Bombay) Act II. of 1865, the duration of which terminates on the 31st December 1868: and whereas it is further necessary to provide additional funds for Municipal purposes within the city of Bombay." Now he considered that the motion to substitute that Preamble, virtually affirmed two things. First it implicitly affirmed that the existing revenue was sufficient, or not proved to be insufficient. In the second place it affirmed implicitly that the license tax ought to be discontinued, and some other tax substituted for it. On these two important points he confessed that he had not—whether from his own fault or not—made that thorough investigation into the subject that he could wish. But he found from the report of the Municipal Commissioner, in 1867, that the police, lighting, and water rates were more than sufficient to cover the charges on those different heads. The water rate showed, practically, an excess of income over expenditure, for although there was an apparent deficit of Rs. 60,000, there was one lakh due to the Municipality from Government. The receipts from the rates for the repairs of roads fell short of the cost, but the Commissioner stated that if an increased rate, as recommended by him, were levied on labour carts, the rates would about, or very nearly, meet the whole of the cost of the road repairs. At any rate there was an excess of income over expenditure on the Police rate, amounting to two lakhs of rupees. So that all this specific and permanent expenditure on police, water, and lighting, &c. was met by special taxation; and those set aside, there remained an income of eleven lakhs for the expenses of permanent establishment, and for miscellaneous improvements; but he considered that all large improvements, such as drainage, water supply, &c., should be provided on estimates in such a special manner as to prevent the money raised for any one being alienable to other purposes. He thought the case of the insufficiency of the present income, which was the main ground upon which the Bill was introduced, was not proved; but if that point was to be ascertained, it should be by careful inquiry, such as would be made if the amendment of his honourable friend was carried. The next point implied in the motion of the Honourable Mr. Munguldass Nuthoobhoy was, that the license tax ought to be given up. Now he (Colonel Marriott) had listened to the reasons for that, but all he had heard urged was, that the tax had utterly failed. He did not know exactly what was meant by that term, whether it was that the tax had failed to yield as much as had been expected or what, but he certainly thought the Council ought to have something very much more definite before them ere they assented to that. He had heard it stated that the whole feeling of the people was against direct taxation, and that

the people did not understand the difference between the Municipal and Imperial License Tax. There might perhaps be something in that, but of the two lakhs which the License Tax gave in 1867, one lakh was derived from four classes, namely, Joint Stock Companies, merchants, bankers and shroffs, and brokers. These might be supposed to be enlightened enough not to have any such insuperable objection to direct taxation, and to be able to understand why they had to pay the tax. With the present amendment before the Council, he would not go into the subject of the principle of town dues; but first of all it would have to be considered whether they should have such taxes at all, and in the second place, what they should be. If town dues were to be adopted, there was a great deal to be said about the particular Schedule submitted to the Council. But at present he would not trouble the Council with any remarks on that; and would only refer to the present question, the necessity of a further postponement. He felt most strongly from the shortness of the notice, that he was not prepared to give the intelligent consideration to the Bill that was required. It might be that that was his own fault, but he said that the demand for the postponement was warranted by the entire change in the Bill.

His Excellency The PRESIDENT said he did not intend to vote on the point unless he found it necessary to do so, but he could not quite agree with the Honourable Mr. Munguldass, although he entirely acquitted the honourable member of precipitation, or of taking the Council by surprise, still the public were not at all prepared to see this subject taken into consideration at the present time, or see the Council pass that day, a Bill of so much importance (Mr. Brown "Hear, hear"). The Bill had been in a suspended state—almost dead—for two years past; and although certainly the Honourable Mr. Munguldass did at the last meeting of the Council say a few words which left him at liberty to bring on the consideration of the Bill that day, yet he (His Excellency the President) did not think that any one expected to see this half-dead Bill in full vitality that day alive with all its menacing and aggressive provisions. Again, he thought there was a good deal in what had been pointed out, namely, that the provisions of the Bill now before the Council were almost totally new. Now he could understand that some years ago, in order to meet great wants, the Government practically, by permitting a tax upon opium, sanctioned the introduction of a system of taxation which was almost equivalent to a contribution by Government to the municipal funds; but the question was far different now. It was whether there should be a new taxation which would press solely upon the masses, in place of taxation which was almost wholly contributed by the wealthier classes. He did not think the public were prepared to see those two important questions decided that day, and although the Bombay Chamber of Commerce had presented a petition to him—in such form that he could not lay it upon the Council table—asking that the Bill might be thrown out, and although similar petitions had been presented to him by the representatives of the two Railway Companies and a great shipping company; he did think it desirable that a short time should be given, to enable the public to express their opinion as to whether indirect taxation of the masses should be substituted for a tax that was chiefly contributed by the richer classes, and whether in a great commercial city like Bombay, transit duties should be permitted. He thought therefore that there should be some further delay in the matter.

The Honourable Mr. MUNGULDASS NUTHOOBHOY observed, that after that expression of opinion by His Excellency he presumed there was very little use in his saying any-

thing further on the point; but he (Mr. Munguldass) would beg to state that the agents for the two Railway Companies were examined before the Select Committee appointed to report on the Bill, and their objections were heard, as were those of the Chairman of the Chamber of Commerce, who was himself a member of the Select Committee of the honourable Council. It could not therefore be said that these objectors had not had the opportunity afforded them of stating their objections, or that they had been taken by surprise in this matter. This subject, moreover, was prominently brought before the Bench of Justices at their last meeting, in the course of the debate that took place regarding the abolition of the license-tax. A full account of the debate that took place on the matter was published in the leading papers in Bombay, and it was well known that the second reading of the Bill was to come on at the next meeting of the Council after the 30th September. As to the petitions referred to by the honourable member (Mr. Brown), as being under preparation, of course if any one was to go to the people affected by a measure of this kind, and say, "sign this petition, and then the taxes proposed will not be imposed," there would be ten thousand signatures affixed to the petition. If the Government of India would contribute towards the expenses of the Municipality of Bombay in the same way that they did towards the Calcutta Municipality, there would perhaps be no necessity for imposing town duties in Bombay. But money must be raised, and the fairest way of raising it was by indirect taxation; and if his fellow-countrymen were canvassed as to whether they would prefer direct or indirect taxation, they would unanimously, or almost unanimously, give the preference to indirect taxation. Of course, however, if people misled them, and persuaded them that by signing petitions they could escape taxation, they would sign them by thousands. If the Chamber of Commerce had had any valid reason for opposing the levy of town duties, their Chairman would have offered opposition at the time when the Bill was before the Select Committee.

His Excellency The PRESIDENT: Who was the Chairman of the Chamber of Commerce at that time?

The Honourable Mr. ELLIS: Mr. Hunter.

The Honourable Mr. MUNGULDASS NUTHOORHOY said that when the agents of the Railway Companies were examined, it appeared that their objection was chiefly to the levying of duties on railway sleepers; and to satisfy their opposition, the duty on sleepers was abandoned, which quite satisfied the agents. As to his (Mr. Munguldass) being desirous of hasty legislation in the matter, he had always opposed such legislation as must have been perceived by His Excellency the President on previous occasions. During the two years which had elapsed since the time when the Bill was introduced, he had hoped that something would occur to obviate the necessity for town duties, or that the yield of the enlarged license-tax would be sufficient, and that it would have been his pleasing duty to withdraw the present Bill. He was unable to do that, and it became his duty now to move the second reading of the Bill. With the exception of two or three Justices who were not permanent residents in Bombay, and therefore were not much interested in the City, almost all the Justices approved the measure as recently as last month. If the honourable member (Mr. Brown) and other gentlemen had not been aware that the Bill was to be brought forward for second reading at the next meeting of the Council after the 30th September, it was their own fault, for he (Mr. Munguldass) had duly given notice of his intention at the meeting held on the 7th August. He did not think any longer postpone-

ment of the consideration of the matter was required, for as to the different items in the Schedule they could be considered at the next stage of the Bill, and any one or more of them could be thrown out, and others substituted for them. He could not see, therefore, that there was the least ground for delaying the second reading, and he was not going to press for the third reading that day, and he only now asked that the Bill be read a second time.

The Honourable Mr. CAMPBELL would not venture to make any remarks upon the necessity of this Bill to meet the requirements of the Municipality, as other honorable Members were much better qualified to speak of these, but if new sources of taxation were required he was prepared to support the principle of the Bill. The honourable the Advocate General had stated that the Municipal Budget would have to be presented during the present month, and if the consideration of the principle were postponed, of course it would be impossible to pass the Bill in time to provide for the wants of the Municipality during next year; but at the same time he (Mr. Campbell) thought there was great justice in the observations of Colonel Marriott, and also in what had been stated by His Excellency the President, in regard to the apparently hasty—though really not hasty—manner in which the Bill had been brought forward. He confessed himself to be one of those who had allowed the matter to escape his attention altogether, for, until Friday morning, he had forgotten that the Bill was to come on before the Council that day, although it was true he had seen a discussion in the newspapers as to the town duties, and therefore could not plead entire ignorance. He did not know whether it would be possible to pass the second reading in some form or other at once, so that the advantage of a stage further might be had, and so get the bill into Committee in time to be of use to the Municipality; but to proceed with the Bill at once, beyond affirming its principle, as proposed by Mr. Munguldass, he thought would not be altogether desirable.

The Honourable Mr. BROWN said that he would take the opportunity of reminding the Council that if they agreed to the second reading of the Bill they affirmed its principle, according to the by-laws. Now he would point out the anomaly of that, and would just draw the attention of honourable members to the fact that they were asked to assent to the second reading of the Bill of 1866, the preamble of which stated:—"Whereas it is necessary to provide additional funds for drainage, water-supply, and permanent Municipal improvement within the city of Bombay." Now they were not asked to do anything of the kind on the present occasion, and to be asked to affirm such a principle seemed anomalous in the last degree. It was true that the Honourable Mr. Munguldass proposed to move an amendment upon the preamble, but that amendment would have the effect of totally altering the Bill.

His Excellency The PRESIDENT said he would ask the Honourable the Advocate General whether there was any reason why the Municipality could not consider their Budget somewhat later than the end of the present month. The proposed Act would not come into operation till the 1st of January, and between the end of this month and that time there would be quite sufficient opportunity to consider and vote their budget, and therefore the mere fact of the budget having to come on, was not a sufficient reason why the Council should be hurried to a decision on the present measure.

The Honourable Mr. CAMPBELL said that admitting, as he did, the principle of the Bill, he thought some steps should be taken to pass it on a stage.

The Honourable Mr. BROWN remarked that admitting the honourable Mr. Munguldass Nuthoobhoy was in order, he would draw attention to the unusual length of time during which the Bill had been before the Council. In a place like Bombay with a large floating population it was impossible to carry in one's recollection proceedings from the first instance ; he thought it would only be due to the public that the honourable member should agree to some postponement.

The Honourable Mr. MUNGULDASS NUTHOOBHOY said he would agree to a postponement of the consideration of the particular items of taxation, but, with great respect, he said it was not necessary to postpone the affirmation of the general principle of the Bill.

The Honourable Mr. BROWN said that with all due deference his opposition was not to any particular portion of the Bill, but to the system of indirect taxation.

The Honourable Colonel MARRIOTT said it appeared almost unprecedented that the introducer of a Bill should propose an amendment to the Preamble of the Bill.

His Excellency The PRESIDENT was of opinion that the mover was at liberty to propose such an alteration.

The Council then divided.

Ayes—3.

The Honourable Colonel MARRIOTT.
The Honourable Mr. BROWN.
The Honourable Mr. SASSOON.

Noes—7.

The Honourable Mr. ELLIS.
The Honourable Mr. MANSFIELD.
The Honourable The ADVOCATE GENERAL.
The Honourable Mr. MUNGULDASS NUTHOOBHOY
The Honourable Mr. CAMPBELL.
His Highness the Honourable Sir JOWAN SINGJEE
The Honourable Mr. BYRAMJEE JEJEEBHOY.

Mr Brown's amendment lost.

The amendment proposed by the Honourable Mr. Brown was therefore lost.

The Honourable Mr. ELLIS said that in the one or two observations he was about to make, he should proceed on the distinct understanding that in affirming the principle of the Bill, they only committed themselves to this ; that it was necessary to impose indirect taxation in the shape of town dues or other similar imposts ; and that the Council would be entirely at liberty to discuss every individual item which it was proposed to put in the schedule. If that was the right understanding of the matter, he should hope that very few, if any, honourable members would object to the second reading. Considering that the case stood in that position, he should be careful to abstain from any remarks as to the proposal to levy dues on opium, on cotton, or on certain other things. The point on which the honourable Mr. Munguldass Nuthoobhoy had insisted, as the ground for the passing of a Bill of this description was, that at present the Municipal funds were not in a position to meet the requirements of the city of Bombay, without the imposition of indirect taxation by means such as those provided in the Bill. The honourable member who had proposed the amendment for a postponement, had spoken of the change in circumstances since the Bill was first put forth, as being of such a nature that the imposition of these levies was no longer justifiable. Now he (Mr. Ellis) would maintain, in spite of the great weight which the opinion of the honourable member was supposed to have, that he was altogether in error when he stated that the Municipality could do without any new system

of taxation. He (Mr. Ellis) believed that at that very moment there was a Bill before Government, for sanction to a loan of eight lakhs to be raised by the Municipality, and what was that loan for? Why, to enable the Commissioner to carry on the current business of the Municipality. It certainly was not a desirable state of things that the Municipality of Bombay should be obliged to resort to loans for such purposes, as it ought to be able to provide for all current expenditure out of current income. He (Mr. Ellis) thought that the honourable Mr. Munguldass instead of being blamed for allowing the Bill to stand over was entitled to the thanks of the honourable Mr. Brown and those who thought with him; for he had deferred the Bill in the hope that in the course of events the Municipal funds would be placed in such an improved position that he would be enabled to withdraw the Bill altogether, and announce to the Council that the Bench of Justices could do without the imposition of town dues. But the course of events during the past two years had proved that some measure of the kind was necessary. It had been urged by the Honourable Colonel Marriott, that sufficient reasons had not been advanced for the abolition of the license-tax, but he (Mr. Ellis) conceived that the reports of the Municipal Commissioner, and the published reports of the proceedings of the Bench,—more especially that containing the speech of Mr. Dossabhoy Framjee—had abundantly shown reasons why the license tax should no longer be levied, or at any rate that the poorer classes now included under its operation should be exempted. (Hear, hear.) He (Mr. Ellis) considered that the license tax, even if continued, would be wholly insufficient to rescue the Municipality from its difficulty, from what he was sorry to say was its chronic state of financial difficulty. As to the remarks which had been made about throwing the burden of taxation on the poorer classes of the community by the operation of the Bill, he would ask whether that objection might not be got rid of by a combination of the license tax and the town dues; and whether the desire of the Honourable Mr. Brown to be taxed himself under the license tax, might not be met, by keeping in force the first, second, and perhaps the third classes included in the schedule of the License*Tax Act, and which only affected bankers, merchants, large contractors; and the like? He would ask whether some means might not be devised by which the tax might be retained so far as the wealthier classes were affected, and by which those less able to pay it might be relieved from its operation, especially such persons as were now included under the fourth class. He merely threw this out as a suggestion; if it should meet with the approval of the Council, he would put it into a tangible form at the next meeting; but if the opinion of honourable members should be opposed to it, he would not press the proposition. Still, it occurred to him that if this combination was made, those items of taxation in the schedule which were most strongly objected to could be dispensed with, and those which were considered by the honourable mover of the amendment to be comparatively harmless would form the basis of a system of town duties. There was one remark of the Honourable Colonel Marriott's at which he must express surprise, namely, the Honourable Colonel's reference to the excess of receipts over expenditure on the police and lighting rates, as showing how well-off the Municipality were. Surely it could not be contended that money received on account of police or lighting could be diverted for drainage or other purposes? If there was any excess in the receipts over the expenditure for any branch for which special taxes were levied, the surplus should be spent upon the professed objects of the levy, and the rate must be lowered. He would not detain the Council further, as he considered that, as already stated by him at the commencement, they merely assented to the general principle

of the Bill now, and that any remarks as to the particular items in the schedule would be premature, and out of place.

On the proposition of the Honourable Mr. BROWN the petition against the Bill from the Bombay Chamber of Commerce was read.

The Honourable Mr. BROWN felt bound to vote against the second reading of this Bill for the reasons which he had already given. He had no desire to put an end to the discussion of this important question, the question of the Municipal finances, for it was one of no small difficulty, and one which he thought this Council should endeavour to understand thoroughly before they passed a Bill involving such important consequences as this one. With regard to the Bill itself he should be the last to consider it in a doctrinaire or factious spirit; he wished to see a system of taxation which would meet as far as possible the views of all. He thought the question ought to be how they should square their course best so as to inflict the least possible hardship upon the majority of the community, and above all not to interfere with interests of those who brought their trade to Bombay. He grounded his objection to the second reading of this Bill at this time mainly upon the fact that any necessity for passing a Bill of this kind, which might have existed in 1866, had disappeared now. In 1866, when the Bill was introduced, there were special difficulties to be grappled with, which had not now to be met, the question was now how they were to grapple with the difficulty caused by the vote of the Justices in doing away with the license tax. He thought that tax might be made less objectionable than it was in its present form, and that as the Honourable Mr. Ellis had remarked, it might be combined with a modified form of octroi duties. He (Mr. Brown) saw no great objection to that, but he said that they must go back and begin *de novo* unless the Council were disposed to give further time for the consideration of the measure. He really thought that the question of improving the tax proposed by the Bill of 1866, having admittedly fallen through, it was for the Bench of Justices to make out a case for the reimposition of the tax, and not for the Council to depend upon the mere *ipse dixit* of Mr. Munguldass Nuthoobhoy. It might be that Mr. Crawford's budget, which, although not laid before the public, that gentleman had kindly placed before the members of Council, called for a large expenditure. But there would be no deficiency if the license tax had been continued; upon the contrary there would have been a small surplus. If, however, after due consideration and after fresh representation, the Bench of Justices should make out a very strong case of necessity, he (Mr. Brown) for one, would be prepared to consider a modification of the present Bill confining the duties to octroi and doing away with transit duties. To transit dues he had an insuperable objection, and he felt quite sure that this Council might save itself the trouble of passing any Bill including transit duties, for such a Bill would not be allowed in other quarters. If it was said that Bombay's geographical position justified the imposition of such a tax, then Broach, which was the outlet for the cotton grown within its district, might say that it would also tax cotton, and all other places would be doing the same, and where would it stop? The Government of India had been protesting against the levying of transit duties by native princes and states, and with what face could the Legislative Council of Bombay pass a measure of the kind provided for by this Bill. With this short statement of his objection he would vote against the second reading, although he was perfectly prepared to discuss the Bill if it was brought up *de novo* in another form.

The Honourable Colonel MARRIOTT observed that the Honourable Mr. Ellis had stated that the principle of the Bill was this, that it was necessary to provide some taxation in lieu of the license tax.

The Honourable Mr. ELLIS explained that what he said was that some taxation was needed to meet the deficiency which he considered proved.

