

THE



# Bombay Government Gazette.

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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

## PART V.

### PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Extract from the Proceedings of the Governor of Bombay in the Legislative Department, is published for general information:—

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

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

#### P R E S E N T :

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

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

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

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NATHOOBHoy, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

Affirmation of office, &c., taken by Mr. Bythell. The Honourable Mr. J. Kenworthy Bythell took the usual affirmation of office and declaration of allegiance to Her Majesty.

#### THE MUNICIPAL BILL—No. III. of 1872.

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

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

The Honourable Mr. TUCKER, in presenting the report of the Select Committee on Bill No. 3 of 1872, said—I beg also to move the second reading of that bill. The points in which the Select Committee have amended the bill are very clearly set forth in the report

which I have the honour to lay before the Council, so that I need not mention them in



detail, but I may remark with some satisfaction that we have been able, by adhering very closely to the work allotted to us, to prepare the report within the period prescribed, and have proved that the time required for a thorough revision was not so great as was anticipated. I am also happy to be able to state that there has been a tolerable unanimity of opinion in the Select Committee as to the main principles involved in this important measure, although there have been some differences of opinion with respect to details. For instance, my learned friend the honourable the Acting Advocate General differs from the majority of the Committee on a few points; and the Honourable Mr. Munguldass objects to a great number of the sections approved of by the Select Committee; while my honourable friend on the left, Mr. Forbes, from the minute which he has attached to the report of the Committee, appears to be opposed not only to many of the details of the bill, but also to many parts of the entire scheme and the principles upon which it is based. I confess I was surprised when I read some portions of the minute of my honourable friend, because when I find him complaining of the marked distrust of the Corporation displayed by Government in the bill and the extremely limited character of the powers conferred upon that body, I remember that he himself, in some of our proceedings here, voted with the majority of the Select Committee against the extension of some of the powers which we were disposed to assign to the Corporation. Of course I have no objection to the honourable member changing his opinion after drawing fresh inspiration from a visit to Bombay, but I think it right to point out that, in the discussions in the Committee-room at Púna, we had no indication that the objections of the honourable gentleman to the whole bill were as extensive and radical as from his minute they would appear to be. In the Committee we carefully considered every petition and representation which have been made to the executive Government or to this Council, and we have adopted every suggestion which appeared to us to be reasonable or to be likely to prove beneficial. Since the publication of the bill I have received many communications, and I have seen many statements in the public journals, which show that a great many portions of the bill are objected to by different sections of the community who hold conflicting opinions upon the various matters treated of in this measure, but I am glad to say that the objections are for the most part contradictory, and the statements made on one side are answered by the statements on the other, so that the conclusion I gather from the character of the opposition to this bill is that we have to a great extent hit upon that '*juste milieu*,' that '*ariston metron*' which the sages of antiquity have held to be the object that should be aimed at by prudent persons either in private or public affairs. I do not think it is necessary for me to go at any great length into the alterations which have been made in the bill and have given to it a more liberal character, yet there are one or two points upon which I should like to make some brief observations. The Honourable Mr. Forbes complains of the great distrust of the people shown in this measure by Government. I do not think that there is any real foundation for this charge. It is quite true that we have not given to the Corporation absolute or unlimited powers, but it would be opposed to the sound constitutional principles which ordinarily govern the proceedings of Englishmen, whether in the mother-country or in her colonies or dependencies, to confer unrestricted powers upon a body such as the Corporation created by this bill is intended to be. In this Council our authority is strictly limited, and there is no person or assembly in India or elsewhere in Her Majesty's dominions entrusted with any of the duties of Government with the exception of Parliament, consisting of King, Lords, and Commons, whose authority is absolute, or whose powers are not strictly limited. In creating, then, a new body for the government of the city of Bombay, the members of which will be untried and to a great extent inexperienced in the transaction of public affairs, though it may be desirable to entrust them with wide powers as we have done, it is necessary in the interest of the entire community to place a well-defined limitation on their authority and to reserve to the local Government of the Presidency the power to interfere in case of any neglect on the part of the Corporation or of the Town Council or the Municipal executive officers to discharge the duties which they are directed to perform, or of any attempt on the part of these assemblies or persons to transgress the bounds of the authority conveyed to them. The imposition of such restraints, when considered in the light of the concessions made, can in no way be properly characterized as the exhibition of a want of confidence in the people of Bombay. On the contrary, the omission of such restrictions and the non-reservation of such power of interference to the Government would lay this Council open to a charge of a want of ordinary prudence or foresight, and would on the part of the executive Government amount to an entire disregard of the obligations it is under to the whole public of the Presidency. I feel assured that if the firm of which my honourable friend Mr. Forbes is a member were to establish an agency at Karáchi or



any other port, though it might delegate considerable powers and leave a wide discretion to the said agent, it would not give to him absolute or unrestricted powers or divest itself of the power to interfere when it might be considered necessary to do so; and no want of confidence would be implied by this necessary limitation of the authority of the agent. In like manner the Government of Bombay, when receding from the direct municipal government of the city and conceding a large portion of its power to the new bodies which it is about to create, may justly and wisely reserve to itself the means of ultimately controlling the entity which it has brought into existence and preventing its becoming injurious to the Government or the community, whose interests the Government is bound to protect. By sections 40 and 41, which have been somewhat irreverently designated in the Committee the "bludgeon clauses," but which might have properly been styled the "life-preserving sections of the bill," all that we do is to reserve certain powers to the executive government to interfere if the Municipality or its officers do not do what they are bound by law to do. We have in the various clauses of the bill made a great many things lawful for the Corporation to do, and denoted other acts which it is their duty to do, but it is only with respect to the latter that we reserve to ourselves the power of direct interference in case of any omission or refusal of the Corporation or its officers to carry out the express directions of the law. It will be found on examination that there are not many matters included in the mandatory clauses, and we shall be prepared to listen to any suggestions for the more clear definition of the matters to which the operation of these clauses will be restricted. The next important point on which the objections of the opponents of the measure are very strong is the exemption of Government lands and buildings from taxation for the purposes of the Municipality. Since the sitting of the Select Committee, the executive Government have again considered this question and had decided to allow the Government buildings to be rated for the police and lighting rates, but not for the house rate, and to confine the exemption from all rates to lands only. However, my learned friend the Acting Advocate General entertains doubts of the power of the Council to make this concession or to pass any enactment which would subject the Crown property or the Crown revenues to taxation for municipal purposes. I believe there is no doubt that in England the Crown lands and buildings are exempt from local taxation, though there is a party there as here which would make them rateable to some of the local rates of the same character as our police and lighting rates. As these rates are imposed in return for certain services rendered, and as the Crown or State buildings have the benefit of these services, it would seem equitable that the Government should make a contribution to the Municipality in return for those services, and this is now done as an act of grace, though not required by law. The executive Government do not intend to withdraw this contribution which, I am told, is equivalent to the sum which would be levied for police and lighting rates if the Government buildings were placed on the same footing as the houses of private persons in this respect, and there would have been no difficulty on the part of Government in making the Government buildings assessable for police and lighting rates if we possessed the power to do this. But we are informed by the learned Advocate General, who will hereafter, I have no doubt, state his opinion on this point at length, that it would be an interference with the Queen's prerogative to impose a rate upon Crown buildings or the Crown revenues, and if this be so, certainly any attempt to authorise the levy of such a rate by this bill would be nugatory, and any provision we might introduce for the purpose would be null and void. Under these circumstances we propose to leave the bill as it now stands, continuing the express exemption of Government lands and buildings from all rates, and we propose to continue our present contribution to municipal revenues on this account, and to leave the precise amount of that contribution to be settled hereafter by negotiations between the Corporation and the local and Supreme Governments in India and the Crown. There is still one minor point which I desire to notice. In Committee we raised the pecuniary qualification necessary for members of the Corporation from a payment of Rs. 50 per annum on account of municipal rates and taxes to a payment of Rs. 100 per annum on account of house, lighting, police, and the supplementary rates. I asked the Acting Municipal Commissioner to ascertain carefully in Bombay how this alteration would affect the number of persons eligible for election, and I have received a communication from him stating that if the qualification last fixed upon were retained it would exclude nearly all the professional classes of the presidency, including such worthy citizens as Dr. Blaney, Mr. Nowrojee Furdoonjee, and others. I shall therefore propose that we revert to the old standard of Rs. 50. I think, Sir, I have now touched upon every point that requires present notice.