The Honourable Colonel MARRIOTT said that he disagreed entirely with the preamble of the Bill as it now lay before them, but the Bill would be entirely altered by the amendment of which the introducer of the Bill had given notice; and that led him (Colonel Marriott) into still more doubt as to what the principle really was. The principle indicated in the Substantive Bill was that there was a deficiency in the revenue of the Municipality, and that there was need of more taxation. If that was really so he should ask for the evidence of the insufficiency of the revenue. He said that they could not depend on the assertions of any honourable member of Council, and that they ought to have a clear statement before them. According to the amended preamble proposed by the Honourable Member in charge of the Bill the principle was that the license tax was bad, and that it ought to be abolished. But the Honourable Mr. Ellis, in supporting the motion, admitted that he did not oppose the retaining of the tax in a modified form in addition to other taxation. Therefore he (Colonel Marriott) came back to the impressions with which he approached the Bill at first, namely that the change in the purpose of the Bill made by the introducer, did so entirely alter the measure, that it would be far better to throw it out with the understanding that the Council did not refuse to entertain the subject, but that it must come before them in some more indisputable shape.

The Honourable Mr. CAMPBELL said that upon the main question of the principle of the Bill, although it might appear very barbarous on his part to say so, he could not see any great objection to octroi or town duties upon any principle of political economy. It seemed that a certain sum of money was required, and that means must be provided to meet it. A great deal had been said about transit duties, and the levying of them by the princes of India, and that in Bombay it was impossible to impose them without injury to the great trade which passed through the city. He did not know how large the working population was; there were perhaps some hundreds of thousands of coolies in Bombay, to whom the Municipality gave good water and good air at an immense cost to itself. The presence of such multitudes of coolies was required chiefly for the purposes of the passing trade. There was this difference between so called transit duties in Bombay and in other places, that the transit dues we hear condemned in some parts of the country are exacted simply for right of way on produce permanently in the hands of the same owners, till it reaches its market, whereas in Bombay it changed hands immediately. Bombay was a great emporium of trade, which certainly was not the case with the territories of native princes and others through which produce sent to Bombay passed. Then again the profits made did not centre in Bombay at all, they went to England or to the interior of the Mofussil. Of the millions of money brought to Bombay in the last few years for cotton, the greater portion had gone, not to people in Bombay, but to persons in the Mofussil, who had become immensely enriched. It was not the case with cotton alone, but with every description of produce passing through the island; and this included an immense quantity of rubbish that had to be disposed of in the island. There was a great deal of wool which came to Bombay and had to be cleaned there, and the city

provided the water necessary for the purpose, as well as the labour, and it was but fair that something should be paid on account thereof. Since he knew Bombay, in 1853, he believed it had been found necessary to forbid the using of water within the city for the cleaning of wool, which was now carried to Mahim and other places, but this involved an increased use of our roads to and fro. Referring to the hundreds of thousands of labourers employed in the city it was said they were to remain wholly untaxed. He might be misinformed; but as far as he knew the coolie population were almost entirely untaxed in Bombay, which would not be the case in any other place in the world probably. He regarded the levying of transit duties as so much charged for services really rendered, which services would be wholly unnecessary but for the passing trade with which the classes who had to pay the House-tax were unconnected. It might, for instance, be found necessary to widen a street on account of the great increase in traffic caused by the passage of cotton, and not from the requirements of the people who lived in the street, and yet it was said that the trade for whose benefit the additional accommodation thus provided was not to be charged at all. The coolie classes got better wages in Bombay than they could get anywhere else, and good water and good air were provided for them, and yet they contributed nothing towards Municipal expenditure, but he would be barbarous enough to make them do so. He would not, of course, tax them in any appreciable way, but he would make them contribute in a small degree, and he would even say that rice and ghee should be lightly taxed, in the same way that articles required by the poor at home were taxed. As regarded octroi duties, in what he had said he had mixed up the transit duties and the octroi duties, and the consideration of the two seemed to him inseparable. In Liverpool not only did cotton pay town duty inwards, but it paid duty on going out, while Bombay was not a port of transit merely, for there was a very considerable quantity of cotton manufactured in the island. Now in Liverpool none of the cotton at all that passed through it was manufactured, it was stored in warehouses, often alongside of the ships and from thence was taken away in the same form in which it arrived. In Bombay there was an immense traffic by means of bullock carts required by the cotton trade, and yet the amount realised from wheel tax was only something like Rs. 80,000 per year, and even out of that sum a very large proportion fell upon those who kept carriages for the purposes of conveyance. It seemed to him, therefore, considering the enormous wear and tear, and the cost imposed upon the Municipality by the traffic of those carts, that the sum received was quite incommensurate with the service rendered to the trade. Nor is it to be forgotten that a vast quantity of railway material exempted properly from customs duties pays nothing to the Municipal funds although requiring service for its protection equally with other commodities. Altogether, therefore, he would support the principle, that there was nothing exceedingly objectionable in the imposition of transit dues for services rendered to the trade on which the charge would fall. If heavy transit dues were levied in Rajpootana States and in other places, simply for right of way, he thought the Imperial Government might well endeavour to have them abolished, but he did not see why they should not be charged in Bombay. It was not as if India were struggling to get a cotton trade now, for there was ample market for every bale of cotton raised in India, and whether 4 annas, 8 annas, or Rs. 1 a bale was charged, the cost, which was really very small, would fall upon the growers, or, theoretically, it might fall upon the consumer. If there were such great objections to dues, why did they not object to them in Liverpool? In conclusion, the honourable gentleman observed that looking fairly into the matter, and

remembering the service that Bombay rendered to the cotton trade, he did not think any candid man in Manchester would object to the levying of a small duty upon cotton, and he could not conceive that principles of political economy were so unelastic that in the circumstances of Bombay this Council should not adopt such a new measure as is now proposed for raising the revenue necessary for Municipal wants.

The Honourable the ADVOCATE GENERAL said the present Bill was based upon what he took to be an admitted fact, namely, the utter inadequacy of the present municipal income to provide for the necessary and indispensable wants of the city of Bombay. Before, however, he considered the expediency of reimposing taxes which this Council repealed—he would not say capriciously, but which for good reasons, or without good reasons, the Council repealed in 1865—let him ask, did all contribute to the municipal purse who ought? Were there any who ought, on sound principles, to contribute toward the ways and means of the Municipality, any in fact besides those who resided within the limits of the city? Now assuming for argument's sake, that many decades ago its inhabitants could alone with any show of reason be called upon to pay for a miserable and inefficient conservancy, and for the fruitless attempts to remove the superfoetation of filth which the lack of wisdom of the Municipality's predecessors had allowed to accumulate, was there not abundant reason, in the year 1868, for calling upon others to aid in defraying the expenses necessary for preserving and improving the health of the island, and for benefitting those who sojourned in it, and who passed through it? Now whatever any Bengal or any other Civilian might say or write upon the point, he (the honourable member) maintained, and strenuously so, that Bombay was now regarded by England and by India as an Imperial city, that by reason of its matchless position and its unrivalled harbour, it was used for Imperial purposes, and as such, was clearly entitled to a large contribution from the Imperial Revenue. He could not but recollect that several of his honourable friends sitting round that Council table were in the habit of passing many months in each year out of Bombay, and he begged permission therefore to call attention to one or two facts connected with it which he thought it was as well to bear in mind. The Council were aware that by the Treaty of Marriage between King Charles the Second, and the Infanta Catherine of Portugal, dated the 25th of June 1661, Alfonso the VI., King of Portugal, ceded and granted to the crown of England, the Port and Island of Bombay in full and absolute sovereignty. The crown of England, however, considering the Island of Bombay an unprofitable and chargeable possession, transferred it to the East India Company, by Letters Patent, dated the 27th March 1668. In 1684, the capture of Bantam by the Dutch led to the declaration of the Court of Directors, that in future they would consider Bombay as an independent English settlement, and the seat of the power and trade of the English nation in the East Indies. Now, not to weary the Council with any recapitulation of well-known historical facts, he wished to call attention to the circumstance that the present position of Bombay was very different from what it was in 1688, when the Siddee's fleet and army invaded the Island, got possession of Mahim, Mazagon, and Sion; and when in fact the Governor and his garrison were besieged in the town and castle; and it was not until the 6th May 1690 that orders were sent from the Governor of Surat to the Siddee, to evacuate Bombay, or till the 22nd June, that he quitted the Island, and the English again took possession of Mazagon, Mahim, and Sion. Then it was that the buildings on the site of his Excellency's residence at Parell, and the lands belonging to them, the property of the Jesuits, were

forfeited and taken possession of by the Company, in consequence of the Jesuits having aided the Siddeea in the invasion of the Island. Passing on to a later period, namely, one hundred years ago, they still found a vast difference in the position of Bombay from what it was now. Salsette and Bassein with their dependencies had been strongly coveted for some years; and in a letter to the President and Council of Bombay, of 18th March 1768, the Directors said:—"We recommend to you in the strongest manner to use your endeavour upon every occasion that may offer to obtain these places, which we should esteem a valuable acquisition. We cannot directly point out the mode of doing it, but rather wish they could be obtained by purchase than war." In the following year the directors expressed high approbation of an attempt to obtain them by negotiation, and added:—"Salsette and Bassein with their dependencies and the Mah-ratas' proportion of the Surat provinces, were all that we seek for on that side of India. These are the objects you are to have in view in all your treaties, negotiations, and military operations, and that you must be ever watchful to obtain." On the 12th December 1774, a considerable force set out from Bombay; it carried by assault the principal fort in Salsette on the 28th, and without further opposition, took possession of the Island. And now let him ask, was the geographical position of Bombay any more than was the geographical position of Alexandria or of Constantinople, attributable to a mere accident? Was British power in India the result of mere caprice or fortune, or could it not, nay must it not, be ascribed to a far higher ground than trade? The grant by the king of Portugal spoke for itself, and was for an object directly connected with the Regal Power of England, and whatever events had happened in the interim, Bombay, more especially since 1858, had been, and was now used by England and the Government of India, for great and undoubted Imperial purposes. He might here remark, that when the Island came into the possession of the Crown of England, the population was estimated at 10,000 persons, and a large portion of these dwelt in the northern part, at Mahim, then of much greater comparative importance than it is now. The numbers shown by the last census of the Island and Harbour taken on the 1st February 1864, were 816,562, and the forthcoming census, which would probably be taken in February next, would, in the opinion of many well qualified to form an opinion on such a subject, show a much higher return than even that. Now he thought it was very clear that the health, and the maintenance of the health of the Island was of the utmost importance to England and to India. It would be in the recollection of some honourable members of the Council that in 1861 a regiment of the Bombay N. I. troops, under the command of the late Major Richards, was landed in Bombay from China. It was quartered between the Boree Bunder Railway Station and the Citadel, and was in perfect health when it arrived, but from defective sanitation twenty or thirty persons belonging to it died in a few days from cholera; he might mention that he spoke from personal knowledge of that fact, for he visited the troops when they were sick and dying in the hospital in the Marine Lines, and it was not until they were removed to Nassick that the scourge disappeared. Now, there were troops constantly being brought to and taken from Bombay by the transports. These troops used the Vehar water and the municipal roads, and employed those very necessary individuals the halalcores. And why should the expense of a large portion of this be borne by the city of Bombay? To go back only to what took place last year; the municipal roads and the Vehar water were used to an enormous extent for the fitting out of the Abyssinian expedition. When Bombay

was thus used for what all must admit to be purely Imperial purposes, it was only fit the Imperial revenue should contribute, and contribute largely, towards the expenses of the Municipality, and unless His Excellency could hold out very strong and confident hopes that they might expect a subsidy from the Government of India, he (Mr. Bayley) feared they had nothing to do but to reimpose town dues, of some sort or other. Now what objection was there to the re-imposition of these duties? The Council had been recently told that the inhabitants of Kurrachee were, as regarded municipal spirit, far in advance of the people of Bombay. For the last 15 years Kurrachee had had town duties, and quoting from statements made by Major Lambert, who was the President of the Kurrachee Municipality, in a report dated the 28th August 1866, he (the Advocate General) found that Major Lambert said that the town duties in Kurrachee had for the last three years yielded an income to the Municipality of between one lac and eighty-six thousand and one lac ninety-eight thousand Rupees out of a total ordinary income of from Rs. 2,23,000 to Rs. 2,36,000. Without town dues Major Lambert said they could do but little more than pay for their police, and would have to cease all attempts at conservancy, and let the roads go back to a state of nature. Now there was the experience of the working of town dues during the last fifteen years, and they were not objected to in Kurrachee, either by European or native members of the Municipality. And what had been the case in Bombay? He believed they had existed there for a considerable number of years. When the Municipal Bill was introduced into the Council, it actually contained clauses for the re-imposition of town duties. The Bill was brought in by Mr. Cassels at the suggestion of the Municipality, but for some unexplained reasons the town dues, which produced a very large revenue, were knocked on the head, and the license tax, which had yielded so little, imposed instead. They had had the benefit of hearing a petition from the Chamber of Commerce read to them. There were one or two words in it that he caught, which seemed rather unparliamentary. He meant the expressions "barbarous," &c., and must say that the whole document did appear to him to be the result of the labours of one individual. The expressions smacked very much of his friend Mr. James Taylor's phraseology, for he thought he detected some remarks and turns of speech which he had had the good fortune to hear sometimes in the orations to which Mr. Taylor was occasionally in the habit of treating the Bench of Justices. Now that petition requested His Excellency's Council to throw out the Bill altogether. Did the petitioners give any valid reason for that request? did they say that the taxation was not required? He (Mr. Bayley) thought not. They merely went on the ground that all transit and town duties are improper and objectionable, and they said that the Council should negative the Bill, but they did not say how the necessary money for next year was to be provided. Allusion has been made to the Municipal Commissioner's Budget for next year, and he would take occasion to read one or two passages from it, which would show that even with the strictest economy there were over three lakhs of rupees to be provided for. The Honourable Mr. Brown called that a trifle, but he (Mr. Bayley) considered it a very great deal of money, whether it referred to a private individual or to a Municipality. (Hear, hear.) He said that from the perusal of these estimates—and they had always found Mr. Crawford very correct in his figures—they would find that some mode of taxation would have to be provided; and although the Honourable Mr. Brown opposed the levying of town dues, he pointed out no substitute. At the present time a Committee of the Bench of Justices, of which Committee he had the honour to be President, was sitting

in conjunction with the Finance Committee, for the purpose of seeing whether any retrenchment could be made in the Municipal establishments, but so far as they had yet gone they had been rather surprised to find the extent to which the Commissioner had already reduced his establishment; and at present the committee were not prepared to advise the smallest reduction in it whilst the present incumbents held office. He hoped that before long the Committee would finish their labours, and present their report to the Bench of Justices. With reference to the proposed expenditure for 1869, he found by the Commissioner's Budget that the estimated expenditure for 1869 was Rs. 31,84,413, while the estimated income from all sources was Rs. 33,18,833. That in the estimate of expenditure was included the sinking fund and interest on the loans already raised, and the interest and sinking fund on the loan of 8 lacs recently sanctioned to clear the Corporation of miscellaneous outlying debts and provide a cash balance, and that the net excess of income for 1869 on all accounts was therefore estimated at Rs. 1,34,420. The estimate for 1869 however included a supposed yield of Rs. 3,50,000 from a license tax, from town duties, or from some other substitute. The report added: "No new works of any kind are proposed for 1869, whether from current revenue, or loan. The works already sanctioned and in hand, will be completed from the balance available from the loans raised last year. Expenditure is otherwise restricted to the ordinary current cost of conservancy." Now he would here call the attention of the Council to two large items of expenditure. It was shown that the cost of the Health Department was upwards of seven lakhs of rupees in 1867, and in 1868 it had been upwards of six lakhs, but the reduction was so great and satisfactory, that the estimated cost for 1869 was reduced to Rs. 4,88,992. Then he found that the cost of the roads in Bombay in 1863 was Rs. 1,33,618; in 1865 Rs. 13,52,844, in 1867 Rs. 4,30,822, in 1868 Rs. 4,10,000, whilst for 1869 the cost was estimated at Rs. 3,25,000, so that in both of these very expensive Departments, the Health Department and the Road Department, there would be a very considerable reduction.

The Honourable Mr. BROWN called the honourable member to order, submitting that the document that was being quoted from was not before the Council.

His Excellency the PRESIDENT ruled that the Advocate General was in order.

The Honourable the ADVOCATE GENERAL observed that those were the only figures he intended to trouble the Council with, but he thought it was shown from all points that there was a necessity, and a pressing necessity, for the taxation proposed, even after these reductions had been made. Colonel Marriott appeared to express his inability to understand what the principle of the Bill was, and to say that it was different from the one which came before the Council in 1866, but there was the same need for the money now that there was then, and the Honourable Munguldass Nuthoobhoy's Bill was intended to meet the circumstances which had arisen since then. He (Mr. Bayley) therefor, ventured to express the hope that the Council would, by a considerable majority, affirm the second reading of this Bill. By doing that, he did not apprehend the Council would be tying themselves to any of these *quasi* imperial imposts on cotton, or opium, because if they did that he thought it would very likely endanger the assent to the measure of His Excellency. He had seen it somewhere suggested that His Excellency the Governor General might assent to one portion of the Bill, and not to another, but he (Mr. Bayley) apprehended that under Section 40 of the Indian Councils' Act (1861) that that could not be

done, and that a Bill could either be accepted or rejected in its entirety. With these remarks, and feeling convinced that there was no valid reason why town duties in a modified form should not be levied, and recollecting that they had been collected in Bombay for many years before 1865 without the slightest objection, he trusted they would carry the second reading, and thus affirm the principle of the Bill.