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

and in conclusion I beg to move the second reading of Bill No. III. of 1872.



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

Letter read from the Bombay Ratepayers' Committee. Mr. Nugent (Acting Under-Secretary to Government) then read the letter referred to.

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

The Honourable Mr. MUNGULDASS NATHOOBHOY: Sir,—Although much improvement has, I gratefully acknowledge, been effected in the constitutional portion of the bill, owing to the liberal concessions made by your Excellency's Government at the last sitting of the Council, yet I regret exceedingly to find that a majority of the Select Committee have declined to accede to my earnest recommendation to modify the other portions of the bill which are highly objectionable and which are calculated to produce an injurious effect in the practical operation of the bill and frustrate the object of the measure, which has been designed to improve the conduct and management of municipal affairs of the city of Bombay, and to remedy the disastrous consequences of past failure. (Sections 86, 87 & 89.) The provisions of the amended bill have a direct tendency to increase the burden of taxation, which is already so great as to be almost intolerable, and which your Excellency's predecessor condemned as "almost crushing." For example, the maximum limit of the police rate and lighting rate fixed at 3 and 2 per cent. in the existing Act has been totally removed, and the Corporation is further empowered to levy an unlimited supplementary rate. Government having withdrawn their contribution of Rs. 1,00,000 a year for the police, the present police rate is not sufficient to meet the charges of the existing police establishment, and the deficiency during the current year has been met by a grant from the general funds of the Municipality. Under the bill, as now settled by the Select Committee, the Corporation have no authority to sanction such payment, and the consequence will be that they will have to increase the police rate even to maintain the existing establishment. If Government deem it necessary to increase the number and emoluments of the police force, the Corporation will be under the necessity of making a further proportionate augmentation in the police rate. If the expenditure of any year be in excess of the amount sanctioned in the budget, the Corporation will be compelled to make up the amount of excess by imposing a special supplementary rate. The amended bill abounds in provisions which are unjust, indefensible in principle, and highly oppressive. This I proceed to show by drawing your Excellency's attention to some of the sections and indicating the objections which I consider it my duty to take with the view of protecting the interests of the people. Sections 40 and 41 are calculated to subvert the independence of the Corporation, Town Council, and Municipal Commissioner, and to place them entirely at the mercy of Government. These sections authorise Government, on any complaint, to decide that the Corporation, the Town Council, or Municipal Commissioner have been guilty of default in carrying out the provisions of the Municipal Act. If these sections are retained and legalized, no independent gentlemen will, I am afraid, consent to join the Corporation of the Town Council, because in any case in which the Government might take a different view it is in their power to hold that default has been committed, and the Corporation might be condemned to pay heavy costs and penalty without any hearing and opportunity to defend themselves. I consider it my duty strongly to object to the proposal to invest Government with such arbitrary power, which strikes at the very root of self-government. If the Corporation or the Town Council, composed of gentlemen appointed by Government and elected by the ratepayers, is in any case guilty of default, it is always in the power of Government to have recourse to an obvious and proper remedy, viz., to apply to the High Court, an independent tribunal, which after hearing both parties might decide the issue, and no one can object to their decision. With regard to the Municipal Commissioner, Section 42 of the bill empowers Government to remove that



officer at any time; so that if he be guilty of default Government can appoint another person to relieve that defaulter. Section 45 does not appear to me to be an improvement on the old Act, which provides for the appointment of a consultative officer of health on a minimum salary of Rs. 500 per mensem. I am of opinion that it would be advantageous to the interests of our Municipality to have a consultative officer to advise on all matters relating to the health of the town and to watch over and report on the working of the Health Department and the efficiency of the officers entrusted with executive duties. It is a sheer waste of money to employ a highly-paid, skilled medical and scientific gentleman to act as superintendent for the removal of nuisances and sweepings and the cleaning of drains—duties which ought to be left to the chief superintendent, who need not possess a knowledge of medical science or of sanitation. In my humble opinion it is not advisable to make it obligatory on the Corporation to employ a highly-paid executive officer of health, when public interests can be better promoted by engaging a consultative officer, who should be independent and unconnected with the executive department, whose shortcoming or failure he would be in a position to point out much better than if he were the head or part and parcel of the department. This important question was fully discussed in the Council during the progress of the Municipal Bill of 1865, on which occasion it was held that the Municipality should have a consulting officer of health in preference to an executive officer. The following remarks were urged with great force by a distinguished member of the then Government, and now a member of the Supreme Government:—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Honourable Mr. MUNGULDASS said he would curtail his remarks as much as possible, and continued—Section 77 and the proviso in Section 105, which exempt buildings



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

The Honourable Mr. FORBES—Your Excellency,—The more I have made myself familiar

Remarks of Mr. Forbes on the  
Bombay Municipal Bill.

with the details of the bill, and the more I look at it, from a general point of view, the less I am satisfied with it, and although the Hononourable Mr. Tucker has objected to my taking more objections to the bill a week or two after we have gone into details, yet, I believe, that if you were to wait another week or so until I could make myself still more familiar with the clauses, my opposition would be much stronger, and I feel that I do not need to apologise now for objecting to the bill both in principle and detail. I regret that it does not appear desirable to your Excellency to allow further time before proceeding with the second reading, and I hope I shall not be out of order in calling attention to an extract from a letter from the Government of India to the Government of Bombay, dated the 11th December 1861, which says that "the Governor General in Council is of opinion that the rules of the Legislative Council should provide ample time not only for the discussion of measures introduced but also for their publication, so that the public may have a full opportunity of submitting such representations to the Council regarding any pending measure as they may desire to make." Sir Charles Wood, Secretary of State for India, in a despatch to the Government of India, dated the 9th August 1871, also expressed similar sentiments when he said that "no law except one arising out of some pressing contingency shall be passed without full opportunity for mature deliberation and discussion, and the intervals of discussion should be such as to allow members of Council adequate opportunities of inquiry and reflection." I feel for my own part that I have not had adequate opportunity for reflection and inquiry regarding the full bearing of this bill. This bill is one of the greatest possible importance to Bombay, and the principles involved in it are such as may lead to great changes. I therefore think it should be proceeded with very cautiously, and only after opportunities for very full inquiry and reflection have been allowed. If we do not proceed with the bill at present in detail, we may be able to ascertain the views of some of those persons in Bombay who are likely to be most affected by the bill, and we shall also be able to obtain the views of the Bench of Justices, which, I suppose, of all bodies in the community, has the most ample knowledge of Municipal affairs, having had an experience of many years in deal-