His Excellency The PRESIDENT: I consider the details of the schedule are not now under consideration. If the second reading of the Bill is agreed to, the assent of the Council is to a certain extent

His Excellency the President's observations. given to it, but when the measure comes under consideration in detail, items can be struck out in the schedule or others substituted for them. I should like, before the matter goes to the vote upon a question of such great importance, to offer one or two observations. First of all with reference to what has fallen from the Honourable Mr. Ellis. I cannot agree with him, that the principle to which we shall give our assent, by agreeing to the second reading of the Bill will be as limited as he says. He states that the only principle involved is that it is necessary to provide certain additional funds for the Municipality of Bombay, to supply the place of other means which are now lapsing. But that cannot be said to be the principle of this Bill, because the same thing would apply to any other Bill involving taxation. It seems to me that the principle involved here is this; that this Council assents to the abolition of direct for indirect taxation. It is stated in the preamble of the Bill, as proposed in the amendment, that the necessity for the measure arises from the deficiency in the revenues of the Municipality, caused by the lapsing at the end of this year of a certain direct tax, and that whereas it is necessary to provide additional funds for Municipal purposes within the city of Bombay, it is enacted that a direct form of taxation chiefly affecting the richer classes, should be replaced by indirect taxes, affecting the masses of the population. Now I think that beyond that, the assenting of this Council to the second reading of the Bill involves another question, which is that these taxes are to be in the nature of octroi duties, and also that besides articles of consumption, goods in transit are to be liable to certain levies. I say I think these two principles are involved in the second reading of the Bill, and I do think this Council will do well to ponder ere they admit either of them. The Honourable Mr. Campbell has said that he does not see any objection to octroi duties. Now it seems to me that such taxes are most objectionable, inasmuch as they are duties upon the necessaries of life; and certainly if we are to adhere to the usual principles of taxation, we shall find that one of the cardinal principles, admitted almost everywhere, is that you are not to place taxes upon the necessaries of life. But even if you do not adopt such a principle of taxation, there is this objection to octroi duties, that the amount of duty charged on any particular article does not represent the full amount which the consumer has to pay in consequence. I believe it is calculated that for every centime paid for octroi in Paris the inhabitants of that city have to pay five centimes, as octroi duties are found to be an excuse for all kinds of increased charges against the consumer; and as trade becomes thrown into the hands of particular classes of people from the necessity for those engaged in trade to be capitalists, the actual amount of octroi levied affords but an inadequate idea of what the public really have to pay on account of such imposts. 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 the 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. At the same time I will not say that it is impossible that such an emergency will arise, or that the great public works referred to are not necessary, or that octroi duties might not under special circumstances be justified. But as to the levying of transit dues I entirely disagree with the Honourable Mr. Campbell, for I can find no justification whatever for such an impost, and I can see no way by which this Government could agree to such a system. This Government has been informed by the Government of India that that Government has been using its utmost influence to induce the native Governments of India to abolish transit dues in their territories: yet we are now asked to put the power of levying these same dues into the hands of the Bombay Municipality. That is to say that we are to give them powers under which a bale of goods, which—thanks to the exertions of the Government of India—has passed free of transit dues through the whole of India, and has run the gauntlet of all the native states, is, on its arrival in Bombay to be charged transit duties. I have a greater objection to the transit dues than to all the octroi duties together. When the Honourable Mr. Campbell says that the dues may very well be paid by those who are to benefit by them, why the same may be said of every great town, and there is not a railway company in any place to which a municipality would not in the same way be entitled to say, “you are bringing goods here for your own use, and we are entitled to levy dues on you.” I believe that by allowing the introduction of the transit dues you would be commencing a system which would prove one of the greatest and most serious impediments to trade; for a constant liability to pay the transit dues would be the almost inevitable result of admitting such a principle here: and I believe you would soon see them levied over half the country. Now something has been said with reference to the levying of town dues at London and Liverpool, and I may perhaps be permitted to say that I have had considerable opportunity of knowing something about the working of town dues in Liverpool, for I sat upon two select Committees of the House of Commons, and heard all that could be said on either side of the question. Now one would think from what has been said to-day, that the Liverpool town dues are readily agreed to, if not indeed fully approved of, but it is beyond my power to explain fully the immense amount of hot blood created between Manchester and Liverpool consequent upon the levying of town dues in Liverpool. The levying of town dues in Liverpool was originally granted to one of the great families of England, now represented by Lord Sefton, who sold his rights in the matter to the Corporation of Liverpool, by which body a very large income was made out of them. The dues have grown to a very large yearly revenue, something like £100,000 or £150,000, and they are in the nature of private property. No one would suppose that if, at the present day, Parliament was asked to allow the levying of town dues in Liverpool that the application would be granted. But the right to levy the tax being in the nature of private property, the duties could only be got rid of by compensation being made to the Corporation of Liverpool for abandoning such a large income. But then comes the question: Where is the large sum that would be required to come from, from the State or from whom? for three or four millions sterling would be required. It was the difficulty of raising this large sum that prevented any interference with the Liverpool dues; and that being so, I think it will not be difficult to understand why these town duties have so long existed in Liverpool. I can only say that the Committee on the subject,

of which I was Chairman, examined representatives from the towns of Liverpool, Manchester, Birmingham, Bristol, Coventry, all of which towns complained of the effects on trade, of the dues on trade, and it was only our inability to deal with the matter that prevented the Liverpool town dues being got rid of. Then as to the levying of town dues in London: there is a great difference between introducing such taxes *de novo* and those which have long existed. If the question had lately come before the House of Commons, however, for the first time, as to whether duties on coals and wine should be imposed, so as to enable the city of London to carry on certain works and improvements, I am quite sure those duties never would have been allowed. As it is, if coals are taken one mile beyond the 30 miles radii of London, the duty which has been levied on them by the city of London has to be paid back. That shows that in the opinion of Parliament, if town duties are allowed at all, they should only be levied by those who benefit by the proceeds. I would only add that the reason urged for the adoption of this Bill by the framers, as shown in the original preamble, is that, "whereas it is necessary to provide additional funds for the construction of the drainage works, improvements of the water supply, and other permanent Municipal improvements within the city of Bombay;" and the amended preamble states that "whereas it is necessary to provide funds for the deficiency in the revenue of the Municipality of Bombay caused by the extinction of the License Tax on professions, trades, and callings imposed by virtue of Section XCVII. of the Bombay Municipal Act (Bombay) Act II. of 1865, the duration of which terminates on the 31st December 1868," &c. It may be that the license tax is oppressive upon certain classes, and the amount so raised might be reduced and supplemented by something perhaps in the shape of octroi duties; but there is a wide distinction between that course and telling us at once that you will under no circumstances whatever re-enact any part of the license tax. I think it may be perfectly possible, as has been suggested by my Honourable friend Mr. Ellis, to make a combination of the two, so that the Municipality can obtain sufficient money to meet the requirements of the Municipal Commissioner, without asking for these three lacs of town dues. I think that can be done without imposing anything in the nature of transit dues, which I think involves a most objectionable principle, for it is one which takes the burden from the richer classes and throws it on the shoulders of the lower orders, as they have to pay dues on articles of consumption. I have made these observations in the hope that the mover of the Bill will carefully consider these points before the Bill comes before the Council again; and that when it does come on again I shall not feel myself in the position of having to give my own direct negative to the Bill, which I certainly should feel bound to do to the Bill in its present form.

The Honourable Mr. MUNGULDASS NUTHOOBHoy said that after the strong opinion of His Excellency he was afraid there would not be much good in proceeding with the Bill. But he (Mr. Munguldass Nuthoobhoy) might say that whatever might be the position of affairs in London and Liverpool with regard to Town Dues, the present condition of Native society in Bombay was such, that people were more in favour of indirect taxation than direct; and he thought that the best system was that contained in the Bill now before the Council. It had been said that the Government of India was opposed to the levy of *octroi* and town duties, and that the Governor General would perhaps veto the Bill even if it passed through this Council. He (Mr. Munguldass Nuthoobhoy) did not apprehend such a result; and they knew that the Viceroy most reluctantly gave his assent to the Municipal Act of

1865 which repealed the town dues and imposed the License Tax. On that occasion the Government of India wrote to the Bombay Government in the following terms:—

“With reference to this apparent uncertainty as to the income to be expected from the new taxes, and the future assets of the Municipality, and to that part of the Bill by which the town duties have been abolished, it appears to the Governor General that before any such change was introduced, a searching inquiry should have been insisted on, regarding the operation of the town duties, and the probable returns to be expected from the licenses, and that it would have been better if the Bill had been left to the Justices to carry out the reform according to the original intention of the Select Committee.”

In Kurrachee, a duty on cotton had been levied for Municipal purposes, notwithstanding which the town had risen from a fishing village to an important commercial city, and was still rising every day. He was not in favour of transit duties, but he believed that a duty on cotton in Bombay was not a purely transit duty. Cotton certainly ought to pay something towards the Municipal expenses, for it remained on the Esplanade of Bombay for eight or nine months in the year, and was protected by an expensive Police Force and Fire Brigade. With regard to what His Excellency had urged, in regard to the levy of a license tax from the higher classes it might perhaps be a more preferable mode of raising the taxation required, but he (Mr. Munguldass Nuthoobhoy) had not thought about it. The change which had been proposed by the amendment, could not be part of the bill until the bill was considered by the Council in detail. His Excellency's opinion would have very great weight with the Council as well as with the Bench of Justices. As to cotton, he (Mr. Munguldass Nuthoobhoy) knew that might was right, and that even if the proposition to tax it were carried in the Council, a deputation would go up to the Secretary of State to protest against it.

On the question that the Bill be read a second time the Council then divided:—

Ayes—7.

The Honourable B. H. ELLIS.
The Honourable S. MANSFIELD.
The Honourable the ADVOCATE GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable A. H. CAMPBELL.
H. H. the Honourable SIR JOWAN SINGJEE.
The Honourable BYRAMJEE JEJEEBHOY.

Noes—3.

The Honourable Colonel MARRIOTT.
The Honourable ALEXANDER BROWN,
The Honourable A. D. SASSOON.

The Bill read a second time.

The Bill was then read a second time.

The Honourable Mr. MUNGULDASS NUTHOOBHOY said he proposed to bring the Bill forward at the next meeting of the Council, as it was no use to encumber the files of the Council with it longer. He moved that the further consideration of the Bill be postponed till the next meeting of the Council.

The Honourable the ADVOCATE GENERAL intimated his intention to move as an amendment that a tax on grain be levied.

Further consideration of the Bill adjourned until the next meeting.

The further consideration of the Bill was then adjourned.

The Honourable Mr. ELLIS moved the third reading of Bill No. II. of 1868 (*a Bill to amend the Law relating to public Ferries in the Presidency of Bombay.*) The Honourable Member said this Bill had already been fully considered by the Council, and had passed through two stages. He would not detain the Council therefore with any remarks on it, and he would only move that it be read a third time and passed.

Mr. Ellis moves the third reading of the Bill to amend the law relating to public Ferries in the Presidency of Bombay.

His Highness the Honourable Sir JOWAN SINGHIE addressed the Council as follows :—

“ In regard to this Bill I have only one observation to make. There have been instances in which great loss of life has taken place in consequence of a ferry having been plied when a river has flooded. The contractor does so for self benefit, and I would suggest for the consideration of the Honourable Members whether some provision may not be made to prevent such proceedings. If the terms of the contract will provide against this, then no addition need be made to the Bill.”

The Honourable Mr. ELLIS said he should have been quite ready to accede to the suggestion of His Highness had there been any necessity for the provision suggested, but the remedy was provided by Section CCLXXXII. of the Penal Code, in which ample provision was made for any act of negligence on the part of the servants employed at a ferry.

Bill read a third time and passed.

The Bill was then read a third time and passed.

His Excellency the PRESIDENT then adjourned the Council.

W. WEDDERBURN,
Under-Secretary to Government.

Poona, 5th October 1868.

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 3rd November 1868, at Noon.

PRESENT:

The Right Honourable Sir W. R. S. V. FITZGERALD, K.C.S.I., Governor of Bombay, *presiding.*

The Honourable B. H. ELLIS.

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

The Honourable the ADVOCATE GENERAL.

The Honourable Colonel W. F. MARRIOTT, C.S.I.

The Honourable MUNGULDASS NUTROOBHOY.

The Honourable ALEXANDER BROWN.

The Honourable A. H. CAMPBELL.

The Honourable BYRAMJEE JEJEEBHOY.

The Honourable The ADVOCATE GENERAL, in moving the first reading of Bill No. V. of

1868, "A Bill to empower the Justices of the Peace for the City of Bombay to raise a loan for temporary purposes," said: May it please Your Excellency, The financial embarrassments of the Municipal Exchequer, ever since the existing Act came into operation, are known to all, and as is pointed out in the Statement of the Objects and Reasons, at that time the Municipal Fund was considerably in debt; the deficiency in 1865 being estimated at nineteen lakhs of rupees. It has been quite impossible for us to have sufficient money to carry on the current expenditure of the Municipality, and there has been no cash balance available, partly owing to the large outstandings, that a year ago were stated to have been upwards of twenty lakhs, which, however, by July last, were reduced to between twelve and thirteen lakhs. In consequence of this deficiency, an application was made some months ago by the Justices, to Your Excellency's Government, for a loan of upwards of six lakhs of rupees, but it was refused, and then, reference having been made to the Standing Counsel of the Bench, in order to discover whether money could be borrowed for the purpose of providing a cash balance, he gave it as his opinion that money could not be raised for that purpose. Accordingly, a few months ago, the Bench considered the question, and deputed to the Standing Committee, namely, the Finance Committee, the task of devising some means of extricating the Municipality from its present financial embarrassments, and providing a cash balance. The Committee took the matter into their consideration and reported to the Bench in the terms which are given in the statement of the Objects and Reasons. They recommended "That an application should be made to Government, to permit a short Act to be passed, authorising the Bench to borrow a sum of not more than eight lakhs, on the security of the House Rate, at a maximum rate of six per cent. per annum, payable in eight years." That, Sir, was approved of by the Bench when it came on for consideration, and it was unanimously adopted by them, by which Your Excellency will see that they passed the resolution in

The Advocate General moves that the Bill to empower the Corporation of the Justices of the Peace for the City of Bombay to raise a loan for temporary purposes, be read a first time.

these terms, and also recommended that the Act should provide "That in addition to the interest on the loan, a sum of not less than one lakh annually be set aside from the proceeds of the House Rate, to form a sinking fund; the said sinking fund to be invested either in Government securities or in the purchase of debentures of the said loan." A short Act was accordingly drawn up and drafted by myself, and I will now, without further preface, move that the Bill be read a first time. I believe it has already been submitted to Your Excellency. It was prepared by the Municipal Commissioner and others well able to advise him upon financial matters, and it has been revised by me; and for these reasons, and also for those given in the statement of Objects and Reasons, I beg to move that the Bill be read a first time.

The Honourable Mr. MUNGULDASS NATHOOBHOY said: Sir,—At this, the first reading of this Bill, I do not wish to offer any objection. But I must confess, until the Municipal Commissioner's Budget is disposed of, I do not feel myself in a position to give my opinion as to whether this loan is necessary or not. For instance, the Bench have sanctioned the borrowing of large sums of money for drainage and some other purposes. I know that the drainage scheme has been given up, and perhaps there is a good sum of money remaining in the hands of the Commissioner, which may have been borrowed for drainage purposes, and not used; and until I obtain all this information I am not in a position to say whether at the second reading I shall oppose or support the Bill.

The Bill read a first time.

The Bill was then read a first time.

It was ordered that the Bill be read a second time at the next meeting of the Council.

The Honourable Mr. MANSFIELD said he begged to move the first reading of Bill No.

VI. of 1868, "A Bill to amend the schedule annexed to Act V. of 1867." The object of the Bill was to allow of the name of His Highness Meer Ali Murad being placed in the list of persons exempted under Bombay Acts XII. of 1866 and V. of 1867 from the ordinary process of the Civil Courts, and at the same time to revise the schedule, so as to classify the persons named therein, according to their rank. By Act XII. of 1866, the Ameers of Sind, whose names were entered in the schedule, were subject to the decrees of the Civil Courts, but the latter were enforced by the Commissioner in order that that officer might reserve a sufficient portion of their income to admit of their living respectably. Meer Ali Khan, in whose favour this schedule had to be revised, was the son of Meer Rustom Khan, the late ruler of Upper Sind. In this Bill a section was also introduced, empowering the Governor in Council to amend the schedule of Act XII. of 1866, so as to include any other Ameer of Sind, and to avoid the necessity of having recourse to legislation when any modification is required in the list of persons privileged under Section 15 of Bombay Act XII. of 1866. He begged leave to move that the Bill be now read a first time.

The Honourable Mr. MUNGULDASS NATHOOBHOY said he wished to ask the honourable member one question, and that was whether the provisions of the Bill would exclude this gentleman from the operation of the Civil Courts for debts already incurred, to persons who might have lent him money under the belief that he would not be exempt from the process of a Civil Court? If the Act was only to apply to future debts incurred by this gentleman, he (Mr. Munguldass) had no objection to it, as people would know that if they advanced money to those who were exempted they would do so at their own risk. But if His High-

ness was already indebted to people, and this Bill was to apply to his past debts, he (Mr. Munguldass) should object.

The Honourable Mr. MANSFIELD explained that the provisions of this Bill would not exclude persons from suing this gentleman, who would be as much under the jurisdiction of Civil Courts as he was now. If he contracted debts he would still be liable for them. The Commissioner might set aside a fair sum of money for his maintenance, but if he (Meer Ali Murad) contracted any debts he would still be liable. As this was not a Bill that involved any question of public importance, he (Mr. Mansfield) did not propose to send it before a Select Committee, and he therefore moved that it be read a second and third time, and passed.

Bill read a first and second time, and considered in detail.

Bill read a third time and passed

The Bill was read a first and second time, and considered in detail; and then read a third time and passed.

The Honourable Mr. ELLIS, in moving the second reading of Bill No. 3 of 1868, "A Bill to make further provision regarding the application of (Bombay) Act No I. of 1865 to Towns and Cities, and to restrict the application of (Bombay) Acts Nos. II. and VII. of 1863 in Towns and Cities, and otherwise to amend (Bombay) Act No. I. of 1865," said that this Bill had been

The Honourable Mr. Ellis moves the second reading of the Act for City Surveys and amendment of Bombay Survey and Settlement Act, 1868.

already fully discussed by the public outside, and by the

members of the Council upon the occasion of the first reading, and also in Select Committee, where the Committee had the advantage of hearing a gentleman who appeared upon the part of "the Bombay Association," and discussed the Bill in all its details. This being the case, it was not required of him now to detain the Council at very great length in explaining the provisions of the Bill: but there were some points upon which it perhaps might be expected that he should offer explanation. It had been asserted by those who at the outset opposed the Bill, that an entirely novel principle was being asserted when it was assumed in this Bill that Government had the right of taxing and deriving revenue from lands within the limits of towns and cities. Now he (Mr. ELLIS) did not mean to say for a moment that there were not many lands in towns and cities, a very large majority in fact of lands in towns and cities, in respect to which the Government, at present, had no right whatever to claim or obtain assessment or land revenue. But he would maintain that this right, as against Government, was not an inherent right, but a right which had been acquired in the same way as in other cases, either by grant or by prescription derived from long possession. He need not go back to the days of Manu and the primitive ages, to discuss whether Government was the original lord of the soil, or whether any man who first dug that soil had the right to the land which he so occupied. Had it been a question of the right to mountain tops, jungles, and waste deserts, occupied for the first time by man, there would be room for argument perhaps, for in those places nature had done everything and man had done nothing. But it was strange that the argument had been applied to towns and cities which owed everything to civilization and to Government, and where it would be impossible to maintain law and order for a single day if all open spaces and open ground were to be considered, not as he (Mr. ELLIS) asserted they were, the property of the public, held in trust for the public by Government, but the property of the first man who chose to seize and take possession of them. It must be borne in mind that cities had not sprung up at once out of jungle wastes. It was true many cities in India had been created at the

sovereign will of a despot in a very short time; the dwellers in a city thus built could have looked to none but the sovereign of the city as the giver of the land they held. But to take the ordinary case of the slow growth of a city—how was the original hamlet found to have grown to be worthy the name of a city? At first, perhaps, there might have been a few squatters gaining their livelihood by the cultivation of the lands round their huts, and then fields were subsequently taken up for building houses, or housebuilding began on an otherwise useless site; in either case it was the policy of the Government of the time to attract settlers, and by the conveniences offered to draw the mass of population to a particular locality, and the first thing a Government had had to do, was to offer free sites. Thus persons who had come with the permission, if not at the express call of Government, had settled and made themselves houses upon spots assigned for the purpose by the Government. By degrees those cities had grown, and eventually it had been necessary to include in them, not only unculturable land, but even cultivated fields in their neighbourhood. It was within the knowledge of every one in the Council that at Poona, for instance, there were places, which a very few years ago were mere bajree fields, but which were now covered with bungalows. It was in this way that cities grew, and there could be no peculiarity in the land of cities to exempt them from the ordinary rules of land assessment. The lands within cities had been gradually taken in from the outside, and, like those outside lands, were liable to assessment by Government, unless a right to exemption had been acquired by specific grant or by long possession giving a prescriptive title. It was precisely for this state of things that the old regulations were framed. Regulation XII. of 1827 was, to his (Mr. ELLIS') apprehension, quite clear in including within the lands over which Government had the power of assessment all land of whatever description, whether applied to agricultural or to other purposes, unless such lands were exempt under certain rules explained in the latter chapters of that Regulation. And that this was no fanciful view, might be clearly proved from the fact that from the time the Regulation was enacted, until it was cancelled by the passing of Act VII. of 1863, the officers of Government acted upon it. It could not be known to those who had argued to the contrary effect, that it was the constant practice in the largest cities of Guzerat, for the Collectors to serve notices upon the holders of such lands, just as such notices were served on lands outside a city, whenever it was supposed that the holders were enjoying an exemption from assessment on insufficient grounds. The notice was to the effect, that on failure to prove a title within two months, the land would be assessed, and frequently such assessment was carried into effect, the holder having the right of appeal to a civil court. He (Mr. ELLIS) had seen many notices of this description which had been served upon the holders of land within the city walls of Ahmedabad, and he had written to the Settlement Officer at Ahmedabad to send half a dozen of such notices for inspection with reference to the present discussion. Mr. Bulkeley sent five or six notices, all of which certainly referred to lands within the city walls, and might or might not refer to lands useful only for building sites, but regarding one there could be no doubt, for it was a notice served on a holder of land at the Teendarwaza of Ahmedabad, which, as all who knew Ahmedabad must be aware, was in the heart of the city, in a part very thickly populated and very thickly built upon. Out of the notices served in former days, some were decided in favour of the claimants, and some in favour of the Government, and a great many were still undecided when the Regulation ceased to be law. There seemed therefore to be no doubt but that, not only according to first principles would it be natural to expect Govern-