ing with them. The Justices have taken the very earliest opportunity which they possibly could to consider the bill, and I therefore regret a haste which will cause the bill to be discussed in detail without giving the Bench a chance of being heard. So far as I can see, after such careful study of the bill as the time would permit, I can look forward to nothing but total failure of the experiment of allowing the citizens of Bombay to manage their municipal affairs, and I hope that in my remarks I shall be able to show the members of Council that my reasons for thus foreboding are not groundless, and I hope also that we may by-and-bye receive from the Government some assurance of their desire to deal with the question in a more liberal and what I may call large-hearted manner. I shall now speak of the bill regarding two of its aspects—that is its constitutional and its financial aspect. I believe this bill cannot lead to any good result, because it is so framed that it cannot encourage public spirit—far from this, the bill will discourage the most intelligent and the most useful members of the Bombay community from taking any part in the municipal government of the town. I was very glad to hear that the large franchise qualification fixed by the Select Committee is to be altered, so that it is not the intention of Government to prevent the most intelligent part of the community from taking any part in the proceedings of the Corporation. But even with that correction I think these same persons will have very little inducement to become members of the Corporation or of the Town Council. Looking at the position of the Municipal Commissioner, we find he is perhaps a more independent officer under the new Act than he was under the old one. He is appointed by Government, and he is alone removable by Government. Two-thirds of the Corporation are to be allowed to move Government for his removal, but Government is in no way bound to act upon their representations. The Municipal Commissioner will as heretofore be apt to consider himself rather a master of the Corporation than its servant, and the question is whether, after what we have seen of the working of such a system in Bombay, men of intelligence and public spirit will be disposed to accept virtually the position of servants of the Municipal Commissioner. I cannot see what influence the Corporation or Town Council could bring to bear upon the Commissioner if he happened to be an intractable or obstinate man, and though it may be that whether he is appointed by the Government or the Corporation is a comparatively minor matter, yet I hope such alterations will be made in this bill as will place him under the control of the Corporation and prevent him from being its master. The only functions which, under this bill, are reserved to the Town Council, are those of auditors of the Municipal Commissioner's accounts. As such, of course, the members may do good service, but is it to be expected that professional men, such as bankers, lawyers, or medical practitioners, or the principal householders of Bombay, men for the most part of great wealth and intelligence, and with plenty of occupation on their hands, will accept such a position as that of mere auditors? I must say that if there is such an expectation it will remain unrealised, and I therefore think that, so far as the constitutional part of the bill is concerned, it must be regarded as wrong in principle and unworkable in practice. I may also mention a matter which I think has very considerable bearing upon this part of the bill, and that is as regards the provision in section 136, whereby the Corporation are authorised to contribute towards educational funds. Now, I think that if the promoters of this bill had based its principles upon a feeling of confidence in the Corporation and citizens, and had studied to render the position of the Corporation as honourable and responsible as possible, instead of reducing them to what I have already called in my dissent "mere cyphers," I think it would have had an influence which perhaps would have had more effect with regard to education, and education of the best sort, than if we had been expressly bound to contribute so many lakhs of rupees towards the support of school-masters and professors, &c. I think one of the greatest wants of the city of Bombay will be found to be that the people are not sufficiently aware of their own rights as citizens, or are so ignorant as to be unable to avail themselves of them. I think, therefore, that if the principle of the bill had been more liberal, the spirit infused into our citizens would have had the most excellent effect. I may illustrate my meaning by referring to a special case. A man has come to me more than once to complain of being called upon to pay so much for municipal taxes. He lives in a back street in Bombay, in his own house, and if he had to walk along that street at night he found he had to splash through pools of mud and filth. Yet he had to contribute for lighting, although there were no lights in the street; and he had to pay for cleansing, although the street was in such a mess. I think if such a man could be told, "Well, the remedy lies in your own hands, because you are entitled to vote and you have but to urge your grievances upon the representative of the Corporation, and something will be done towards abating what you complain of"—I think that such a man would rise in his own estimation and be a better citizen and contribute more willingly towards



the taxation required for the Municipality. With regard to the financial aspect of the bill, I think it is even more discouraging than the matters I have just alluded to. It is quite possible that if we are disposed to take a sanguine view of the future, we might consider that we shall no more be troubled with reckless or uncontrollable Municipal Commissioners, and that of course if the laws are administered by good men, and even if those laws might be bad, little harm after all would be likely to result. But I can see no escape from other dangers. We find that in clauses 136 and 137 the Municipal Corporation are bound to provide funds for objects which are so very numerous, and so very wide and extensive, that I shall not attempt to take up the time of the Council by enumerating them. I shall, however, allude to one single instance—the Lunatic Asylum—which is here referred to as an object which the Act authorises to be constructed out of municipal funds. Probably if Government did call upon the Corporation to build a lunatic asylum, the answer would be that under this clause it was only “authorised” to do so, and that this was not one of those points which, under Section 137, the Corporation was compelled to carry out. But seeing this object included in the same clause as that of the police, I think a very strong argument might be based upon it, that as the Corporation is bound to furnish funds for the police, evidently no distinction is to be drawn between that and the lunatic asylum. I find that if clause 137 is to be rigidly enforced, as it no doubt will be, under section 41, there is actually no limit to the taxation and expense which are in store for Bombay. I have made some inquiries into the matter of the water supply, although not so fully as I might have done had more time been permitted for the consideration of the bill, and I have been told that another conduit pipe will certainly be required within a few years to supply water either from Vehar or some of the other reservoirs which have been constructed—that in fact, the present pipe which brings the water into Bombay has been laid for such a length of time, and was originally so defective, that it must necessarily be replaced, and whether it is replaced or not the water supply will not be sufficient unless a second pipe is added. Where the money is to come from for this I cannot imagine, because I think anyone acquainted with Bombay will at once give it as his opinion that the town is already overburdened with a taxation which is crushing, which is doing harm to the town—in fact, driving people out of the town—and which is also injuring trade. It seems to me quite impossible to attempt any further increase upon the municipal taxation. But this water supply question is only one of many. There is the drainage question, and that alone would probably require the town to incur a debt as large again as the debt it is now groaning under. I think these great works, which Government may compel the city to undertake at any time under clause 40, should be left to depend upon the discretion of the Corporation. I know it will be said that Government are not likely to inflict any injustice upon the town, but with every disposition to put some faith in Government I think we may instructively look back to what has happened before. The town is now saddled with a debt of £370,000, which I think may be said to be entirely due to the action of Government in constructing the Vehar water works. I need hardly detail the history of these works, but this fact is well known, that their construction was so mismanaged and extravagantly conducted that the original estimates were quadrupled; and the Bombay Government itself, in writing to the Government of India upon the subject, had to avow that far more money had been spent upon the works than what was necessary. Sir Michael Westropp, who was Advocate General at the time, gave it as his opinion, I believe, that except by an express Act the town was in no way liable for this heavy debt, or for a large part of it. This debt had been ruthlessly imposed upon the town by Government, and the town had no voice in the management of the works while they were being carried on, and it was therefore only by the course taken by the Government that the debt had been contracted. I therefore think it would only be right if Government allowed the citizens to have more voice in such matters of great importance, especially as it is they who have to pay. My own views on the subject were formed some days ago, but I lately received a letter from a gentleman, who, I suppose, of all others in Bombay is most intimately acquainted with the class of persons upon whom the municipal taxes fall with most cruel effect. If I may be permitted I shall read to the Council a few lines from this letter. The writer says—“The great feature in the bill is the heavy amount of taxation that is to be put on at a period in our history when poverty abounds, labour is almost unremunerative, credit non-existent, and the city least able to bear the burden. There must be an exodus, and there will be. The labouring classes and the poorer shop-keepers are always more prepared for a fitting than similar people in Europe. That the city is new as regards complete and scientific municipal government; that it owns no property; that the people are essentially poor and cannot provide great works as quickly as in European cities; and that the burden of several generations is to be



placed upon a single generation, are great facts which have either been imperfectly seen or lost sight of. It is not upon realized or invested capital that all the new taxation is to fall, but simply upon the trade and industry of the place. In the history of Municipalities was it ever known that a city was required to provide out of daily earnings in twenty years work that would place the city amongst the most forward in progress? The works may be carried out and the victory achieved, but at what risk? at what sacrifice? We miss the benignity of Government, nor can we discern its magnanimity; instead of these we see throughout the bill the power of fixed bayonets accompanied with the cry, 'Your money or your life.'

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

The Honourable Mr. FORBES—He is a well known citizen and a Justice of the Peace. I do not know that I should be at liberty to say more. I think, therefore, that if Government is going to look upon clause 137 as really to be enforced in all its rigour, it would have been well if some attempt had been made to provide the Municipality with more funds. Here in Bombay we find that all the property around the town is Government property. In England we find many corporations possessed of great property of their own, and the capacity of such corporations for undertaking large works cannot be applied to Bombay, which must have its municipal fund strengthened before it can carry out any new works. I sincerely hope that, looking further into this question, the Bombay Government will assist the Corporation on the earliest possible opportunity in applying to the Government of India for some relief from its present burdens. I have endeavoured to touch upon the constitutional and financial aspects of the bill, and seeing that under the constitutional clauses members of the Corporation will be placed in such an unfavourable position as regards their powers, and seeing that the prospects of more taxation are so very alarming, I really cannot look forward with anything but serious foreboding to the effects of this bill should it be brought into force. I must confess that, so far as I can see at present, the town of Bombay was better off under the old bill, and if some modifications had been made upon that bill and some arrangements made, whereby the promised attempt at representative institutions would be brought into play, we should have been still better off. Before concluding I would mention that the illustration which the Honourable Mr. Tucker made use of with regard to the limited power granted to the Corporation was not very appropriate. He said if I were to send an agent to Karachi I would take care to limit his powers, but in the case before us it should be borne in mind that it is not the property of the Government which is to be taxed—it is not the Government who are deputing some one to look after their property in this case—it is the property of the inhabitants of Bombay; and I may remark that I think it is universally acknowledged that every man is best able to look after his own affairs, and so should the Corporation of Bombay. If the Honourable Mr. Tucker's illustration is anything, it is an argument not for limiting the power of the Corporation but for strengthening it. I conclude these remarks by once more expressing my regret that there has not been more time given to look into the bill, and I must make this the excuse if there have been some important subjects which I have not been able to look into thoroughly.

The Honourable the ACTING ADVOCATE-GENERAL—Your Excellency,—I should not have troubled the Council with any remarks at this meeting if I had not been referred to in the speech made by the Honourable Mr. Tucker. If I had heard any observations from the other honourable members who have spoken, the tendency of which was to condemn the bill *in toto*, and if these remarks had been followed up by a substantial proposition to reject the second reading, I then should have gone at some length into a consideration of the different parts of the bill. But I think it would be more prudent to refrain from doing this on the present occasion—in the first place, because I do not wish to take up the time of the Council, and in the second, because the bill is about to be considered clause by clause in general committee, when I, as well as other honourable members of the Council, will have the fullest opportunities of expressing opinions upon the details. On one point, however, which the Honourable Mr. Tucker specially alluded to in connection with my name, I am glad to have this opportunity of expressing the opinion I have formed regarding it. It will be within the recollection of all the members of the Select Committee now present that, in the discussion which took place in Select Committee on the clause exempting or proposing to exempt Government lands and buildings from municipal taxation, I took little or no part; I expressly said that nothing that I had heard from any honourable gentleman then had induced me to come to the conclusion that the Crown property ought to be or could be taxed, and that until I knew how the law