ment to have the right to assess lands in cities, but the same view was affirmed by the Regulation of 1827, and unquestionably acted upon from the date when that regulation was first passed until it was cancelled. But although the right to assess existed, yet the principle of exempting lands built upon from assessment had been very generally acted upon by Government for reasons of policy. In all small villages, for instance, it would be bad policy when the whole, or nearly the whole of the inhabitants, consisted of persons engaged in cultivation, to put any extra assessment on the lands upon which their houses were built. It was not necessary to assess such house lands, because the contributions to the revenue were taken in another shape. As an illustration of this, he would call to recollection Bombay Act V. of 1862, which was passed in order to prevent those who held, free of assessment, sites upon which a house was built, from alienating such building sites, apart from the fields attached to them. The Act referred to a certain class of villages in Broach, in which the Bhagdaree system prevailed. In these villages the houses were on sites rent free, but attached to cultivated lands paying assessment. It was not uncommon, in execution of a decree, to attach a house and site, and the purchaser would make the holder pay rent, though the site ought to have remained free while the obligation in respect to the cultivated and assessed land remained untouched. To prevent the alienation of a free site except with the whole of the cultivated land in the Bhag, to which it belonged, Act V. of 1862 was passed. This example would show that the custom of giving a free site in villages, was connected with the policy of giving cultivators land for a house, without the obligation to pay rent. Moreover, there was another large class of villages in Guzerat, called Narwadaree, which had recently been settled. In these, it had been the custom to take rent for land upon which the sub-tenants' houses stood. It was desired by the Government that in the same way as in other small villages, this rent or assessment should be remitted, but the Narwadars objected, and thereupon the Government could only say that as assessment had hitherto been paid the Narwadars might still continue to collect it, and the assessment so levied would form part of the assets upon which the assessment to be fixed by Government on the whole village, would be based. Accordingly, in those villages, to this day, the Government continued to levy a share of assessment upon the land on which houses were built, because the Narwadars who had also a right and interest in such assessment, refused to give up their share of it. These examples showed that even in small villages, the land on which houses were built, were by no means held free of all obligation to pay Government assessment. There were other villages in which the custom of paying assessment on house land under the name of Ghurbharoo, still obtained. In larger towns there was the same right of Government to assess, and if the amount of assessment was not large, there was more than one reason for this. In the first place, as before said, the greater part of the population received free sites, or even if they took the sites without permission they had by long prescriptive right a title against any Government. In the second place it was very commonly the practice of Government to dispose of their right and interest in the rent outright, and it was usual for those who were about to build, to ask that the land should be sold to them outright, and in this way, not only in the city of Ahmedabad, but in all Guzerat, many pieces of land had been disposed of by auction. Thus in many instances, in towns, all right to the land or to assessment on it was given up by Government. In Broach also at this very time, there were more than 300 holdings, embracing upwards of 35,000 square yards paying revenue and assessment to Government. In Surat likewise there was land similarly situated. Although the number of these holdings was not very

great, yet this was an additional proof that it was no new principle for the Government to take assessment from lands in cities. Indeed it was not easy to see how any distinction could be made; as in the instance of Poona, it was no uncommon thing for culturable lands to be included within the limits of towns. These lands, before liable to assessment, could not by the mere fact of their inclusion in city limits, become exempt. Such lands at least must be admitted to be liable to assessment. And again, spaces not occupied within the limits of cities, must be at the disposal of Government, for there was no one else to claim them. Government had always disposed of such lands without question. If this be the state of the case, it must be admitted that the provisions regarding assessment in the Bill now before the Council, conferred an absolute boon. If the laws which were applicable to land assessment had been strictly applied in cities, there would have been a great deal of dissatisfaction, not without reason, and it was on this account that some modification was necessary. It has been supposed that Act I. of 1865, referred to in the present Bill, could not be applicable to lands in a city, because no express mention was made of such provisions therein, but at the very time when Act I. of 1865 was passed, the city survey of Ahmedabad was in full operation. It could not be said, therefore, that city surveys were a mere afterthought, and if there was no specific mention made of cities in the Act, it was rather from the larger and more important subject of agricultural assessment generally, having engrossed the attention of the framers of the Act; that no specific allusion was made in the Act to the surveys in cities, and although surveys were being carried on in cities, to meet the difficulties that had arisen in regard to assessment, yet at the time it appeared not to have been known that any special legislation would be needed on the subject. The work which had been begun was carried on without any special enactment, but as the work progressed it was clear that it could not be completed without further legislation. The Bill as altered by the Committee, was, as stated in the report, very much modified, and he had every reason to believe, that the more intelligent of the persons who at first objected to the Bill were now thoroughly satisfied that its provisions, as amended, were exceedingly liberal, and that in its present modified form it was one which the Council need not hesitate to pass. He might mention that Mr. Shantaram Narayan, who wrote letters to the Council, raising objections on the first introduction of the Bill, had in a recent letter stated that the bill was, as modified, so satisfactory that any further discussion would be mere speculation. The principal alterations were detailed in the report now before the Council, and on these he need not detain the Council any longer. There were, however, one or two sections containing general provisions, on which he would make a few remarks as he had not had the opportunity of doing so before. He had been asked with reference to Section XX. why Section 51 of Act I. of 1865 should be repealed. The reason was this. He was in the Council at the time that Bill was passed, and happened to know exactly how that section was inserted. It was not in the original draft, but at the conclusion of a lengthened meeting one of the members of the Council said that Regulation XVII. of 1827 was so closely connected with the Bill then before the Council, that it would be well to read the latter as part of the former. As a mere technicality this was done, without any thought of the consequences. But Act I. of 1865 provided an entirely new machinery for the assessment of lands; this machinery was intended to supersede the machinery of Regulation XVII. without however interfering with the unrepealed portion of Regulation XVII. on any points in which the new Act was inapplicable. The effect was that there became two concurrent modes of proceeding, one under

Regulation XVII. and another by the Act of 1865. Instances had occurred in which the Collector maintained his right under the old Regulation to interfere in matters of assessment, whereas these matters were, by the new Act, entrusted to the Survey Department. With the view to prevent any such collision, and the clashing of the two modes of procedure, it had been thought necessary to repeal this section. He might state that there was no ground for the apprehension that, by the removal of this section, the title to hold land exempt from assessment would be affected in any way, because the provisions of Regulation XVII. relating thereto had been entirely repealed by another Act, and were no longer applicable. These remarks would make it sufficiently clear that there was reason for repealing Section 51 of Act I. of 1865, which was, as he could testify, put in hastily without any particular object, and without calculation of the effect it would have on the Act in which it was inserted. Section 17 of the Bill was also one which required notice, because it also altered a section of general application in Act I. of 1865. It was found necessary, in order to prevent undue splitting up of survey fields, to make provision to the effect that in case of a decree of a Court dividing such estates, the Court should not have authority to split up the fields once formed by the survey. But the Act of 1865 went further than was necessary, and in the Southern Mahratta country inconvenience had been found to arise from the stringency of the clause. To remedy this a new section had been inserted. The object of the provision was simply to prevent the Courts interfering so far as to cut up fields into minute subdivisions, smaller than public policy, and due regard to a good system of agriculture allowed. The present amendment confined the restriction to such minimum as may be fixed for each class of land in respect to the nature of the cultivation. For instance, there was a difference between a large dry prop field and a small richly cultivated piece of garden land, but in every case there was a minimum below which subdivision was not possible, or if possible not expedient. A suggestion had been made to publish these minima in the *Government Gazette*, but the great majority of the agricultural population were not readers of the *Government Gazette*, and when the sections were considered in detail, he would propose that the record of such minima should be kept in the Mamlutdar's office, and be open to the public, which would be much more effectual than publishing in the *Government Gazette*. There was another clause which required some notice, viz., Section 18, which referred to Talookdaree estates in Guzerat. It had been found there, that owing to the inability of Government to divide estates, considerable hardships were often suffered by the small holders, owing to the great power and influence of the larger holders. The section provided further for the cost being paid out of the estates. There was only one other clause which required notice, viz. Section 19, which had been inserted on the application of Mr. Hormusjee Jehanghirjee, the proprietor of certain alienated villages in Salsette, who pointed out that the Act gave no power to Government to confer upon the holder of a village the authority exercised by village officers, in consequence of which omission he was put to considerable difficulty and inconvenience owing to the interference of the village officers. Since the clause was framed, Mr. Hormusjee had sent another letter saying that what he wished for, was not that the power should be given to Government to delegate such authority, but that it should be incumbent upon the Government to give it to the holders of the villages. Now he doubted whether it was right to go so far. It seemed that under the Act in its present form there was no means of giving such power to any but the native revenue officers, and all that was wanted was to enable Government to delegate it to others. As a rule, Government would never give it otherwise than to the holder of a village, but there might be

instances of joint holdings or a case in which there were two sharers at enmity, and there might be a difficulty in giving the power to one of them; and it would be still more difficult to give it to both of them. It was better to keep the clause as it was. With these remarks he moved that the Bill be read a second time.

The Honourable Mr. MUNGULDASS NUTHOOBHAY observed that His Excellency the President was aware that when this Bill was first introduced there was great opposition to it, not only from the public but from members of the Council—among whom, he (Mr. MUNGULDASS) was one. In the Select Committee they could not agree to one great point, about which the honourable member was, and still remained, of the same opinion, namely, that previous regulations included all lands within cities and towns. He (Mr. MUNGULDASS) differed from him, and had the misfortune to be of the same opinion still. But the Honourable Mr. Ellis, although he would not carry out all the improvements suggested to him, had made many alterations. He would not agree with all the objections, but he has been pleased, in deference to the wishes of many people in the interior, to make so many concessions that in its present form the Bill was quite different from what it was, as His Excellency would perceive. The Honourable Mr. Ellis was pleased to offer this compromise, on condition that he (the Honourable Mr. MUNGULDASS) would agree to the compromise which he offered, and he (Mr. MUNGULDASS) had consented to that, knowing that the concessions were so very great as almost to meet the wishes of the petitioners, and knowing, too, that it was to the interests of his countrymen to accept the compromise rather than incur the risk of having the point discussed in Council, where in every probability he would have been in a minority, owing to the great weight which the honourable member's opinion would carry. Therefore he (Mr. MUNGULDASS) had no opposition to offer to the second reading.

Bill read a second time and considered in detail.

The Bill was read a second time and considered in detail.

In Section XVII., line 27, after the word "Government," the following words were inserted: "A record of the minima fixed shall be kept in each talooka kutcherry, and shall be open to the inspection of the public at reasonable hours."

In Section XIX., line 9, after the word Notification, the following words were added: "or in any subsequent Notification."

In Section XXI. of the Bill the Honourable Mr. ELLIS said, with regard to the definition of towns and cities, it had been suggested that the words of the section should be qualified by a proviso requiring that the towns should contain a certain number of inhabitants, but no particular object would be obtained thereby, for if small towns were excluded from the operation of the Act, they would simply fall under Act I. of 1865 and Act VII. of 1863. There would be no object, therefore, in taking such towns out of this Bill, and it would be of no benefit to them. He thought it might safely be left to Government to determine the matter.

The third reading of the Bill was ordered to come on at the next meeting of the Council.

The Honourable Mr. MUNGULDASS NUTHOOBHOY, in moving for the postponement of the consideration in detail of the Bill for the Levy of Town Dues (Bill No. 9 of 1868) said:—

SIR,—It is no doubt desirable that the Council should be in a position to know the opinions of the leading members of the Bench in regard to the different interests they are supposed to represent. With this desire, the Justices proceeded to consider the question at their meeting yesterday, but the discussion had not been brought to a conclusion, and the meeting was adjourned to Thursday next. I beg, therefore, with your Excellency's permission, to move that the consideration in detail of the Town Dues Bill be deferred till the next meeting of the Council.

The Honourable Colonel MARRIOTT said he would take this opportunity to notice an opinion prevalent outside the Council which had received some encouragement from within the Council. He alluded to the opinion that the appropriate function of the Legislature in respect of Municipal taxation in Bombay, was to give effect to the wishes of the Bench of Justices. He then alluded to the remark of the Honourable Mr. Ellis, in the debate on the second reading, to the effect that he (the Honourable Mr. Ellis) would usually leave such questions of taxation to the Municipality; and that it was only because the proposals in the present Bill touched Imperial interests, that he made an exception in this case. That seemed to him (Colonel MARRIOTT) to suppose a most unreasonable delegation of Governmental power and responsibility. He conceived the essential character of the Municipal constitution, to be the committal, to the Justices, of the control and appropriation of the funds provided by the Legislature for Municipal purposes, and that it was never intended to commit to that small body the practical power of taxing the remaining 800,000 inhabitants of the city, at their pleasure, for Municipal purposes. He entirely agreed in the reasonableness of the present proposal to postpone the procedure of this Bill until the result of the discussion now pending in the Bench of Justices should be known; because those discussions turned partly upon the necessity for any taxation, a point quite within their province; and indeed any expression of opinion about the taxation would necessarily have the careful attention of the Council. Therefore, whilst taking the opportunity to express his opinion on the common misapprehension which he had noticed, he entirely agreed in the propriety of postponing the further consideration of the Bill until the result of the deliberations of the Bench should be known.

The Honourable Mr. ELLIS said that the honourable member (Colonel Marriott) had very nearly apprehended his remarks, yet there was just a sufficient amount of misapprehension in them to require correction. He (Mr. ELLIS) did say that as a member of Government, not as a member of Council, he thought it was more becoming in him not to take a prominent part in a discussion which related specially to the local affairs of the City of Bombay, there being a large body of intelligent and influential inhabitants of the city who usually were referred to by the Government upon all matters of local administration, and he thought it was not becoming upon ordinary occasions for a member of Council to interpose and put forward views which might be supposed to be the views of Government with an air of authority which they did not deserve. Upon the particular occasion of the second reading of the Bill, he (Mr. ELLIS) thought an explanation ought to be made, because in the first place other interests than those of the locality were thought to be

affected—the interests of up-country growers, the interests of the consumers in England, and Imperial interests, and at the same time there was not anything like unanimity of feeling among the Justices themselves. But he did not concur with the honourable member in saying that they should not give any weight whatever or defer to the wishes of the Bench of Justices. No doubt they (the Council) who were sitting round the table then were very much more intelligent than the Bench of Justices. (Laughter). That must be admitted; but although they (the Council) might flatter themselves on that account, he (Mr. ELLIS) did not think that they had the same intimate knowledge of the affairs of Bombay as the very large majority of the Justices had. He could only say for himself that being resident in Bombay for only a very few years, he could not have the same direct interest in the matter as those had who had been residing there all their lives, such as his friends Mr. Byramjee Jejeebhoy, Mr. Munguldass Nuthoobhoy, and others. He should be glad to pay great deference to the opinions of those who were the most fully interested in local affairs, and so long as the interests of Bombay only were affected, he did not see that it was becoming in a member of Government to take a prominent part in the discussion. He (Mr. ELLIS) had already said that there were reasons which had induced him to deviate from the usual practice,—as also he believed His Excellency—because the case was an exceptional one; but he did maintain, that in considering local taxation the Council should be guided mainly by the wishes of the people who had to pay the taxes, as long as the wishes so expressed did not injure others.

The further consideration of the Bill postponed.

The further consideration of the Bill was postponed until the next meeting of the Council.

A notice of motion given by the Honourable Colonel MARRIOTT for the insertion of sections in the Bill for the Levy of a License Tax on Professions, Trades, and Callings, and of a Tax on Carriages and Animals, was also postponed for the same reason as the consideration of the Bill was postponed.

Postponement of notice of motion given by Colonel Marriott.

Mr. Mansfield moves for an extension of time for the presentation of the Report of the Select Committee on the Kurrachee Municipal Bill

The Honourable Mr. MANSFIELD said that as the Select Committee on the Kurrachee Municipal Bill had received no communication from Colonel Merewether regarding the wishes of the inhabitants, he would beg to ask for further time for the presentation of the Select Committee's report.

HIS EXCELLENCY THE PRESIDENT then adjourned the Council.

W. WEDDERBURN,
Under-Secretary to Government.

Bombay, 3rd November 1868.

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 Friday, the 13th November 1868, at mid-day.

PRESENT:

The Right Honourable Sir W. R. S. V. FITZGERALD, K.C.S.I., Governor of Bombay, *presiding.*

The Honourable B. H. ELLIS.

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

The Honourable The ADVOCATE GENERAL.

The Honourable Colonel W. F. MARRIOTT, C.S.I.

The Honourable MUNGUBHAI NUTHOOBHAY.

The Honourable ALEXANDER BROWN.

The Honourable A. H. CAMPBELL.

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

The Honourable BYRAMJEE JEJEEBHAY.

The following papers were presented to the Council:—Joint Letter from the Secretary to the Peninsular and Oriental Steam Navigation Company, and Agents to Great Indian Peninsula, and Bombay, Baroda, and Central India Railway Companies, dated 3rd October 1868, protesting against the Town Dues Bill.

Letter from the Acting Clerk to the Justices of the Peace for the City of Bombay, conveying a Resolution of the Bench of Justices to the effect that the Council be asked to proceed with the Town Dues Bill.

The Honourable The ADVOCATE GENERAL moved the second reading of the Bill to empower the Corporation of the Justices of the Peace for the City of Bombay to raise a loan for temporary purposes (Bill No. 5 of 1868). The Honourable Member said that he had stated shortly upon moving the first reading of this Bill the reason why the Justices of the Peace proposed its introduction, and so far from their being any doubt as to whether the whole of the money was required, he thought it very probable indeed that the sum they sought to raise, namely, eight lakhs of rupees, would not be sufficient to supply the pressing needs of the Municipality. The objects and reasons stated fully the grounds for introducing the Bill, and without any further remarks he begged to move the second reading of the Bill.