stood exactly on the point I declined to take an active part either in the discussions or on the voting one way or another upon the clause as it stands. Now, however, I have considered the matter somewhat fully. I have no doubt that every member of this honourable Council has in his possession this remarkably interesting little blue-book, which may be aptly called the Legislative Councillor's *Vade Mecum*. It contains the Indian Councils' Act, 1861, besides papers relating to the constitution and functions of the Council of His Excellency the Governor of Bombay for making laws and regulations. After a careful perusal of this book to see the powers of the local and Governor General's Councils, I have come to the conclusion—and I will put before this meeting my reasons for so concluding—that it is not possible for this Council to take into consideration any clause or fraction of a clause which has for its object the taxing of the property of the Crown. When I first read the Act the point did not occur to me plainly until I formed my ideas into this groove—that it was one thing to tax the people of India, but quite another thing to tax the Crown property. Looking at the way in which the whole of India was transferred from the East India Company to Her Majesty, you will find from the Imperial Statute 21 and 22 Victoria, c. 106, that the whole of India was transferred and vested in the name of Her Majesty the Queen in trust for the purposes of the government of India. That being so, and the property being so vested, it was manifest that the framers of the Indian Councils' Act must have had prominently before them these two points—the taxation of the people of India and the taxation or charging of the revenues of India. If the honourable members of this Council will be good enough to look at Section 19 of the Indian Councils' Act, they will find that the Governor General with his Council has power to frame measures which shall affect “the public debt or public revenues of India, or by which any charge would be imposed upon such revenue,” and that under that section, unless his previous sanction has been given, no member of his Council has a right to introduce any measure by which any charge will be imposed upon the revenues *alias* the property of the Crown. Now, these words “public debt or public revenue” clearly refer to the income arising from the taxation of the people, and that income is the public revenue of India. The revenue, when it gets into Her Majesty's Treasury, is Crown property, and the words “by which any charge would be imposed on such revenues” seem to me clearly to refer to the taxation or charging of the Crown's property. As I read the Act, it seems to me that the Governor General alone in his executive capacity as the representative of the Crown—or the Governor General with the aid of his Council—can deal with any matter or measure which is intended to take money from the Treasury of the Crown. This view is greatly borne out by reference to the 43rd section of the Act. That section limits a local Council in its sphere of making laws and regulations. A local Council may, with the previous sanction of the Governor General, make laws affecting the taxation of the people, but no reference is made in this section to charging or taxing the public revenue; and the inference I draw, is, that the framers of the Act never intended that the Governor General should have power to delegate the consideration of any such question to any local Council. If that was not the intention, I cannot understand why the same words should not have been used in both sections. It seems to me that the powers of the local Councils are limited in this part of the 43rd section to the consideration of measures designed to lessen or increase the taxation of the people. I have not overlooked the intermediate Section 38, which relates to the revenues of a Presidency. It tends possibly to throw some doubt upon the view which I have expressed, but I think it may have a sufficient meaning by supposing it to refer to charges incidental to and connected with those very measures for the taxing of the people which the Governor General has power under this Section 43 to delegate to a local Council. After the best consideration I can give to the matter, I have come to the conclusion that this Council has no right to tax the Crown property in aid of the municipal revenues of Bombay. I can imagine a very good reason why there should be the marked distinction I have pointed out between Sections 19 and 43. A local Council may very often be able to assist the Governor General in devising measures of taxation for the relief of the people, or for more equally adjusting the burdens of taxation. Local knowledge of the habits and customs of the people—their manufactures and commerce—may make a local Council a most valuable auxiliary for such purposes. But on a question of charging the Crown revenues, the Governor General as representative of the Crown for all India seems to be the functionary designed by the Act to deal with the Crown's property or to allow it to be dealt with. I do not understand, Sir, that the Governor General has given any permission to this Council to frame the Municipal Act so as to make the Crown property liable to municipal taxation, and the result therefore of my observations seems to me to be this—that even if this Council were unanimously of opinion that the Crown property ought to be taxed for the Corporation of Bombay we ought not to frame



a measure for that purpose. I think we have not power to do so. I do not ask any member of this Council to attach any additional weight to the view I have expressed because I happen to be a lawyer. It is a question which every honourable member can form his opinion on as readily as I can. I trust, however, that the Honourable Mr. Munguldass will, on further consideration of the views I have expressed, abate somewhat of his zeal—which I do not say is unbecoming, but is certainly most intense—to bring the Crown property within the grasp of the municipal tax-gatherer, and that he will allow this bill to go up to the Governor General with the clause exempting Government buildings and lands as it now stands. In short, Sir, I think this question of the Crown's liability to contribute to municipal taxation should be allowed to stand in the same position as it stood before Act II. of 1865 was passed and as it stands up to the present time. The Government have in times past and up to the present time made contributions to the municipal purse as it thought fit, and the refusal of this Council to legislate upon the matter will not deprive the Corporation of its right to petition the Governor General on the subject, nor hinder the executive Government of this Presidency from recommending a compliance with the petition in such manner and to such extent as it thinks fit. But, Sir, independent of this objection to the power of this Council to legislate upon this matter, I shall be prepared to show, if necessary, when the time comes for debating upon this exemption clause, that under the English law the Crown's property is not liable to taxation upon the same footing as the subject's property, and I shall be able to show that in this very bill, as it stands, there is no common basis of ownership through which you could levy your municipal rates upon the Crown property in the same way as you can upon the citizen and the subject. The citizen is taxed because he is the beneficial owner of his property, and the rate is levied upon the beneficial value of that ownership. The Crown is in no sense whatever the beneficial owner of the Crown lands and buildings within the city of Bombay. The Government buildings which are occupied as public offices, and in which the various departments of the public service are carried on, produce no rental whatever, and such income as may be derived from buildings and lands not so occupied finds its way into the Imperial Treasury to be disbursed therefrom as much for the benefit of the citizens of Bombay as for the rest of the people of India. This bill contains no principle whatever upon which you could deal with both classes of property—the Crown's and the subject's—upon the same footing. I am ready, however, to go further, and to meet the Honourable Mr. Munguldass on his own grounds of "justice and fairness." He says—"Look at all these fine buildings, which are useful as well as beautiful to Bombay. The policeman guards the doors and prevents the robber from entering. The gas-light lights them at night and the occupants use the well-kept roads. Why should not Government be taxed by the Municipality for all these benefits." My answer is, that the Crown at the present time does contribute—not directly, but indirectly—largely, if not sufficiently, towards those municipal rates about which such a clamour is raised. The servants of the Crown occupy and use those Government buildings, not for their beneficial occupation, but for State purposes. They draw Crown's salaries from the Crown's revenues, and they contribute to municipal taxation out of those incomes. It is a matter for the executive Government to determine whether these indirect contributions are sufficient. At all events it seems to me that in estimating the Government contribution to municipal taxation, the amount of public revenue disbursed to State servants within the city of Bombay is a matter for legitimate consideration. I will now pass on, Sir, to notice the remarks that have been made on what is called "the bludgeon clause." I believe I am the culprit who irreverently in Select Committee described a certain clause in the bill as the "bludgeon clause," and I feel therefore that I am bound to say a word or two upon that point. I objected certainly to the clause in the minute which I made upon the report of the Committee, but I by no means meant to carry my objections so far as my honourable friends Mr. Forbes and Mr. Munguldass have done. I think it is quite right that there should be such a clause in this bill, but the question is, to what objects shall it be limited. I think that a good deal of misconception exists in the mind of the honourable member on my right (Mr. Forbes) as to the practical effect of this clause. He ignores the difference in the words "authorised" and "directed." He also made some remarks which seem to me to show a want of recollection of what took place in the Select Committee. When clause 136 was under discussion a reference was made to the Bombay Act IV. of 1870, under which the Municipality of Bombay were empowered to spend money for educational and other purposes, and the object of the Select Committee in enumerating all the subjects specified in this clause was simply to render as far as possible any future legislation upon the application of municipal funds unnecessary. It was designed simply as an enabling clause, and the bludgeon clause was not intended to apply to it. If the honourable gentleman, after carefully scrutinising the clause, still insists that the pre-