The Honourable Colonel MARRIOTT said that it was not from any doubt as to the necessity of the loan that he had given notice of motion that a special committee of inquiry be appointed; but it seemed to him that much of the proceedings in connection with these important matters of Municipal income and expenditure had been dealt

Colonel Marriott moves that the Bill be referred to a Select Committee.

with, whether by the officers of the departments, the Bench of Justices, or by the Council, in too precipitate a manner. It was not very long since that they met to discuss a Bill for levying the taxes in advance, for the purpose of providing a cash balance, the very purpose of the Bill now before the Council. Upon that occasion they were told, among other reasons for that measure, that nothing could be more demoralising than to provide for it by a loan. The arguments on that occasion extorted from him a reluctant, and he now thought a mistaken assent, in spite of the objections then urged by Mr. Erskine, Mr. Foggo, and his Excellency. He did not wish to repent this Bill also. He found from the report of the Finance Committee that the Municipal business was not an embarrassed concern. There was a deficit at the end of last year of about Rs. 6,22,000. That deficit had been reduced in the first six months of the present year by Rs. 80,000. This, with an income of 32 lakhs, was not an embarrassed state of finances. But the business, if not an embarrassed one, was a grievously mismanaged one in one respect, directly affecting the need of this loan. He did not say there was no mismanagement in other respects, but he believed that other points of mismanagement were all more or less in process of effective remedy. But the mismanagement to which he had alluded, which was in the collection of income, was not only not in process of remedy, but the most forcible remonstrances as to the means of remedy had been totally disregarded by the Bench, and the evil was growing worse. The outstanding assets had increased in the first six months of the present year by Rs. 2,80,000. Now he would ask what chance was there if they lightly passed this Bill that this growing evil would be arrested, much less cured and eradicated as it ought to be? When the Bench of Justices under some pressure paid not the slightest heed to the forcible remonstrances of the Finance Committee, what chance was there if the Council relieved them now from all immediate necessity by a loan that they would do better? Like the spendthrift who had just renewed his Bill for three months, they would say, "Thank God, that matter's settled," and would think no more about it. Now what was to be done? What one would like would be to make the loan conditional on some remedial measure, but this was not practicable; the best that could be made of this really bad business seemed to him that the Council should not lightly pass the Bill, but should impress as weightily as they could on the Justices their responsibility herein. The only way to do that seemed to be by the appointment of a Special Committee, whose report, exhibiting the evil, the neglect, and the proper remedy, would have some weight with the Bench of Justices; and so they might hope that this might be the last of these mere palliative measures, and that the rest of their legislation for Municipal affairs might be of a more deep, staid, and settled character. He concluded by moving that the Bill be referred to a Select Committee—the Honourable Mr. Bayley in charge—empowered to take evidence on the state of the Municipal finances, especially in respect to outstanding assets.

His Excellency The PRESIDENT said it had been moved that the Bill be read a second time, since which an amendment had been proposed to the effect that the Bill be referred to a Select Committee.

The Honourable The ADVOCATE GENERAL said he wished to make one or two remarks in reply to the observations of the Honourable Colonel Marriott. He did not think that the Bench were open to what he apprehended was little else than a stigma passed upon them by the remarks of his Honourable and gallant friend Colonel Marriott. He (the Advocate General) thought the impecuniosity of the Bench was due not a little to what he considered

was the injudicious and ill-advised repeal of the Town Duties, which were bringing in a very large income unobjected to by those upon whom the tax was chiefly supposed to fall. There certainly was a very urgent necessity for money at the present time, and as the year drew to a close, so the collections became smaller; but if it was the wish and general feeling of the Council that they should appoint the proposed Committee he did not object to such an inquiry as that which was pointed to by the amendment. He thought it very desirable that they should have accurate evidence before them as to the mode of collection, and also whether blame could be attached to any one in respect of those outstandings. The Honourable Member added that he did not object to the amendment.

Bill re-committed. The amendment was agreed to, and the Bill was referred to a Select Committee, composed of—

The Honourable The ADVOCATE GENERAL;
The Honourable Mr. MUNGULDASS NUTHOOBHAY;
The Honourable Mr. ALEXANDER BROWN;
The Honourable Mr. A. H. CAMPBELL;
The Honourable Colonel MARRIOTT;

with instructions to make their report to the Council at the first meeting after the 1st December next.

The Honourable Mr. ELLIS, in moving the third reading of Bill No. 3 of 1868 (*a Bill to make further provision regarding the application of (Bombay) Act No. I. of 1865 to Towns and Cities; and to restrict the application of (Bombay) Acts Nos. II. and VII. of 1863 in Towns and Cities; and otherwise to amend (Bombay) Act No. I. of 1865*),

Mr. Ellis moves that the Bill for City Surveys and Amendment of Bombay Survey and Settlement Act, 1868, be read a third time.

said there were two verbal alterations that were necessary in the Bill. In Section XVI., line 2, the words were, "Section XLV. of Act I. of 1865 is hereby repealed." It should be "Section XLV. of (Bombay) Act," &c. The same amendment had to be made in Clause 3, line 58, of Section XVII.

Bill read a third time and passed. These amendments were made, and the Bill was read a third time and passed.

Bill for the levy of Town Dues considered in detail. The Bill for the levy of Town Dues—Bill No. 9 of 1866—came on for consideration in detail.

In substitution of the original Preamble and the following Section of the Bill, the Honourable Mr. Munguldass Nuthoobhoy had intimated his intention of proposing the following Preamble and Sections:—

Proposed amendment of the Preamble and the following Section.

"Whereas it is necessary to provide funds for the deficiency in the revenue of the Municipality of Bombay caused by the extinction of the License Tax on Professions, Trades, and Callings, imposed by virtue of Section XCVII. of the Bombay Municipal Act (Bombay) Act II. of 1865, the duration of which terminates on the 31st December 1868, and whereas it is further necessary

to provide additional funds for Municipal purposes within the City of Bombay : It is enacted as follows :—

- I. The duties leviable under this Act shall be called Town Duties, and shall be leviable in addition to any Customs' Duties prescribed by law.
- II. Duties at the rates specified in the Schedule annexed to this Act shall be levied from the 1st January 1869 to 31st December 1869, in respect of the several things therein mentioned, when imported from any place into the City of Bombay.
- III. At a Special General Meeting of the Justices of the Peace for the Town and Island of Bombay to be held according to Section XXXIII. of (Bombay) Act II. of 1865, in October next, it shall be lawful for the said Justices to fix the rates for the said Town Duties to be levied for the year next following, and it shall be lawful for the said Justices further at the Special General Meeting of Justices in 1870, and in each subsequent year, to fix the rates for the year following after such meeting in respect to any or all things in the Schedule annexed to this Act, provided such rates shall not in any case exceed the rates specified in the said Schedule."

The following notices of motion had also been given by the Honourable Colonel Marriott :—

1. In considering in detail the Bill for the levy of Town Dues, the Honourable Colonel Marriott will move that the following Sections be introduced before Section I. of the Bill as now printed :—

“ From and after the first day of January 1869 no person within the City of Bombay shall exercise any of the Professions, Trades, or Callings specified in Schedule A to this Act annexed without a license as hereinafter provided ; and every person shall annually pay in advance for the said license the Fee specified in the said Schedule A.”

The preceding Section to be followed by seven others, the same as Sections 98 to 104 inclusive of the Bombay Municipal Act of 1865, *mutatis mutandis*.

“ SCHEDULE A.

License Tax on Professions, Trades and Callings, Class I.

- (A) Every Joint Stock Company, whether registered or not under any English or Indian Act or Acts, and every other Company, whether incorporated or not by Royal Charter, Act of Parliament, or Act of the Council of the Governor General, or of the Governor of any of the Presidencies, and carrying on any trade

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	Yearly.
or business having gain for its object, the nominal subscribed capital of which is 50 lakhs of Rupees and upwards	Rs. 1,000
(B) Every Company of any of the descriptions mentioned in division (A) of this class, the nominal or subscribed capital of which is 20 lakhs and below 50 lakhs of Rupees	,, 750
(C) Every Company of any of the descriptions mentioned in division (A) of this class, the nominal or subscribed capital of which is 10 lakhs and below 20 lakhs of Rupees	,, 500
(D) Every Company of any of the descriptions mentioned in division (A) of this class, the nominal or subscribed capital of which is below 10 lakhs of Rupees	,, 250
(E) Every Merchant, Banker, or Shroff carrying on business in Bombay in person or as Agent	,, 100

Class II.

Every person in the service of Her Majesty in Bombay not being a Regimental Military Officer, and every person in the service of the Municipality, or in the service of any Joint Stock or other public Company or Trading Firm, provided the salary of such person amounts to Rs. 1,000 per mensem or upwards	
Every practising Barrister, Attorney, Proctor, Notary Public, Vukeel or Pleader of the High Court, Small Cause Court, or any of the Police Courts	
Every practising Architect and Civil Engineer	
Every practising Physician and Surgeon	,, 50
Every Commission Agent and Broker employed in the wholesale purchase or sale of Bills of Exchange and Hoondees, or in the wholesale purchase or sale of imports or exports	
Every Contractor	
Every owner or farmer of a private or public Market	
Every owner of Screws for the pressure of Cotton, Hides, or other things	
Every Auctioneer	

Every person in the service of Her Majesty in Bombay not being a Regimental Military Officer, and every person in the service of the Municipality or in the service of any Joint Stock or other public Company or Trading Firm, provided the salary of such person amounts to Rs. 500 and is less than Rupees 1,000 per mensem.	Yearly.
Every Broker not included in Class II. employed in the sale of Government Securities, or of Goods, Wares, or Merchandise, or of Shares, or in procuring Freight.	Rs. 25
Every practising Licentiate of Medicine, Dentist, Apothecary, Veterinary Surgeon, and Native Doctor. . . .	
Every Keeper of a Billiard-room	
Every owner of a Printing Press, Hotel-keeper, Shop-keeper, Manufacturer or Trader, the annual value of whose shop or place of business as estimated under Section LVIII. of Act II. of 1865 (Bombay Municipal Act) exceeds Rupees 2,400	
Every Pawnbroker	
Every person in the service of Her Majesty in Bombay not being a Regimental Military Officer, and every person in the service of the Municipality, or in the service of any Joint Stock or other public Company or Trading Firm, provided the salary of such person amounts to Rs. 250 per mensem, but is less than Rupees 500 per mensem.	„ 12

NOTE.—A person who carries on several kinds of business, and may come under more than one of the designations in this Schedule, shall be chargeable under only one of such designations at the discretion of the Commissioner.

2. The Honourable Colonel MARRIOTT will also move that the following Section be introduced before Section I. of the Bill as now printed :—

“ Schedule A to Act II. of 1865 (the Bombay Municipal Act) is hereby repealed, and in lieu thereof shall be read Schedule B of this Act; and whenever in the Bombay Municipal Act of 1865 reference is made to Schedule A of that Act, it shall be held to be made to Schedule B of this Act; and the new Schedule shall come into operation on and after such date subsequent to this Act coming into operation as may be notified by Government.”

“ SCHEDULE B.

Tax on Carriages and Animals.

	Rates per quarter.
On every four-wheeled Carriage on springs	Rs. 6 0 0
On every two-wheeled Carriage on springs, except Native Hackeries	„ 4 0 0

	Rates per quarter
On every Native Hackery used for riding in and drawn by Bullocks	Rs. 7 8 0
On every Labour Cart and Labour Hackery	,, 6 0 0
On every Horse, Poney, or Mule of the height of 12 hands or upwards	,, 7 8 0"

3. If any of the Dues specified in the Schedule appended to the Bill be passed, the Honourable Colonel Marriott will further move the addition of the following proviso :—

“ Provided that if at any time under the provisions of Section 47 of the Bombay Municipal Act of 1865, the rate on Houses, Buildings, and Lands shall be reduced below 7 per centum, these Town Dues shall cease and determine.”

The Honourable Mr. MUNGULDASS NUTHOOBHOY said it had not been the rule of the Council, upon the occasion of a Bill being considered in detail, for the promoter to say anything upon the principle, but if it was necessary, or if His Excellency thought it was desirable, he (Mr. Munguldass Nuthoobhoi) should be very happy to say the few words he had to say, or would wait until some objection was raised.

His Excellency The PRESIDENT said the Bill was originally proposed in a certain form, but upon the second reading, the mover intimated to the Council that it was his intention to move for leave to alter the preamble and the first three clauses of the Bill. That being so, the formal proceeding of amending the Bill by the substitution of new clauses had not yet taken place, and he therefore suggested that the Honourable Member should propose the insertion of the new preamble and the three new clauses in place of the old preamble and the old section. Upon that, Colonel Marriott's amendment would be proposed.

The Honourable Mr. ELLIS inquired whether Colonel Marriott's amendment would take precedence of Mr. Munguldass Nuthoobhoi's motion?

His Excellency The PRESIDENT said that as soon as the motion was before the Council Colonel Marriott would move his amendment; at present they had nothing before them.

The Honourable Mr. MUNGULDASS NUTHOOBHOY begged to propose that the amendments of which he had given notice some time ago be substituted for the old Preamble and Section I. He would read them one by one, and would now propose that the first new clause be substituted for the old clause. The Honourable Member therefore proposed that “ The duties leviable under this Act shall be called Town Duties, and shall be leviable in addition to any Customs Duties prescribed by law.”

The Honourable Colonel MARRIOTT said: Sir, I need not read the motion in which I have given notice of amendment, as it is rather a long one, and a copy is already in the hands of every Member of the Council. A stranger to the history of this Bill, and the changes of purpose and circumstance which it has undergone, might be surprised at

Colonel Marriott's observations in support of his proposed amendment.

the motion to which I now address myself. He might think it too foreign to the ostensible purpose of the Bill. I will therefore briefly review that history in order to show, not only that I am in formal order, but that no other procedure which does not in some way or other raise, as a first and preliminary question, the reimposition or non-reimposition of the License Tax would be in reasonable order. The Honourable Mr. Munguldass Nuthoobhoy introduced this Bill in 1866 for the following purposes, as stated in his Statement of Objects and Reasons: To provide efficient drainage and increased water supply, and because Bombay had been thrown back a quarter of a century—whatever that might mean,—and because House Rate and Wheel Tax must fall off greatly. How completely these reasons were falsified by events was shown by the Honourable gentleman's speech last year when he moved the postponement of the second reading of the Bill. He said "Honourable Members were aware that since the introduction of this Bill the Municipal income had been greatly increased, Government having made over to the Municipality the revenue derivable from the duty on ganja and tobacco, it was supposed that this source of income would yield to the Municipality about Rs. 1½ lakhs every year. Government had been pleased to point out to the Government of India the injustice done to the Bombay Municipality by making it bear the whole expense of the Police, while the Municipalities of the other Presidencies contributed a portion, and had recommended that until the other Presidencies paid for the Police (and for the current year the amount had already been paid to the Municipality), Government ought to contribute a sum of a lakh and a half towards the Police expenses every year. The demand being just, and having been supported by Government, they might fairly hope to obtain the sanction of the Supreme Government to the contribution. The enlarged Schedule of the Municipal License Tax which had been substituted in place of the former one in Act IV. of 1867, and which had now passed into law, was expected to yield about two lakhs more than before. Some income might also be expected on account of Vehar Water supplied to public departments. If all these calculations were found at the end of the year to be correct, the additional amount thus realised would probably be found sufficient with economy to enable the work of Municipal improvement to be carried on without resorting to fresh taxation." Sir, with the exception of the License Tax not giving quite so much as was expected, these expectations have been fully realised and on the whole have been more than realised. We naturally therefore regarded the Bill as virtually abandoned. In August last the Honourable gentleman said: "Since the orders of the day were received by me, there has been a meeting of the Bench of Justices at which the Commissioner reported that the term of the Municipal License Tax will expire at the close of the current year. The Bench unanimously resolved that the Finance Committee should report at an early date, whether the License Tax should be reimposed, and if not, from what other source its place shall be supplied. If the License Tax is not to be renewed, it will be necessary to substitute some other means to make up the deficiency in the funds of the Bombay Municipality. As constant legislation is deemed improper and is unpalatable to the public, it will be better to consider the question along with the Town Dues Bill. I would therefore crave the permission of the Council to postpone the further consideration of the Bill until the Finance Committee have made their report, and the Bench of Justices express their opinion thereon. I therefore beg to move that the further consideration of this Bill be postponed till the first meeting of the Council after 30th September next." Well, Sir, we supposed that at least we should hear of the matter again in the shape of a report from the Bench before we were called upon to consider the Town Dues Bill again.

It was with some surprise, therefore, that we found ourselves invited at three days' notice to discuss the second reading, but on a new preamble which really made it a new Bill; the lapse of the License Tax was made the reason for the measure. Some of us in vain entreated for opportunity to consider the question of discontinuing the License Tax, and for inquiry as to financial needs of the Municipality. The majority thought proper to pass the second reading at once, justifying the procedure by restricting the significance of the second reading, to the affirmation of the necessity for some new taxation. (An expression of dissent from the Honourable Mr. Ellis.) I so understood it, and it was most assuredly said that the passing of the second reading would not prevent consideration of a modified License Tax. I do not think much was gained by this haste; the only effect is, that the real debate on this measure has to take place now, at a less appropriate stage of procedure. It will not be maintained that the Legislature, in imposing the License Tax and providing for its lapse at the end of this year, intended that lapse to be absolute. They knew too well that no taxation is so unequal as changing taxation. The worst taxes which are tolerable at all, tend effectively to equitable self-adjustment, in the long run, if maintained constantly. It was intended to give opportunity for reconsideration and amendment in detail. If it were necessary to enforce this position, I could do it by reference to the speeches of Honourable Members when they amended the Tax last year, showing that they did not contemplate its discontinuance. The Honourable Mr. Munguldass himself, in the speech I have just now quoted, spoke of it as a permanent source of Municipal Revenue. Therefore I think it must be admitted that, whether reimposition be desirable or not, it is essential for reasonable debate that the question of reimposition be settled first of all.

I have another preliminary observation to make. The Council will remember that I took occasion at our last meeting to repudiate the error so prevalent in the Bench of Justices and elsewhere, that the initiative in Municipal taxation rests with the Bench. I was not then aware that the very day previously that assumption had been markedly asserted in the Bench, with special reference to myself and my present motion; nor was I aware that my friend and our former colleague in the Council (Mr. Foggo) had so clearly expounded the true state of the case on that occasion. It was said that it was the duty of the Bench to stand up boldly against any attempt to deprive it of its most cherished function, viz., to determine and recommend the form of taxation for Municipal purposes. Sir, the Bench has the initiative as to the quantity in which certain taxes shall be levied; but the Legislature has never in the faintest degree committed to that body the initiative as to the kind of taxation, and they cannot derive the privilege from any other source. However difficult the problem of the most just and politic mode of obtaining a Municipal revenue, this Council is responsible to solve it; and it cannot escape that difficulty and responsibility by any baseless theory, that the numerical difference of the ayes and noes round the table of the Justices represents the wishes of the mass of this large community. Sir, we know what that represents, and we know that the whole community has but one intelligent wish in common, and that is to be taxed as lightly as possible; and that wish it is our duty to fulfil as best we can. I rejoice to see this spirit of self-assertion and independence; anything is better than helpless dependence on the Sirkar; but the excellence of the spirit does not alter the unreasonableness of the particular expression of it,—an unreasonableness so great that it does not require further argument, but does demand emphatic contradiction and repudiation by this Council.

Whatever difficulty there may be in saying what is the formal principle of this Bill,—and I believe that at the last debate there were as many opinions on this point as speakers,—there is no doubt as to what is its real purpose, as it was conceived and begotten before its presentation to this Council. That purpose is two-fold, and I will take the liberty to call the two-fold purpose, the Municipal Commissioner's principle, and the House-owner's principle. The Municipal Commissioner's principle being to have a large surplus for indefinite purposes of improvement; the House-owner's principle being that the House Tax shall never exceed 5 per cent., and that the deficit shall be supplied by taxes on trade and on commodities. And first, as respects the Municipal Commissioner's principle. It is of course very attractive to a Municipal Commissioner; but it is one which I hope will never be conceded. It seems to me essential to the economical and judicious appropriation of the Municipal Revenue that, speaking generally, every service should be separately provided for, and that no very large works should be undertaken except after estimate, after sanction, by means, whether rate taxes or loans, calculated according to the estimated cost, and inalienable for any other purpose. And the reason for this is because a large surplus for unsanctioned works can only be maintained on one condition, that condition being that it be derived from a source which does not touch the wealthy influential classes represented in the Bench of Justices. If it touch them it would not be allowed to endure. For this reason also the maintenance of surplus funds so derived, necessarily leads to neglect by the Bench of their duties of control. Does any one wish to see the illustration of this theory in practice? Let them study the admirable reports by the Municipal Commissioner and the Finance Committee of the Bench. They will find that when we had a 5 per cent. Income Tax, and Town Dues bringing in an income at the rate of eight lakhs a year, we had the utmost neglect and extravagance, and heavy debt. But hear the Municipal Commissioner. He says: "On taking charge I found that while I was called upon to carry out radical and expensive reforms in every direction, I had no funds! The cash in my treasury had been borrowed two days before I took charge from another fund! The rates and taxes in some cases for years had not been assessed, much less collected! There were three contracts just commenced which absorbed three-fourths of the Municipal revenue! There was an estimated deficit of nearly 20 lakhs for the year! The accounts for the previous year had not even been made up! and those for years under the heading of 'adjusted advances to Contractors' were incomplete! There were no statistics!" And what does he say immediately afterwards: "With the introduction of the Municipal Act on 1st July 1865 the Town Duties Act was rescinded, and thus during the first six months of my administration, I was deprived of the chief source of Municipal revenue! for the Legislature had not made the License Tax, the substitute for Town Duties, leviable until January 1866." I dare say some gentlemen may wonder why I quote that last passage. Sir, nearly all here will remember the gloomy anticipations at that time. It was said, and as it seemed reasonably, "if we got twenty lakhs in debt when we had the Town Duties, what shall we be without them?" And yet from that moment improvement commenced. Look at the list of reductions in the Municipal Commissioner's last Budget Report. Does any one really believe that we should have seen all those if we had gone on with the old Town Dues? Finally for the first six months of this year the income has exceeded the expenditure. It is curious to see how these two purposes, which I have called the Commissioner's and House-owner's principles, are linked together—the Municipal Commissioner avows in his last

Budget Report that he desires the Town Dues in order to reduce the House rate to 5 per cent. In one place he says, "I should rejoice to see it reduced to 5 per cent." Why should he rejoice? I think I know why. I do not say it was his conscious motive, but I most firmly believe that the unconscious motive for such rejoicing, was the instinctive knowledge that with a 5 per cent. House rate and a considerable revenue from Town Dues, he would not be much troubled by the control of the Justices. It seems to me difficult to read these reports without concluding that the maintenance of what I have called the Municipal Commissioner's principle, would certainly lead to neglect of all control by the Bench, and also to extravagance, and most probably to deep embarrassment.

I now turn to the House-owner's principle. If we had any doubt before, the late proceedings of the Bench leave us none now, that I have rightly characterised the purpose of the Bill as it is regarded by those who favour it outside this Council. I have endeavoured candidly to open my mind to the arguments on the other side. I have read every word on that side of the question which has come before me. I think the following is a fair summary of what is alleged :—

- 1st. That this tax bears the whole weight of Municipal expenditure.
- 2nd. That it is paid by one small class, the house owners.
- 3rd. That it falls with confiscatory violence.
- 4th. That the way in which it is at present levied violates every condition upon which such a tax can be a fair one.
- 5th. That the real question at issue is whether we are to depend wholly upon direct taxation.

As respects the first proposition it is simply a question of fact. The House Tax—including the Lighting and Police Rate—furnishes about 14 lakhs out of 32, or if one throws in the Halalcore cess, which be it remembered is for direct service rendered, and which no one is obliged to pay who provides a Halalcore of his own, it amounts to about 16½ lakhs out of 32. Well, Sir, if any one thinks that half is so very nearly the whole, that it may fairly be called the whole, he may say that the House Tax bears the whole expenditure. But in fact it bears about half.

The second allegation is that it is paid by one class, the house owners. Sir, the truth is very nearly that it is paid by every one in this place, excepting the coolies (estimated at 40,000 to 50,000) who do not live in huts good enough to pay assessment, and excepting the owners who are not occupiers. The proof I offer is this. The average assessed annual value of the properties in 1857 was Rs. 235. In 1868 it is Rs. 650, an increase of 235 per cent. In reality the increase is much more, because the average for 1868 includes from 4,000 to 5,000 of the smallest huts which were not assessed before 1865. Now, Sir, whatever difficulty there may be in some cases in determining whether an additional cost of production will fall on producer or consumer, I suppose it is certain that when the demand for an article is such that its price rises for eleven years together at a rate averaging more than 20 per cent. per annum, any slight additional cost of production will be borne by the consumer. Such is the present case, the house owner and house occupier being, for this question, in the relation of producer and consumer. Is there any

reply to this? I have looked for one, and have found one such as it is. The *Times of India*, of which I would say in passing that it has in my judgment done such excellent service in the exposition of financial principles and problems, that I have the more regretted to see it of late, on what seems to me the wrong side; the *Times of India*, I say, recently published an article on this very point, of whether the House Tax falls on owners and occupiers. Some of the statements therein are noteworthy. The writer says the value of house property has enormously diminished. What is the fact? I read from the Municipal Commissioner's report: these are the annual assessed values, omitting fractions of a lakh:—

1857	.....	45 lakhs.
1858	.....	46 „
1859	.....	50 „
1860	.....	62 „
1861	.....	63 „
1862	.....	66 „
1863	.....	71 „

Then in 1864 we make a great jump to 115 lakhs. But then this was the mania year, and of course the value went down? but no, in 1865 it is 120 lakhs. It must however be admitted that the mania lasted till 1865; then the next year, in 1866, the year in which the Honourable Mr. Munguldass Nuthoobhoy told us that Bombay had gone back a quarter of a century, and gave it as a reason for this Town Dues Bill—well it had not gone back quite a quarter of a century as to the value of property, for in that year it was 148 lakhs; and in 1867 it was 163. So much for the enormous depreciation. But to turn to the argument. The article says, “the short and easy proof that it is the landlords who are paying the taxes is the fact that though if all the rates were remitted at the very next meeting, rents would not fall one rupee.” No one ever alleged that rents instantly adjust themselves. But consider this argument translated into a more abstract form. The short and easy proof that a certain part of the cost of production is borne by the producer and not by the consumer, is the fact that if that part of the cost of production were removed altogether, the price of the article would not fall. It depends upon a mere assertion, which however short and easy, is not a very satisfactory proof, but, accepting the assertion, that is the real argument.

The 3rd allegation was that the House Tax falls with confiscatory violence. I have got some very useful facts from opponents of the House Tax. I learn that of the 22,650 properties assessed in this city, about 15,000 are occupied by the owners and their families, and that these 15,000 pay only about 3 lakhs a year, that is, two lakhs ordinary House rate and one lakh Police and Lighting rate. That leaves about 7,650 properties which pay about 11 lakhs; now consider what the value of these must be. They are the 7,000 largest after eliminating the 15,000 smallest; they accommodate the whole population of this island, excepting the above mentioned 15,000 owners and their families, and excepting the coolies who are too poor to live in any hut which pays assessment, and who I have heard estimated at from 40,000 to 50,000 in number. The average amount of the owners' rate is about ninety-five a year, or Rs. 8 a month for each property. This is the measure of its confiscatory incidence.

It was further alleged that the mode in which we levy the tax violates every condition on which such a tax can be a fair one. The conditions quoted we are told from Mr. Mill, are as follows :—

1. That it falls upon the occupier.

I do not suppose that the Council doubts that it does so.

2. That as lodging is a necessary of life, all houses below a certain rental should be free.

I hope the whole Council shares the objection to taxing the necessaries of life, and I would here notice that the speaker at the Bench who supplied my facts about the 15,000 houses occupied by their owners, showed incontestably that between 4,000 and 5,000 of those ought not to be taxed at all. The whole sum collected from them he stated to be about 9,000 rupees; and I have since ascertained that the cost of collecting that sum is about 3,000 rupees. I suppose we shall all be glad to have the opportunity of amending such defects. But it is plain that their existence is nothing to the point when the question is whether the House Tax is to be one rate or another. The 3rd alleged condition of a fair House Tax is, that “where the owner occupies and sublets, he should have the right of being assessed separately for every lodger, in order that he may claim exemption for each when the rent is below the limit of taxation.” If that means that if because an owner of a house subdivides it to an unhealthy extent in order to crowd it with poor families, and so makes it about the most profitable piece of property in this Island, he is to pay no House Tax at all, it would require a higher authority than Mr. Mill to make me receive that doctrine. A 4th alleged condition is that where the owner occupies his own house a peculiar system of valuation shall be adopted. As the proper system is not explained I can say no more about it. The 5th condition is that the House Tax should be only a part of our fiscal system. It is only a part. There is one other of the summarised points of objection to our House Tax to be noticed, viz., the statement that it is really a question of whether we are to depend wholly upon direct taxation. We do not depend wholly upon direct taxation in any sense. But it is wonderful how names lead men’s minds away from the plain nature of things. This so-called direct taxation by a House Tax is in reality an indirect tax to every one who rents his lodging, and an indirect tax of the best kind, because it adjusts itself to a man’s style of living. The so-called indirect taxes by levy of duty on articles of necessary consumption become, when those articles are the food of the poor, practically the most direct tax possible and of the very worst kind in its incidence.

And now, Sir, I will briefly notice the substitutes proposed for this confiscatory House Tax; they are levies on trade and on articles of local consumption. As respects the proposed duty on cotton, I need not add anything to the objection so clearly stated by your Excellency at the debate on the second reading. If I add a few words it is only to emphasize my own protest. An Honourable Member at our last debate stated that the proposed duty was not a transit duty, but a payment for value received in protection against fire and pillage, and he instanced the supposed case of a necessity to widen a street on account of the thronging cotton traffic, and asked why Bombay should bear the expense. Beside the obvious objection already stated that the argument is

equally good for a levy upon every considerable article of trade in every large town in India, there is the more absolute objection that it is this very trade which makes the value of the property in the city. The *Times of India* asked the other day, in a tone which implies that there can be but one answer, and that that answer carries the whole question, whether the Mofussil cotton dealer comes here for his own benefit or ours? Why Sir, putting aside his own conscious purpose, and looking merely to the effect of his coming, I say that he comes here to the great benefit of every house and landowner in this place, a benefit measured by the enormous annual increase in the value of houses and land which I have already noticed. For a house owner in Bombay to complain of the cotton trade as entailing expense upon him, implies a strange inversion of facts. It is as reasonable as if the proprietor of a large improving business should go about complaining of his increasing outgoings without recognition of the fact that his profitable incomings were increasing in a greater ratio.

As respects the proposed levy on articles of local consumption, I shall leave it to others to show their objectionable character, inasmuch as they really are in part transit dues; and in other respects I will only notice them particularly in relation to the poor, and when I speak of poor and wealthy in the sense of my present argument, I mean, on the one hand, those who habitually experience a deficiency of food, clothing and shelter; and, on the other hand, those who, whatever may be their poverty in some sense, are never likely to suffer those privations. It is loudly said that we ought to tax the poor according to their means. I admit the abstract proposition; but I deny its applicability in this, and in most cases. The labouring poor almost everywhere really bear the weight of taxation in a far greater degree than the upper classes. Here, if we except the 50,000 coolies who are so poor that they live in undrained swamps and in huts like dog-kennels, and derive little advantage from our Municipal improvements, the poor pay taxes in house rent. The rich are very powerful, and the limit of taxation which they can be made to bear is soon attained; and it often becomes necessary to tax the poor. I will accept this necessity like any other; but I will not misrepresent it. Sir, when we consider how much less the poor benefit by the Municipal improvements than the upper classes, how much they pay in increased rents for what they do gain; when we look at their crowded dwellings, and recollect how their poverty being associated with ignorance they are imposed upon in every direction, and that any taxes on their food and necessaries of life will fall upon them with a weight far in excess of the measure of the authorised levy,—I say it is not a mere sentiment, but bare justice to approach this question with the intention to spare that class to the uttermost. A native gentleman, a member of the Bench of Justices, called on me yesterday to ask about some amendment of the Survey Bill. I had no thought of questioning him about this Town Dues Bill, and did not know his opinions, but supposed they were probably the same as that of the majority of the Native Justices. By way of something to say, I remarked what an animated discussion had taken place at the recent Bench meetings. He replied by asking if I had noticed the remarks of certain speakers about the extortion practised on the smaller house owners. He added, “I am afraid that wherever the Tax-gatherer goes extortion accompanies him. But I do not think it is very great in connection with the House Tax. At any rate, it is as nothing to the extortion which would attend the Town Dues. When they existed before I have known people

coming across the Harbour stopped at the Piers to pay duty on the little pot of ghee or bundle of grain they carried with them. I have known two annas paid on the spot for six annas' worth of ghee, and I have known the whole surrendered for want of means to pay the demand. That, together with extortion on pretence of the tax by every shop-keeper a cooly deals with, is the kind of extortion which will attend the 'Town Dues.'" Sir, I do not know what exaggeration there may be in the statement. I fear it is too probable that it is not much exaggerated. I give the testimony as I received it. If the wealthy classes were ever subject, not to such extortion habitually, but if anything approaching it could only occasionally be practised on them, the walls of this room would be pulled down about our ears before we should be allowed to pass a tax which made them liable to it.

I desire now to show briefly that there is no case whatever for additional taxation excepting to meet the lapse of the License Tax. The Municipal Commissioner's Budget Report for 1869 shows a surplus of Rs. 47,431, but the real surplus is much larger. This Rs. 47,431 is the balance, not only after appropriating 2½ lakhs to the drainage fund, but after appropriating 3 lakhs to the repayment of loans amounting to 18½ lakhs, of which 10½ are taken up for the execution of special improvements, and 8 lakhs is the loan anticipated from the Bill now before the Council, and which is only needed because the Municipality does not properly collect its income. There is a real surplus of 3½ lakhs after allotting 2½ to drainage, and that is quite as much as is desirable.

It only remains to explain the modification of the License Tax schedule which I proposed. I have omitted all the small traders from classes III. and IV., 3,873 persons, the annual value of whose shops are severally under Rs. 2,400; I have transferred the Traders whose shops are of an annual value of above 2,400 rupees from class II. to class III., thus assessing them at rupees 25 instead of rupees 50. The total number of persons who received licenses in 1867 was 6,943, so that the smaller traders omitted are more than half the whole number. The new schedule would, by reference to estimates of the Finance Committee, give a full 3 lakhs of Rupees. It is true that the Finance Committee's estimate has not been realised this year, but that I believe is from defect in collection, not because of erroneous estimate of the Tax.

Sir, I have endeavoured to rescue the importance of this debate from the levity which seemed to me to be thrown over it by the unreasoning haste with which the measure was brought before us and forced through the second reading. That importance is likely to go beyond the ostensible purpose of the Bill. It was with higher aim than the effective conservancy of this city, that the existing form of proximate self-government was given to this community. We have seen how, for long, the Bench of Justices neglected the duty of control committed to them by the Legislature, until a state of things came about under which financial difficulty made itself felt by the influential class of house and land owners, who form so large a portion of the Bench. After one struggle to put the burden on other shoulders (for they petitioned the Government not to give effect to the resolution of the Bench in favour of a 7 per cent. House rate) they turned to the honest and useful task of trying to save expenditure by the exercise of their own special duty of oversight of the Municipal funds. And with the aid of their excellent

Finance Committee, they did so with the happiest results. This, Sir, is a lesson in self-government, the value of which it is difficult to overrate, and which would not be measured by many lakhs of rupees if they could be rained from heaven into the Municipal Treasury. The Council has practically two courses before it. The one would restore exactly the circumstances which we have seen attended by, and have reason to think almost necessarily attended by, neglect, extravagance, and embarrassment. The other would maintain that wholesome balance between ordinary income and necessary expenditure, which we know to be a necessary condition of any effective control of the Municipal Funds by the Bench. I hope the Council will appreciate this, and will not adopt a course which would unteach that invaluable lesson, and would send the Justices back to read and to copy the page of their own earlier proceedings.

The Honourable Mr. ELLIS said that before the question was put, he begged permission to say a few words. He did not propose to follow the Honourable Member who had spoken last in the relation of a thrice-told tale, but he (Mr. Ellis) wished to make one remark in reference to what had been said regarding the original reasons which prompted the Honourable Mr. Munguldass to bring this Bill before the Council. The reasons as stated were, the want of a proper system of drainage, the necessity of an additional supply of Vehar water, the urgent need of a great number of improvements in the conservancy and in other matters closely connected with the prosperity of the city. Those considerations he (Mr. Ellis) maintained existed in as full force now as when the Honourable Member first brought forward the Bill; and to them must be added the additional fact that the License Tax had lapsed. So that every one of the original reasons which were good when the Bill was first brought forward, were equally good and substantial now, and an additional reason had meanwhile been added. He must also beg permission to say a few words upon the Honourable Member's version of what he (Colonel Marriott) understood to be the significance of passing of the second reading of the Bill. The Honourable Member understood in saying that it was limited to the narrow issue that more taxes were necessary. But he (Mr. Ellis) must beg leave to take exception to that very narrow view, for as he understood—and as he believed those who voted with him on the question understood—it was decided that additional taxation was necessary, and that the additional taxation should assume the form of indirect and not direct taxes; upon that issue the second reading of the Bill, as he (Mr. Ellis) understood it, was passed, and it seemed to him that further discussion upon that principle was not necessary that day. The Honourable Member (Colonel Marriott) divided his argument against the imposition of Town Dues into two main heads; he objected to them in the first place because they involved the Municipal Commissioner's principle, as he called it, of desiring a surplus revenue to deal with for indefinite schemes of improvement. But that principle he (Mr. Ellis) conceived must be at the bottom of all taxation proposed by the Municipal Commissioner of Bombay. It was most desirable that there should be a surplus revenue for undefined improvements, but it was very unlikely that they would obtain such a surplus for many a long year to come; and if there was a fear of the Commissioner's having a fund to work with at his own will and pleasure, he thought there was little prospect of that fear being realised. When there were so many works of urgent necessity that had to be undertaken at once, or at the earliest possible moment, no Honourable Member would assert that the granting of these means

would be placing in the hands of the Commissioner a surplus revenue that he might use for useless, if not for worse purposes. In regard to the reductions in expenditure which the Honourable Member (Colonel Marriott) had been pleased to attribute to the change from the system of Town Dues to that of increased House Tax, he (Mr. Ellis) might be wrong, but he must differ entirely with the Honourable Member in regard to the cause of the change which had been wrought on the minds of the public. He (Mr. Ellis) should have conceived that if that was the reason the change would have been more gradual, for they could hardly suppose it was possible that in one short year—

The Honourable Colonel MARRIOTT: Three years.

The Honourable Mr. ELLIS said: Yes, but the improvement had taken place during the present year.

The Honourable Colonel MARRIOTT: The climax of the saving was in the third year.