sent term "authorised" is imperative and not discretionary, then I hope he will favour us in Committee with some form of expression which to our minds shall carry out his meaning more clearly. The only public objects which are at present aimed at in this "bludgeon clause" are those mentioned in Section 137. With reference to these I have not yet come round to the opinion of the majority of the members of the Committee, and I shall be glad to have further discussion upon them. I have no doubt that there ought to be an imperative power in matters relating to the cleansing and draining of the city, and there is a precedent for this in the Acts of this Council. I allude to the Mofussil Act II. of 1862. Express power is there given to the Government to enforce sanitary arrangements. At present I can find no precedent for extending the summary power to such matters as lighting and maintaining the streets, or securing a water supply. Seeing that for the most part the city is well lighted, that the roads are in good order, and that no disposition has been shown on the part of the Municipality to let the roads fall into great disrepair, it may be considered doubtful whether the summary power should extend to that matter. I think there is only one other point, Sir, that I feel called upon to touch. I am surprised—and I hope the Honourable Mr. Forbes will not take umbrage at any remarks I may make on this subject—that he should assert that the bill is wrong in principle, does not give sufficient powers to the Corporation, and will be unworkable in practice. I think these are very large words of condemnation, but I cannot think that the honourable member really means them. I have a vivid recollection of what took place in the Select Committee, when I found myself in a minority of one on one of the most momentous questions that arise under this bill—that is, the question of town dues. The view I took upon that question in Select Committee was that the Corporation alone should have power to select the articles for taxation, Government having no veto in the matter whatever, excepting putting a limit upon the duties to be fixed. My reason was this, that the Corporation, consisting of sixty-four members, the bulk of whom must of necessity be traders, would certainly be the most likely to know what articles of commerce would yield duties with the least burden upon the trade of the town. Looking round the Council this moment I cannot see more than four gentlemen who can be said to be in any way connected with trade in Bombay, and in the Select Committee, the only gentlemen who could give a practical opinion on the subject were the honourable members Mr. Forbes and Mr. Munguldass. But the opinions of these two honourable members alone can scarcely be of the same value as that of the sixty-four members of the Corporation, and this was why I said, "Strike out *in toto* this schedule of articles that should be taxed, and insert a schedule of articles that shall not be taxed." This would give to the Corporation a considerable, and in my opinion a very just, power of considering the ways and means for providing for municipal expenditure. Year by year they could take a survey of the trade of the town and impose duties according to the exigencies of the Municipality. The Honourable Mr. Forbes, however, voted against my proposition, and I think it is somewhat remarkable that the minute which he afterwards wrote contained an expression of opinion that the bill cramped and limited the Corporation in all its efforts. The course which I proposed would, if adopted, have given it more liberty and power, and yet he voted against it. I have some hope that in the course of the deliberations of the general committee propositions will be put forward which will enable us to consider whether further liberal amendments cannot be made in the constitution. The bill as it stands, I venture to say, is a remarkably liberal one as an experiment, and an improvement which will, I think, be productive of healthy municipal government. I would conclude my remarks by expressing the gratification I feel that no one has moved an amendment to prevent the second reading of this bill.

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



The Honourable Mr. MUNGULDASS also wanted to make a personal explanation, because he was afraid that the Honourable the Advocate-General had misunderstood him regarding his remarks upon the taxation of Government property. He was certainly surprised to hear, for the first time, that the Legislative Council of His Excellency had no power to levy taxes upon Government property.

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

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

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

The Honourable Mr. J. K. BYTHEL—I feel a little diffidence, your Excellency, in venturing to express an opinion regarding the general principle of this bill, because I have not, I confess, given the time and consideration to the subject that have been bestowed upon it by other honourable members of the Council. I cannot, however, refrain from stating that I do to some extent agree with the remarks that have been made by the Honourable Mr. Forbes, and disagree with some of the opinions expressed by the hon'ble gentleman who proposed the second reading of the bill. The illustration made use of by the Honourable Mr. Tucker appeared to me somewhat unfortunate for his argument. As I understood him he argued that the bill would place the Corporation in the same position as that in which the Hon'ble Mr. Forbes would place a business agent whom he might send to Karáchi or any other place. I am sure, however, that no merchant when sending an agent to open a branch-house would ever dream of appointing at the same time another man to the same place with full powers to carry out all the purposes for which the branch was established. If he did adopt such an extraordinary course he might soon expect to hear that affairs there were in a state of confusion, and that the two men were doing little else but quarrel. The merchant would of course retain complete controlling power over his agent, and I think that Government ought in the same way to take care to have the power to control the Corporation and Town Council in all important matters. But if, after the Corporation and Town Council have been constituted, a Municipal Commissioner is to be appointed and given the sole power to carry out all the purposes of the Act, I cannot understand how any good management can be expected. We ought, I think, to endeavour to ascertain in what respect Act II. of 1865 was a failure, in order that we may know the cause of the deplorable mismanagement and extravagance that characterized the administration of Bombay municipal affairs until within a very recent period. It cannot be denied that divided responsibility and the excessive amount of power that was placed in the hands of the executive officer were the main sources of Bombay's misfortunes. Now, how far would this new Act, if made law in its present state, go towards remedying the evils inherent in the old Act? Since the papers were placed in my hands I have gone through every section of the bill with great care, anxious, if possible, to avoid doing anything to hinder the progress of a bill which must have necessitated the expenditure of a great amount of time and labour in its compilation; but the result of my study of it is that I cannot believe in the efforts of a Corporation constituted as proposed in this bill being attended with any success. What would the Corporation and the Town Council have to do? The bill proposes to give them financial control, but as regards real power over the administration of the business of the Municipality they would be as mere puppets in the hands of a clever, unscrupulous, and ambitious Municipal Commissioner. Such a man would soon find that the Act gave the Town Council a mere semblance of authority, be-



▲ cause against one section professing to give the Council power of control he could place half a dozen expressly stating that the sole power and responsibility were vested in him by Government. Just as the power and control over municipal affairs which the framers of the old Act II. of 1865 argued would be placed by it in the hands of the Justices proved in practice to a delusion, so in the carrying out of the provisions of this new bill, I believe it would be found that the old abuses would in time creep in, though doubtless in a modified form. I cannot imagine how divided authority in the management of any great concern, whether public or private, can be in any respect successful. With two controlling powers pulling often in different directions, misunderstandings, disputes, and continued wrangling can but be the result. The Town Council and the Commissioner, instead of working cordially together for the good of the community, would be continually wasting their time in squabbling as to where the powers of the one ended and the other began. If the Corporation and Town Council are not fit to be entrusted with the executive power to carry out the provisions of the Act with the Commissioner as their servant responsible only to them (they being responsible in their turn to Government) they are fit to be entrusted with no power in the matter whatever. No good can possibly result from having a Town Council nominally with power to control in everything but really a mere cypher in the hands of the Commissioner. He could easily invent a hundred different modes of thwarting their efforts to control him if the extraordinary power proposed by this bill, as it now stands, were vested in him. An ambitious man would (following the example of one of our late Commissioners) place himself in antagonism with the Council from the first, and if he did so, what but mismanagement could be expected? The system of divided authority has been allowed a fair trial and has proved a most lamentable failure. The increased elective power that will be placed in the hands of the citizens if the recommendations of the Select Committee be adopted, I look upon as of no value to the city, because what good object can be effected by allowing the citizens to elect a corporation when that elected body is not to be trusted with any executive power? It is my firm belief that there are only two courses open if the past extravagance and maladministration are to be avoided in the future. I do not see how there can be any middle course. Either the Corporation should be entrusted with full executive power and be directly responsible to Government, or the Municipal management should be undertaken by Government as a special department with the Municipal Commissioner directly responsible to Government alone, just as the head of any department is. Without direct controlling power in everything, to be administered either by the Corporation or by Government, there will not be economy, and there will be misgovernment. If the Corporation were allowed a trial they could not easily fail more signally than the administration under Act II. of 1865 has done, and they probably would be much more successful. Is not the experiment worth trying? What great harm could result? Government would of course have the power to step in and interfere at any moment, and could if the Corporation proved wholly incompetent—which I do not think it would—at once deprive it of all power and control. I hope it will not be considered presumptuous in so young a member of the Council to express himself so strongly. I have only done so because, after a very careful perusal of the bill, I feel convinced that sooner or later it will prove, like its predecessor of 1865, a complete failure. As nearly all the members of the Council are evidently intending to vote for the second reading of the bill I shall not vote against it, but I shall support any amendments that may be introduced with a view to giving more power to the Town Council and less to the Commissioner.