The Honourable Mr. ELLIS in continuing said that the management of the previous two years had been characterised as reckless, and the feeling that they had been too extravagant had only come over the Municipality in the present year; and that it had arisen from causes which it was not difficult to point out. If they looked to the expenditure of the Municipality before the reformed system, what was it? It was a mere bagatelle as compared with that under the new régime. The Municipal Commissioner, a man of excessive energy, at once set to work to reform everything in the shortest possible space of time. But there was no doubt that the establishments he introduced were upon a most extravagant scale. Now they were introduced after, and not before the Town Dues were done away with. It was because those establishments (appointed before it remembered after the extinction of Town Dues) were on a scale not in keeping with the income, and larger than necessary for the wants of the city, that economy was not observed in the earlier years of the new system. To this fact, the Bench of Justices had at last been aroused; and he was sure it was a good sign of the awakened public spirit, and the good sense of the Commissioner, that they had reduced the establishments because they were expensive, but this reduction was not, as far as he (Mr. Ellis) could make out, from any relation or connection with House rate or any other taxation. The householder's principle was the second bugbear which the Honourable Member had put forward in arguing against the imposition of Town Dues. He (Mr. Ellis) would leave the house owners to defend themselves; but he might say in passing, that the Honourable Member seemed to consider that all house owners were the landlords of oppressed tenants; whereas it was a fact that out of the 21,000 house owners, upwards of 15,000 lived in houses which were their own property.

The Honourable Colonel MARRIOTT: I said so.

The Honourable Mr. ELLIS: Well, that being the case, he could hardly understand on what principle Colonel Marriott based his argument about the distinction between these producers and consumers, for in 15,000, out of 21,000 cases, as Colonel Marriott himself admitted, the same persons who owned the houses lived in them. Then he (Colonel Marriott) deprecated their taking it for granted that because a period was fixed for the License Tax, when the Bill of 1865 was passed, it was intended that the License Tax should cease and

determine at the conclusion of the period fixed. But he (Mr. Ellis) thought the Council of that time might take credit for having exercised a very sound discretion in fixing the period for the expiration of the Tax, for it was purely experimental, and the experiment in the form in which it was made had miserably failed: and he thought there could be but little doubt from what they had heard in the discussions which had taken place, that the License Tax as framed by the Council in 1865 had proved to be one of the very worst of taxes, for the result had been a minimum of receipts with a maximum of discontent. The estimated four lakhs of revenue from the Tax had turned out to be only two and a half lakhs, and he believed that an amount of corruption had prevailed in its collection which could not possibly be exceeded in any other form of taxation, in spite of the opinion of the native gentleman who had visited the Honourable Colonel Marriott. As the Tax had failed, it might be asked why, upon a previous occasion, he (Mr. Ellis) had suggested the revival of it in a modified form. The fact was that one of the chief reasons why the License Tax had failed, was that it had run concurrently with another tax of a similar nature; and the people not being able to understand the double tax as it appeared to them had been greatly dissatisfied, and had been apt to offer additional douceurs to the collectors in order to get rid of their liability. The taxation proposed by the Honourable Member (Colonel Marriott) perpetuated every evil of the old License Tax, and as he (Mr. Ellis) was aware that a new form of License Tax, with a new schedule, was under consideration and would shortly be proposed to the Council, he could not approve a License Tax, as now proposed by the Honourable Colonel Marriott, in a form which was universally condemned by every one acquainted with the details of the working of the Tax; and he would ask Honourable Members not to accept hastily the proposition of the Honourable Colonel Marriott, and thus prevent a Bill being brought in, as it shortly would be, for the imposition of a different kind of License Tax, in a shape that would reduce the difficulty of collection to a minimum, by making its collection dependent on that of the Government License Tax. As such a Bill was, he had reason to believe, about to be introduced into the Council, he should most decidedly vote against the proposal of the Honourable Member (Colonel Marriott), not merely because the proposal was not in its proper place in a Bill for the levy of Town Dues, but because in the form in which it was brought before the Council it was objectionable, and because similar results were obtainable in a better form by another Bill altogether. He had not attempted to follow the Honourable Member through his appeal upon behalf of the poor, for he (Mr. Ellis) held to an opinion that that appeal might be better made in a very different way. It might, he thought, be best met by relieving the poor from the payment of House Tax, and he trusted shortly, when a proper opportunity occurred, that some Honourable Member would move that all assessment upon those 4,000 huts to which the Honourable Member had made allusion, should be removed, and he (Mr. Ellis) for one should be exceedingly glad in that way to support an appeal in behalf of the poor. Nor need he attempt to follow the Honourable Member through his argument that the proposed Town Dues were taxes upon trade, and that therefore they were to be deprecated in comparison with the tax which he (Colonel Marriott) proposed. But what was the tax which the Honourable Member proposed except a tax upon trades and professions? It set out with stating that it was "a License Tax on professions, trades, and callings," and did the Honourable Member think that a light tax upon cotton and other articles was a tax on trade, whilst that which he (Colonel Marriott) proposed

was none? Did the Honourable Member suppose that when house rents were high and house assessments heavy, the merchants in the Fort did not put the cost upon their constituents, or that shopkeepers did not put a proportion of the House Tax on the goods which they sold to their customers? And yet they were told that neither the House Tax nor the License Tax was a tax upon trade. He (Mr. Ellis) did not see how they could escape from the conclusion that all taxes more or less, which the trader paid, were taxes upon trade. He (Mr. Ellis) had no doubt that the Honourable Member (Mr. Munguldass) was far better acquainted—at any rate better than any European member of the Council—with the wants of the people of Bombay, and that he would favour the Council with some detailed remarks on the bearing of the Honourable Member's proposal. But as far as he (Mr. Ellis) could gather from inquiries which he had made in all directions, he was convinced that the License Tax in the form which the Honourable Member (Colonel Marriott) proposed would be most injurious. He (Mr. Ellis) trusted, therefore, that whilst allowing the amendment of the section in the form in which Mr. Munguldass had proposed, the Council would give a direct negative to the amendment of the Honourable Colonel Marriott.

After some discussion as to the order in which the propositions now before the Council should be proceeded with,

* His Excellency The PRESIDENT read the first clause proposed by Mr. Munguldass to the Council; and said that the amendments moved by Colonel Marriott would come on afterwards.

The Honourable Mr. BROWN said he begged to oppose the passing of the clause under consideration, and that in doing so he should like to say a few words. The Honourable Colonel Marriott had, he thought, correctly sketched the history of the somewhat extraordinary Bill now before the Council; and he (Mr. Brown) did not propose to follow that history. He also thought the Honourable Colonel Marriott had very correctly expounded the objects and aims of those who had supported the Bill, and were endeavouring to carry it through the Council. He did not intend to follow the Honourable Colonel Marriott through all his arguments, but he would call the attention of the Council to the fact that they had to provide a substitute for item three in the Municipal Commissioner's estimate of income during the year 1869, which was put as follows: "License Tax, Town Dues, or other substitute," and the amount he asks to be provided with under this item was Rs. 3,50,000. Now he entirely agreed with Colonel Marriott that the great bulk of that amount should be provided by the reimposition of a License Tax, and that because there was no necessity for any Town Dues at all. He believed that any difficulty that existed in the way of the reimposition of the License Tax, as far as the opinion of the Bench of Justices was concerned, was removed by their recent vote, by which they determined to request the Council to reimpose the License Tax in a different form, and worked in a different way, by which they expected to get three lakhs; so that the real question seemed to him to be how to get the extra Rs. 50,000 which the Municipal Commissioner wanted in his Budget. He (Mr. Brown) did not think that was a large sum, or one that would necessitate the imposition of Town Dues at all. The question, therefore, that remained to be considered, was whether the Council

should give the Bench Town Dues in order to increase the amount available for general expenditure, and on that subject he might say that he entirely agreed with the Honourable Colonel Marriott that any such course would be merely opening up to the Bench a source of revenue capable of indefinite expansion, the inevitable result of which would be extravagance and waste. It would, he thought, be altogether different if the Bench had asked for Town Duties for special works, such as drainage, extension of water supply, &c. His Excellency, at the last meeting of the Council at Poona, had most clearly pointed out the difference between the two propositions, and he (Mr. Brown) thought that his Honourable friend Mr. Ellis signally failed to apprehend the difference between these two schemes, which were based upon entirely different ideas.

It might be perhaps said that the Council ought to concede a scheme of Town Dues, in order to replace one and quarter lakhs abandoned by the Bench by their recent vote reducing the House Tax one per cent. He (Mr. Brown) must on that point also say that he agreed entirely with the drift of the Honourable Colonel Marriott's argument on the question of the House Tax, that he did not consider that any tangible argument whatever had been brought forward to prove that the House rate was confiscatory in its incidence. He had no intention of following the arguments that had been adduced, for he thought that they were pretty well known to members of Council; he would simply say that he did not think any amount of special pleading, such as they had been treated to either by the speakers in the Bench or by writers in the press, would upset the great principles of almost universal acceptance all over the civilised world, which were, he took it, that the House Tax was a fair, reasonable, and equitable source of Municipal taxation, and that, apart from any exceptional circumstances, in the main it was paid by the occupiers, and a seven per cent. rate was not by any means an oppressive or confiscatory rate. Now it so happened that it was a matter in which he (Mr. Brown) was personally interested, and without troubling the Council with any general arguments he would merely mention how it affected him as a member of his firm, and he did so the rather because the instance to which he referred had been produced as a sort of crucial test of the unfairness of the tax. He referred to a building in the Elphinstone Circle built by his firm. It was perfectly true that the building cost a very large sum of money, probably double the amount of what was now its value, or what it could be sold for, or for which it could be replaced if it had to be again erected; but he submitted, and he thought every sensible man would agree with him, that it was not what the cost of the property was before which they had anything to do with, it was the present value of the property in estimating the oppressiveness or otherwise. Now he found that this building was assessed upon the basis of a gross rental of Rs. 2,000 a month or Rs. 24,000 a year, but they were taxed upon a net rental of Rs. 21,600, and the House Tax at 7 per cent. came to Rs. 1,512; then there was the Police and Lighting rate Rs. 972; Water rate Rs. 329; in all somewhat under Rs. 3,000 per annum. Now that sum deducted from Rs. 24,000 left Rs. 21,000, and he submitted that the value of that house, whether he sold it in the market or re-built it, was about three lakhs, and the consequence of the deduction from those figures was that it returned a clear income of 7 per cent.

The Honourable Mr. CAMPBELL: Is that with, or without the land?

The Honourable Mr. BROWN: With the land.

The Honourable Mr. ELLIS: Does the estimate include repairs?

The Honourable Mr. BROWN explained that it was not inclusive of repairs. He then went on to say he considered that perhaps the value he had put upon the property might be open to question, but he thought it was as near its present value as he could put it, and he was perfectly certain that Rs. 2,000 a month was not by any means an excessive assessment. He contended that no case of hardship had been shown there, and that at all events it was a much better result than that obtained from house rates in European cities. Nobody, he thought, who knew any thing about the question, would deny that. Upon a careful consideration, it would be found that the case of hardship and oppression sought to be made out, broke down. The one per cent. reduction would improve his position by about Rs. 216 per annum, and that he supposed was the difference between a confiscatory tax and a fair rate of assessment. Of course he was duly thankful for that small mercy, but he would point out that the effect of the reduction in the rate as respected the Bench, was that in utter disregard of all principles of prudence they threw away 1½ lakhs, and at the very time when they asked the Council to sanction a loan of 8 lakhs. They had thus created a gap which they now came to the Council to ask them to fill by passing a system of Town Dues. He submitted that the Council could not for a moment entertain such a system of Town Dues as was advocated as a reason for filling up the gap so created. The effect would be to completely subvert all the principles established by the Council in 1865, when it abolished the Town Dues and gave to the Bench the sources of income which they now enjoyed. Now he (Mr. Brown) thought that the imprudence of the Bench was shown still more obviously and still more clearly when they looked to the nature of the Municipal Commissioner's Budget for the coming year. For himself, he (Mr. Brown) might say that he had carefully perused that Budget with much satisfaction, for it was by far the most satisfactory one which they had had since the new system was introduced. It seemed that the income and expenditure very nearly balanced each other; the income was tolerably certain, and as it bore very materially on his argument, he would take the liberty of saying further, that, with proper administration, it was capable of very great expansion, without there being the slightest necessity for resorting to any new system of taxation for general purposes. He entirely endorsed all that had been said by the Honourable Colonel Marriott regarding the necessity for a thorough revision of the Municipal system, for it seemed to him that it was necessary for various reasons, and more particularly in reference to the assessment and collection of revenue. Very recently some glaring facts, showing the laxity of the system in that respect, had been brought to light, and he (Mr. Brown) feared that if careful scrutiny was made, and such an inquiry instituted as was proposed, it would be proved that they were not isolated circumstances. He might mention before leaving that part of the subject, that it was a curious fact bearing upon the maladministration of Municipal revenue in that respect, that the assessors of taxes were the same persons as those who collected them; and he would ask the Council to consider whether there was not a fearful abuse possible under such a system. But he also thought that, apart altogether from a better administration, the existing taxation was capable of increase. The general feeling was that the Wheel Tax could be increased without hardship, and he would also point to the Water Rate, which he thought was not by any means worked to the full extent it might be in Bombay. The Council were very probably aware that it was a special and not a general rate; the

people who had not Vehar water laid on paid nothing to the Vehar rate, but they benefited very much by it, and ought to pay whether it was laid on or not. He thought a general rate should be laid on, which would produce a general expansion of the Water Tax without any hardship whatever. He might have mentioned, speaking of the inefficiency of the assessment, that some people paid no taxes at all; they seemed exempt, from some extraordinary oversight; that alone required looking into; and if it was inquired into, it would show that a very considerable increase in the Municipal revenue was possible. He might also mention that the question of the expenditure of the Municipality required revision. He had no desire to say one word against the administration of Mr. Crawford—who had done such excellent service—but he believed that he had too much work to do; his department was too heavy a machine for any one man; and he (Mr. Brown) believed that if a better system was introduced they would find the expenditure economised in many ways. He would refer particularly to the question of control, as requiring very close revision. At present it was exceedingly lax, and he might also allude to the fact that no one could tell what excessive and lavish expenditure had been entailed on the Municipality, by reason of the chronic state of impecuniosity they had been in. First of all, there was a direct contribution for interest on loans raised by Mr. Crawford; and next, there was the very great indirect increase of expenditure by making deferred instead of ready-money payments. He (Mr. Brown) contended, therefore, that with the License Tax the existing income was ample to meet the wants of the Municipality, and that there had been no cause whatever shown for the proposed imposition of Town Duties for general purposes. He therefore submitted with confidence, looking to His Excellency's strong expression of opinion at their last meeting at Poona, that the Town Dues could be justifiable only when they came to consider great works of Municipal improvement. He entirely opposed the imposition of Town Dues for any such purpose as had been at present shown to the Council. He should for the present reserve any special arguments against Town Dues.

The Honourable The ADVOCATE GENERAL had not in the least expected that there would be any argument against the general principle of Town Dues that day, for it was provided in the 20th Rule of the Rules for the Conduct of Business at Meetings of the Council, that on the second reading of a Bill being carried the principle of such Bill would be considered as affirmed. Consequently, as he had not expected to hear the general question as to the desirability of reimposing the duties discussed, he had not come prepared to argue it. The Bench of Justices, as the Council were aware,—by the communication which was that morning ordered to be laid on the table,—passed a resolution on the 5th November instant, requesting His Excellency's Council to supplement the present direct taxes on property by taxes on commodities such as were contemplated by the Bill before the Council. Now that of itself was, he thought, one good reason for proceeding with the measure. But in fact, he apprehended that the reason given by the Municipal Commissioner in his justly-praised Budget was unanswerable. The Commissioner there said: "It will not be sufficient that a sum of three lakhs, equal to the yield of Town Duties, be provided. The income of the old Town Duties, or upwards of seven lakhs, must be supplied." It had already been pointed out that day that the yield of the License Tax for the present year, which was budgetted for at four lakhs, would fall short of that sum by one and a half lakhs, and he had very good authority for saying that

in all probability a large proportion of the arrears for 1867, and for former years, would turn out to be quite incapable of recovery. Now the fact of the necessity for the money having been established,—though not for those purposes originally sketched out in the preamble of the Bill, yet for a more urgent and pressing emergency than was contemplated when the Bill was introduced,—and not having yet heard any arguments from the Honourable Colonel Marriott, or any body else, that there was anything unjust in the reimposing at all events some of those duties which were taken off in 1865, he should certainly vote in favour of Mr. Munguldass' motion. As to the House rate, it was proposed in the Budget at 7 per cent. But that had not been carried, it having been reduced to 6 per cent. All he could say was, he was sorry that that course was adopted, as it was wilfully throwing away Rs. 1,30,000 without there being any valid reason for doing so. He thought the landed interest was well able to bear, and could bear to pay, 7 per cent. for some years to come.

His Excellency The PRESIDENT: Before the Honourable Mover replies I should like to make one or two observations to the Council. It appears to me that we are ~~set~~ by fresh impediments to proceeding with this Bill each time we meet. I will not go over the ground which has already been occupied by my Honourable friend Colonel Marriott, but I will simply refer to the entire change in the object of this Bill, at least as stated by those who promote it. The Honourable Member (Mr. Munguldass Nuthoobhoy) first stated that it was necessary to empower the Municipality to levy Town Dues on articles imported into Bombay in order to provide for a system of drainage, extension of water supply, and other improvements. It was next stated that object was to provide for a deficiency of income arising from the lapsing of the License Tax; and now it is boldly advanced without disguise, that it is necessary in order to enable the Bench of Justices to reduce the amount of the House Tax. I do not desire to refer to this point further than to point out the difficulty we necessarily are under in considering a measure the necessity for which is placed by its advocates upon such various and constantly changing grounds. I will advert to a fresh difficulty which has been brought to our notice by the Honourable Mr. Ellis to-day, and which has also been referred to by the Honourable Mr. Brown. The Honourable Mr. Ellis has informed us to-day that he has good reason for knowing that a fresh License Tax is on the point of being proposed to the Council. I hear from the Advocate General that it has been drafted by the proper persons, and approved by the Justices. Since this debate commenced, I have had a letter put into my hands from the acting Clerk to the Justices of the City of Bombay, which says:—

“ To W. WEDDERBURN, Esq.,

Under-Secretary to Government, Legislative Department.

SIR,—By direction of the Worshipful Bench, I have the honour to inform you, for the information of His Excellency the Right Honourable the Governor in Council, that the Justices of the Peace for the City of Bombay in adjourned Special General Meeting assembled on the 11th day of November instant, passed the following Resolution, viz.:—

‘ That although the Municipal License Tax as now levied has been condemned by the Bench of Justices, it is desirable that a Municipal License or Certificate Tax

should be imposed for Municipal purposes, based upon the same principle as the Imperial Certificate Tax, and levied in the same manner and at the same time.—I have, &c.

F. STANGER LEATHES,

Acting Clerk to the Justices of the Peace for the City of Bombay.
Bombay, Town Hall, 12th November."

The Honourable Mr. BROWN goes further, and tells us that he has every reason to believe that the form of this proposed Certificate Tax is such that it is expected to produce something like three lakhs.

The Honourable Mr. BROWN: It was so stated at the meeting of the Bench of Justices.

His EXCELLENCY: Well, the Honourable Mr. Ellis appears to dissent from that, but what I wish to present to the Council is this, that we are called upon now to pass a Bill authorising the levy of Town Dues in order to repair and supply the deficit from the lapsing of the License Tax Act; and this at the very time when we are also told that another License Tax Bill is to be brought forward, of the nature of which we are entirely ignorant, but which we are told may possibly produce the full amount required by the Municipality from the Town Dues. It is impossible for this Council satisfactorily to proceed with the consideration of the Town Dues Bill, until it is clearly established that there is a necessity for its being passed. The Honourable Mr. Brown points out that if this new License Tax is such as to produce three lakhs, there will only be a deficiency of a sum of Rs. 50,000; and we are also in this difficulty, that we are not only called upon to pass a Bill without knowing the nature of the taxes which the Justices themselves are going to propose, but also without knowing what really is the amount of the budget which the Bench will sanction: And it is perfectly possible, more than possible, probable, that in the discussion at the Bench this margin of Rs. 50,000 may entirely disappear, and that those items which it would be supposed to meet disallowed by the Bench; so that the License Tax, which the Bench by the letter to-day has informed us it proposes to submit to the Council in a very short time and of which they have a Bill ready drafted, may supply all the wants of the Bench at present.