But although I have spoken with some diffidence regarding the general principle of the bill, I have no hesitation in opposing, to the best of my ability, the attempt to establish transit dues in Bombay. It is true that the Select Committee only recommend a tax on one article—cotton—at present; but to admit that transit duties are a legitimate source of revenue in Bombay would be to inaugurate a policy fraught with danger to the commerce of the place. I see this question has been more than once under discussion before in this honourable Council. An honourable gentleman who is still a member of the Council first introduced the subject of Town Dues in 1866 during the administration of Sir Bartle Frere; but the opposition headed by the then President was so strong that the matter fell into abeyance until there was a change in the government. On the re-introduction of the bill by the same honourable gentleman in 1868, the new President of the Council, Sir Seymour FitzGerald, also led a strong opposition, but as the Municipality was then in most urgent need of money, and as the neglect and mismanagement that existed in the conduct of its affairs had not then come to light, a bill permitting the levy of Town or Octroi Duties was passed by this Council. Sir Seymour



FitzGerald gave, however, his consent only very reluctantly to the bill, and he steadfastly refused to agree to a transit duty on cotton, for cogent and weighty reasons which he stated at length to the Council. Lord Napier of Magdala also expressed his very strong disapproval of the bill—Act IV. of 1869—and only withdrew his opposition on the same ground as that stated by Sir Seymour FitzGerald, viz., the imperative necessity for more money being raised by some mode or other. This is now, therefore, the third time that an attempt has been made to impose transit duties on the trade of Bombay. The attempt failed first in 1866 under Sir Bartle Frere's administration, again in 1869 under that of Sir Seymour FitzGerald, and it will, I believe, for the third time, be unsuccessful under your Excellency's Government. One cannot however help complimenting the advocates of the measure on their indomitable perseverance. Every time there is a change in the members of the Government and of this Council the proposal is renewed. Some extraordinary arguments have been brought forward in support of the proposal to levy town and transit duties. The honourable gentleman who introduced the Town Duties Bill argued that house property paid 18 per cent., made up in this way—house tax, 6 per cent.; police rate, 3 per cent.; lighting rate, 1 per cent.; water rate, 5 per cent.; halalcore cess, 3 per cent. The only tax paid by the owner of a house is, however, the 6 per cent. house tax. Police and lighting rates are paid by tenants, and I maintain that water rate and halalcore cess should not be regarded as taxes at all. Eight out of the total of eighteen per cent. go for water and halalcores, and those rates are merely payments in return for services rendered, and cannot be called taxes in the true sense of the term. On Malabar Hill, at the present time, each occupier has to employ and pay his own private halalcore. If the Municipality were now to commence doing the work there, and if in consequence occupiers had to pay the halalcores through the Municipality instead of paying them direct, as they do at present, could it be said that a new tax of 3 per cent. had been imposed on Malabar Hill house property? Such an argument could not be sustained for a moment. And in the same way with regard to the Vehar water. The tax is not compulsory. Any man who does not wish to have the pipes laid on into his house can take the water from a dipping well without payment. An occupier who has his own well in his compound and requires no other source of supply pays nothing towards the cost of the Vehar water. On the other hand, if any person who has not a well in his house, or who, in addition to his well, wants to use Vehar water, prefers paying the Municipality for laying down a pipe instead of paying a bheestee to carry water from a dipping well, he has his wish complied with, and the assessed rate for the supply of Vehar water is in an ordinary-sized house less than the wages that would have to be paid to a bheestee for carrying water from a dipping well. It cannot therefore be fairly argued that house property pays either water or halalcore tax. The landlord pays only his house rate, the tenant his police and lighting rates—that is the full extent of the taxes on house property, and only one-half falls on the owner. It was, I see, also argued that town dues to the extent of three-pence per package were levied in Liverpool, two-pence of which went to the Dock Trust, and one penny to the Liverpool Corporation. It was correct to state that a tax of one penny is levied by the Corporation, but the then President of this Council, Sir Seymour FitzGerald, explained that the Corporation were allowed only to levy that tax because they had many years ago purchased from Lord Sefton the right to do so. So great was the hindrance caused however to trade by the tax, and so desirable was it deemed to get it abolished that a Parliamentary Committee was appointed specially to consider the question. This Committee lamented its inability to interfere, and stated that as the right to collect the tax was a private one, there was no course left but either to continue to pay it or to buy up the right. But how the honourable gentleman who introduced Act IV. of 1869 could designate the Liverpool Dock Dues as Town Dues I am at a loss to understand. A very large sum of money is now paid daily in Bombay in lighterage, charges for landing and shipping cargo. If at some future time wet docks or piers should be constructed, which would enable a ship to load or discharge without the assistance of lighters, and if in return for the services rendered the proprietors of the docks or piers charged a small fee per package, could that fee be rightly termed a town due? If it could, then Liverpool dock dues are town dues; but on the same principle the money now paid in hire of lighters is also a town due, and the honourable gentleman instead of going all the way to Liverpool might have found an example so near home as in the Bombay harbour. It was, moreover, argued that cotton paid nothing to the Municipality, although so much had been done in Bombay for its accommodation by the Municipality. The answer to this fallacious statement is not difficult. Bombay without her great transit trade would be nothing but a fishing village, and cotton is the one great article in which she trades. Without that transit trade, what value would be put on



the now enormously valuable house property, and from whence would the Municipality receive the large income now realized by taxation? The inflated prices paid for house property during the mania of 1864-65 cannot now of course be obtained; but it is an undisputed fact that the present value is much greater, that the rents now paid are much higher than during any period before the great development took place in the cotton trade of Western India. Any one looking at the accommodation we receive at this present moment in Bombay, in return for the enormous rents we pay, must admit that there is some very powerful influence at work thus to induce men to pay fabulous sums for the occupation of uncomfortable and inconvenient houses built on a narrow strip of barren rock. Owners of property, even in their own interest, ought to resist instead of encouraging the imposition of any transit duty. Their one great aim ought to be to increase the trade of the place by removing every impediment by affording every possible facility. It is almost like repeating a mere truism to say that every ton of goods passing through Bombay and employing merchants and their clerks, muddadums, coolies, carts, boats, and ships, and also indirectly bankers and Government officials, must as a matter of course increase the income of the city and benefit both houseowner and the municipal revenue. If Bombay had inexhaustible coal or metal mines like Cardiff or Newcastle, one could perhaps understand property owners being careless about fostering the transit trade; but when she has only that trade to depend on for her existence as a first-class port, their advocacy of transit dues is incomprehensible. To impose these taxation restrictions would be the most suicidal policy she could possibly adopt. Bombay merchants are now struggling hard to draw a share of the rich trade of the Central Provinces and the North-West from Calcutta to Bombay, and if property owners were alive to their own interests they would assist the endeavour by every means in their power, rather than try to stifle the movement by imposing transit duties. Bombay is so accustomed to the sight of a vast fleet of merchant ships lying in her harbour that she is apt to overlook the prosperity and the riches thus brought to her shores. Positively some people talk as though the Bombay owners of property were conferring a great benefit on shipowners and merchants by thus providing miserable house and warehouse accommodation at a very high rental. These gentlemen should, however, remember what struggles are made and inducements afforded by owners of property in infant ports in order to induce ships and merchants to open up a trade. Or to give a more forcible example still, see what efforts are made by ports which are losing their trade in order to regain it. Bristol formerly charged exorbitant dock and town dues, and only opened her eyes to her folly when she saw her valuable trade departing to other ports. Then, however, she roused herself, and now although she has spent great sums of money in improving the accommodation, dock dues there are just one-third of what they were formerly on imports, and no charge whatever is made on exports. In consequence of this liberality the trade of Bristol is now increasing, but it was seriously injured by her previous illiberality and shortsightedness.