The Honourable Mr. ELLIS: Oh no!

His Excellency The PRESIDENT (continuing): The Honourable Mr. Ellis says he does not think that will be the case; but what I put to the Council is, that I think we ought not to encourage any legislation that will put Town Dues upon the city until we know by the Bill before the Council that the necessity has clearly arisen for such a measure. Now there is one point with which I was somewhat struck in the observations of the Honourable Mr. Ellis. He says that the feeling is so strong against the House Tax, that it was not to be wondered at that the Bench have taken its reduction into their consideration. He said it was a most objectionable tax, in this, that it pressed upon large numbers of the people, who only occupied habitations which were little better than huts—I forget the number he mentioned, but he pointed out that one of the great objections to the House Tax, as at present levied, was that it fell grievously on the very lowest class. But I would ask the Council whether the diminution of 1 per cent. at all touches, still

less does away with, that objection? The step of reducing the House Tax from 7 to 6 per cent. can in no way affect the case of the very poor, which Mr. Ellis argued has been pointed out as the radical defect of the House Tax. The objection to the tax as far as they are concerned is, not that they should pay less, but that they should pay nothing at all. Then what does this present Bill, as it appears to me, come to? If the proposed License Tax, which we are told is to be shortly presented to this Council, which is in fact now ready to be presented, meets the necessities of the Municipality, as those necessities were estimated at our last meeting a month ago, what is the ground for passing the Town Dues Bill? It is that we should give the Municipality funds to provide for that deficiency which they have themselves created by reducing the House rate from 7 to 6 per cent. If the proposed License Tax meets the deficit caused by the lapsing of the old License Tax, then the Town Dues Bill will only provide a fund to pay that deficit, which, as I have said before, the Justices themselves created. And I must express for myself the strongest opinion against a measure which will thus take 1 per cent. off the tax paid by the wealthy, and—if we assent to the Bill in the shape in which it is put before us—will put an equivalent tax upon some articles which are absolute necessities to the poor. I cannot conceive anything so objectionable as relieving the 7,000 referred to by the Honourable Colonel Marriott, the owners of large property in the city of Bombay, of one per cent. of the tax they now pay, and putting it upon the shoulders of those who are least able to pay it, by taxing what are the absolute necessities of life to the labouring classes of this city, sugar and ghee. I can quite understand that there may be circumstances when even these taxes, objectionable as I think them, might be justified, such as I stated at the last meeting of the Council at Poona, for great works, for improved drainage, and an increased supply of water; but I cannot conceive any argument that could be used which would justify the imposition of such taxes in the manner and for the reasons proposed. And I would beg the Council to remember this, that it is only within the last few days that there has been presented to the public a project of the engineer employed by the Municipality, for the drainage of this city. If you are going to give the Municipality these Town Dues to supplement the deficit which they themselves have created by the reduction of the tax on houses, from 7 to 6 per cent., where are you to look for the means which will be necessary to enable the Municipality to carry out the great and important work of drainage which has been brought forward? I believe that, without entering into the question of the merits of the engineering scheme,—of which I am not in a position to judge,—it has at least this merit, that it is financially practicable; but it can only be practicable by the Bench seeing their way clearly to a considerable addition to their income, in order to meet an expenditure which may be not only justifiable but imperative, but which will at the same time tax, and tax heavily, all their resources, on the ground that property will not bear more than 6 per cent., and that more is confiscation. If you are going to reduce the House Tax, and if you are going to impose Town Dues in order to meet the deficit, which, as I have already said, you yourselves have created, where can you look for the income ~~which will~~ enable you to carry out these great works that are in contemplation? ~~There is~~ I have been led to make the latter part of these remarks, which I thought it my duty to make, by the observations of the Honourable Mr. Ellis. What I desire to put particularly before the Council now is, whether we can really fairly go on with this Bill at the present time; until we know the exact nature of the Bill which the Municipality have to produce, I think

it is very desirable that this debate should be adjourned until this Bill is presented, and then we can see exactly what the needs of the Municipality are, and what should be the measures to meet those needs. (Hear, hear.)

The Honourable Mr. CAMPBELL said he thought there was very great cogency in the remarks which His Excellency had made, particularly in reference to the License Tax or Certificate Bill which had been proposed some few days ago. He also concurred in the observations of His Excellency as to the impression—though false—which the reduction of the House rate from 7 to 6 per cent. by the Justices the other day was calculated to convey as to the motives of the party who proposed the Town Duties Bill. But he (Mr. Campbell) was still of opinion that the Town Duties Bill would be required, and he thought His Excellency's remarks had foreshadowed the necessity for it at a very early date, and that appeared to him another reason why they should endeavour to see if it was possible to make ends meet for the present by the License Certificate Tax Bill that was proposed. He admitted a great deal of what the Honourable Colonel Marriott had said with regard to the Augean stable into which the Municipal Commissioner was thrust a few years ago, but he was not at all sure that the expenditure was likely to be brought within the limits which the Honourable Colonel Marriott imagined. From the little he (Mr. Campbell) had seen of the reports of the Municipal Commissioner, the Health Officer, and others, it appeared to him they were only at the very commencement of a heavy annual expenditure. And it was curious to note that Mr. Goschen, —one of the members for the City of London,—in March last, remarked on the very same thing in reference to Municipal expenditure for general purposes, pointing out that local taxation had increased in the boroughs of England on an average 30 per cent. in the last ten years, and that the expenditure was always increasing, because, as he (Mr. Goschen) observed, they were probably only at the beginning of great local improvements, requiring great Municipal expenditure, all over the country. A great deal had been said about the selfishness of landlords in Bombay, but the more he (Mr. Campbell) looked at the position of Bombay at present, as compared with what it was when he knew it in former days, the more he believed that house-owning and house-building were not profitable; and that of all trades in Bombay house-building was that which required most protection. The people were huddled together, and the limits of the town seemed incapable of expansion, and simply because there was not inducement to landlords to increase their buildings. It was a very remarkable fact that there was for a population of 450,000 in the native town of Bombay—that was in the area covered by those parts of the town which were inhabited by natives—an average space of only six-and-a-half square yards to each individual, while in Liverpool there was an average area of 17 square yards per head of population. In the most densely-populated parts of London, where the lowest classes of the community lived, there were one or two cases of only 10 and 11 square yards to each person, but the proportion rose at once to a far higher average. Here in ~~Bombay~~ Bombay there seemed to be such compressibility of the population that the town could not get beyond its present narrow limits, and he (Mr. Campbell) believed that that was because house property did not pay what it should—and he was sure that its acquisition had ruined many families. They could not judge of house property by its present value, but must take into account all the changing circumstances of the past few years, and they must go back and compare house property in 1861

with what it was in 1851. The Honourable Colonel Marriott had alluded to the great increase in the assessed annual value of house property in Bombay during the last three or four years; but it was in 1866-67, he (Mr. Campbell) believed, that the whole of Elphinstone Circle was thrown into the assessment. In the Municipal Commissioner's last report, it was stated that the value of house property had declined 25 per cent., but by a great increase in the number of houses, brought under assessment for the first time, a large number being small properties at Mahim and Worlee, and other outlying parts of the island, the Commissioner had been able to represent that there was an increase of some 1,700 houses, and an increase in the rateable value of about 15 lakhs, which in a great measure accounted for the continued rise. There was one other point to which he (Mr. Campbell) should like to advert in justification of the landlords, who had not, he thought, been fairly treated in this matter by Europeans, especially by the mercantile portion of the community. He did not think that the landlords had purely selfish views. Let the Council look to the taxation of London, which was £3,500,000 per annum; and setting apart the widening of Park Lane, the Thames Embankment, and the Holborn improvements, out of the three millions and a half, no less than Rs. 1,25,00,000 went for poor rates. Now they had no poor rates in Bombay, and why was that? Because those very people, the native rate-payers, provided for their own poor. Supposing that in London they did not provide for the poor out of the taxes, the rates would be infinitely lower than they were commonly represented to be, for much more than one-third of the whole taxation of London was levied to pay for the poor. He thought that was a very strong argument to show that the landlords of Bombay were not the very selfish people that some persons imagined. However, he had great pleasure in proposing that this debate be adjourned in order to see what the License Tax or Certificate Tax was likely to produce, and how far it might be necessary to supplement the revenue of the Municipality by Town Dues. He was perfectly ready to advocate the imposition of Town Dues, and thought it quite sufficient to say that the poor people in London had to pay a tax of thirteen pence per ton for their coal, to show that in London the masses were reached. But the masses in Bombay were not reached, and he thought the labouring classes in Bombay were exceedingly well off. They were constantly coming to the city and returning to their country with their savings. In reference to Town Dues it had been said that Bombay would be nothing without its cotton trade. What was the value of all the cotton exported from Bombay fifteen or seventeen years ago? He did not suppose it was more than £2,500,000, and Bombay was then, although not so populous, a very wealthy place. Probably there was a greater amount of wealth existing among the native community than there was now. He begged leave to move that the debate be adjourned.

The Honourable Colonel MARRIOTT asked whether he might be allowed to say a few words?

His Excellency the PRESIDENT: Certainly, if they are in reference to the motion just proposed.

The Honourable Colonel MARRIOTT said he did not wish to take any advantage of the right to speak. The Council had listened already with the greatest patience to his remarks, and therefore he should avoid replying to the comments which had been made. He only wished to say one thing in support of what had been so forcibly remarked by His Excel-

lency, and to put one fact which he (Colonel Marriott) meant to have stated in his own speech. He assumed that the Municipal Commissioner would not be supposed to be one who was likely to underrate the wants of his own departments, and in his (the Commissioner's) Budget to which his (Colonel Marriott's) attention had been drawn just now by the Honourable Member (Mr. Ellis), the Commissioner said: "The income of the old Town Duties, or upwards of seven lakhs, must be supplied;" and the Commissioner further told them what he wanted those seven lakhs for. He told them it was to enable him to remove two per cent. from the House Tax, that was Rs. 2,75,000; then he told them he wanted to supply Rs. 2,25,000 to replace the License Tax, which he estimated at Rs. 3,50,000; and those together accounted for Rs. 5,75,000. The Commissioner's estimate was not likely to be wrong, and if only seven lakhs were wanted, that left but a deficiency of Rs. 1,25,000. But by his own showing, of that Rs. 1,25,000, at least Rs. 75,000 would be provided by the small addition to the Wheel Tax, which the Commissioner advised, which every body approved, and to which he (Colonel Marriott) did not anticipate any objection on the part of the Council. So that left only Rs. 50,000. Now he put it to the Council—especially to the Honourable Mr. Ellis—here was the Municipal Commissioner's estimate of what he wanted the seven lakhs for. As to the Rs. 2,75,000, if it be thought that the House Tax ought to be so reduced, let that point be discussed. But if the Council do not so think, this sum may be wiped out. Then there was the License Tax, which on the admission of gentlemen on both sides, they might reasonably expect to yield three lakhs—

The Honourable Mr. ELLIS: No, no; not three lakhs.

The Honourable Mr. BROWN: It was so stated at the meeting of the Bench of Justices.

The Honourable Colonel MARRIOTT said he thought it was so understood here. If gentlemen would not admit that—

The Honourable Mr. ELLIS: No.

The Honourable Colonel MARRIOTT (continuing)—They must admit something. They must put some value on the tax, and put what value they will, it will be seen that the sum remaining to be provided, according to the Municipal Commissioner's demand, is insignificant, if even the Council were to be guided by his demands.

The Honourable Mr. MUNGULDASS NUTHOORHOY said that if it was the wish of the Council to adjourn the matter he had no objection, but there were a few words he wished to say, and three or four points which he should nevertheless like to notice. One was about His Excellency saying that there was no deficit, and that if there was it was a deficiency caused by the reduction by one per cent. of the House Tax.

His Excellency The PRESIDENT: Excuse me. I said there was only a deficit of Rs. 50,000, if it was true the new License Tax would provide Rs. 3,00,000 in the place of that supplied under the old Act. What the nature of the new Bill is, I don't know, because I have not yet had it before me.

The Honourable Mr. MUNGULDASS NUTHOORHOY said that, as the consideration of the Bill was to be adjourned; he would reserve all his arguments for a future occasion, but

would only correct a few misapprehensions. As it was His Excellency's hope that a new License Tax might yield three lakhs of rupees, he (Mr. Munguldass) might say that that was out of the question. There was the Government officer (Mr. Dossabhoj Framjee) sitting behind them, and he (Mr. Dossabhoj) would tell the Council that the whole estimate of the levy of the Imperial License Tax would be about six lakhs of rupees. Now if the new tax fell on the very people who paid the Imperial Tax it would be a great hardship to increase the License Tax by 50 per cent., and he (Mr. Munguldass) believed that it could only be increased by 25 per cent., and in that case it would only yield Rs. 1,50,000. From that tax the poor people were to be exempted—that was the wish of the Bench, and also of the projectors of the Bill. So the levy of the new tax would give the Municipality an income of about a lakh of rupees, but if the Council thought two or three lakhs would be raised by the tax, it was out of the question. He knew it was merely out of the great deference paid to the opinion expressed by His Excellency on the occasion of the last meeting of the Council at Poona, that rich people should not escape Municipal taxation, that the License Tax Bill was proposed. Landlords in Bombay had been much abused, not only in the Council-room, but by a portion of the press, and he was not much surprised if His Excellency's opinion had been prejudiced against them by hearing that they had been acting from selfish motives. Now he (Mr. Munguldass) said that 7 per cent. had not been the amount of the House rate heretofore. There was not more than five per cent. levied, and he was in a position to prove that European merchants of eminence in Bombay, who did an immense amount of business in cotton and piece goods, in fact the members of the Honourable Mr. Brown's firm, and of Messrs. Graham & Co.'s, Messrs. Cardwell, Parsons, and Co.'s, and Messrs. Remington and Co's., had made a report in 1855, in which they recommended not only Town Duties, but were in favour of Transit Duties. If His Excellency would allow him, he would refer to those duties.

His Excellency The PRESIDENT: The question is, whether we are to adjourn the debate at present. If it is not to be adjourned, then your observations will be quite regular.

The Honourable Mr. MUNGALDASS NUTHOOBHOJ, in continuing, said he would confine himself to replying to what had been said. He had not the least objection to an adjournment, and was ready to reserve what he had to say. It had been stated that the House Tax had been reduced to favour the landlords, but His Excellency might not be aware that up to the year 1865 the House Tax had always been five per cent, except in 1856. In 1866, when the new régime of Municipal management came into force, the landlords themselves, seeing that they could not do with five per cent., proposed that the rate should be six per cent., and ever since the beginning of the new régime up to 1867 it was 6 per cent. To that the landlords did not object, and nobody proposed to reduce the rate, and the proceedings of the Bench would show that. Last year the Municipal Commissioner proposed that the rate should be six per cent., and the Finance Committee had approved of that rate, and sent in their report, saying that they considered it would be inadvisable to fix it at 7 per cent. The meeting at which the report was presented was held in October 1867; and in consequence of the intimation which had been made by the Commissioner, and as they did not like to neglect their business, many Justices did not attend the meeting. And what was the result? Why, that by a side-wind a proposal was made for raising the rate to 7 per cent. The meeting was very thinly attended, and there

was only a bare majority of two in favour of the increase. But His Excellency was quite aware that within two or three days, a petition from the inhabitants of Bombay was presented to him (His Excellency) in Council, signed by 20,000 people, amongst whom were members of the firm of Messrs. Remington and Co., and several other European gentlemen. The result of that petition was—if he (Mr. Munguldass) did not misunderstand the reply—that His Excellency sympathised with the petitioners, but said that he did not like to interfere with the proceedings of the Bench of Justices in such a matter. Well, the increase of the rate was got by a side-wind and surprise; and the Justices, who were of opinion that a seven per cent. House rate could not be borne, considering the present value of property, were of the same opinion now, and so now they had merely rid themselves of what was obtained from them by surprise last year. He would make one remark more. The Honourable Mr. Brown had stated that though his property in the Elphinstone Circle cost him six lakhs, he valued it only at three lakhs, and then satisfied himself by thinking that the same yielded him seven per cent. He (Mr. Munguldass) might as well buy a property for a thousand rupees, and then value it at one hundred rupees. In that case his income of course would be thirty per cent!

His Excellency The PRESIDENT: The question before the Council is, that the debate on this Bill be postponed until after the License Tax Bill has been presented.

The Honourable Mr. ELLIS, speaking to the question of adjournment, which was now before the Council, begged to state what he knew of the License Tax, as such a statement might probably be not considered by His Excellency as foreign to the subject of adjournment. The Bill, as had been correctly stated by Mr. Munguldass, had its origin in a suggestion which was thrown out at the last Council, at which, when the objection was taken to the incidence of the Town Dues being unequal on the rich and on the poor, it was proposed—and His Excellency he (Mr. Ellis) believed gave his cordial assent to the proposal—that if Town Dues were to be imposed, they should be supplemented by a License Tax which would touch only the higher classes of the community. This, therefore, was the object of the proposed Bill, not to make the new tax independent of the Town Dues, but to raise a tax to supplement those dues and to fall entirely upon the upper classes. The Honourable Colonel Marriott took a most sanguine view of things when he supposed that such a tax could by any possibility produce three lakhs. He (Mr. Ellis) believed that the present Municipal License Tax, falling as it did on all classes, was likely to produce Rs. 2,50,000. How the new tax, which was to fall solely upon the upper classes, was to produce a greater sum, he did not know. But he did know that from the calculations of the Municipal Commissioner himself, the new tax would produce about one and a half lakhs, and there was every reason to believe that it would not produce so much; it was intended solely to supplement the Town Dues. He had no objection to offer to the proposed adjournment, as it was advisable that the Council should have before them at the same time all propositions for future legislation on the subject.

The Honourable Mr. BROWN said he wished it to be understood that the three lakhs he had mentioned was the sum mentioned at the meeting of the Bench of Justices, as the amount that the License Tax was likely to produce; he had not made the statement with any intention to mislead the Council, for it was stated at the meeting of the Bench of Justices, at which the question of the reimposition of the License Tax, in some form or

other, was discussed. He did not go in for a License Tax that would only yield a lakh or a lakh and a half, for he was no advocate for homeopathic doses of this kind, and of what would be a perpetual blister.

Motion for the adjournment of the debate on the Town Dues Bill agreed to. The motion, for the adjournment of the debate was then agreed to.

The Honourable Mr. BROWN presented a petition from Corn-dealers of Bombay against the imposition of any tax on corn. The petition was laid on the table, but His Excellency the President observed that it should have been presented when the Bill was before the Council.

The Honourable Mr. MANSFIELD moved for leave to extend the time for presenting the report of the Select Committee on the Kurrachee Municipal Bill, until the first meeting of the Council after the 1st January 1869.

Mr Mansfield moves for leave to extend time for presenting the Report of the Select Committee on the Kurrachee Municipal Bill.

His Excellency The, PRESIDENT then adjourned the Council.

W. WEDDERBURN,

Under-Secretary to Government.

Bombay, 13th November 1868.