I have, however, been only speaking from a Bombay point of view, whereas there are other interests to be considered also. What will the country generally, and what will the Government of India, say to the proposal to levy transit dues on cotton? The Government of India, knowing how difficult a matter it must be for India to compete with America in cotton cultivation, and how valuable the trade in cotton is to the country, have carefully refrained from imposing any tax upon it, and have made it their special care to foster it. Even in the hour of their greatest need, when they had to incur the odium of levying an income tax of  $3\frac{1}{2}$  per cent., the Government of India did not propose to lay any burden on cotton. Seeds, oil, grain, spices, indigo, lac, are all saddled with an export duty, but cotton nevertheless remains free. What, then, will be said by the country when Bombay for municipal purposes attempts to tax the one article that has at all cost been hitherto exempted? It is pleaded that the tax is too small to be felt, but if we admit the principle, if we allow the thin end of the wedge to be inserted, some new requirements will before long lead to the suggestion that just a little increase would do no harm. It will be said that eight annas a candy will be only  $\frac{1}{65}$ th of a penny per pound, just as it is now said that four annas will only be a tax of  $\frac{1}{130}$ th. But what ground is there for assuming that two annas per bale will be an imperceptible burden? Why, that is just double the amount of the bunder fee now levied on cotton in return for accommodation that has cost more than two millions sterling! Four annas per candy are equal to a little over seventeen pence per ton. Reference has been made to Liverpool in favour of these dues, but the comparison is unfortunate, for I find that the Liverpool Dock Trust charge on cotton only twenty-two pence per ton, and the charge includes dock dues, landing, weighing, furnishing copy of weights, surveying for damage, giving certificates of



damage, housing and piling in the warehouses. Compare those services in return for the "imperceptible sum" of 22*d.* per ton with what Bombay purposes to give in return for the municipal tax of 17*d.* per ton. We are so accustomed in Bombay to look upon a few rupees or annas here or there as a matter of no importance that we are in danger of overlooking the cheapness with which work is done in countries that India has to compete with. If an extra expenditure of 1/130th of a penny per pound were considered such a trifle in England, should we see that country importing cotton from India, America, and other countries, and in spite of the expense of transit, in spite of protective duties and other difficulties, sending the cotton back in a manufactured state to the same countries, and competing successfully with local, specially fostered manufacture? I repeat—Bombay must see what is done in other places for 17*d.* per ton before she says the sum is a mere bagatelle. Let us refer again to Bristol. The rates at the docks which proved prohibitory varied from one shilling to three shillings only. The rates that have succeeded in attracting business to Bristol once more vary from four pence to one shilling per ton on imports—a striking proof of what difference a few pence per ton may make in the trade of a port. America is rapidly regaining her old position in the cotton trade. Low quality Indian cotton has been lying in great quantities for months past all over Europe unsaleable almost at any price. By multiplying the small taxes here and there, by mulcting cotton in transit for this little thing and that, we shall undoubtedly hasten the time when the ryot will find that cotton does not pay and refuse to grow it. It is the fashion to run down cotton now-a-days in Bombay, to blame it for all the misery that followed the wild speculation in 1864-65, but Bombay will rue the day that sees her cotton trade begin to decrease. I was in hopes that the Municipality under better management would have made economy take the place of increased taxation, but if we must have more money raised, put the tax on house property, or increase the tax on ghee and sugar (articles used almost exclusively by the wealthy classes), put it on anything in fact rather than on the transit trade, which is the very life-blood of the place. If a merchant has to pay a little more for his house or his food or to his servants, he does not take that into account when calculating the possible profit on a prospective transaction; but impose a tax of 2 annas per bale on cotton, and every merchant will include the tax in his tables of calculation, and will to that extent reduce the amount he would otherwise be prepared to pay to the ryot or the dealer for the produce. Therefore, a direct tax on cotton will directly and inevitably help to increase the accumulating disadvantages under which India labours in competing with America and to bring about the time when the cultivator will find that he cannot make a living out of cotton. I do not mean to argue that Bombay, with her wonderful natural advantages, would under any circumstances fail to have a large transit trade; but I maintain that it is in the power of the citizens to assist in largely increasing the trade by continually striving to relieve it from every burden—and, on the other hand, they can, if they choose, easily cause a decrease in their commerce by injudiciously hampering and burdening it. The latter course would, however, be like killing the goose that laid golden eggs, and I hope that the property owner will never be allowed to carry out such unwise policy. I do not think that the Corporation should—as suggested by the Honourable the Advocate-General—have the power of fixing the articles on which town dues shall be levied. The list should be carefully prepared by this Council. And I shall move in due course, as an amendment to schedule B, that cotton be left out of the list.

The Honourable Mr. NARAYAN VASUDEVJEE—Your Excellency,—I did not wish to speak on this occasion, but I rise to controvert the statement that the house owners of Bombay wish to remove all the burden of taxation from themselves to the shoulders of the people. Out of 21,000 houses in Bombay, the owners of 18,500 houses have to pay the entire taxes imposed upon their house property. At present the municipal income is about 30 lakhs of rupees, and of this the house owners of the city have to contribute 20 lakhs. The Honourable Mr. Bythell has just stated that the whole taxation in the shape of occupiers' rates upon property falls upon occupiers but this is not so. By the report which General Marriott's Committee presented to this Council in February last, it is pointed out that 19,718 owners pay all occupiers' rates as well as their own; and there are only 472 single tenants, who pay occupiers' rates. In this bill there is a section, already introduced, which will impose upon the owners of chawls and ranges of buildings the obligation of paying all the rates for their tenants, the consequence will be that when this municipal Bill is passed only 472 tenants will be left in all Bombay who shall be required to pay occupiers' rates. Now, under the present system, we have been issuing distress warrants every year, and the number has increased in the following proportions:—In 1870 we issued altogether



2,149 warrants; in 1871, 8,513; and during the last seven months, that is, from the 1st of January to the 31st of July, we have issued 9,299. I therefore put it to your Excellency whether any fiscal system which involves the issue of so large a number of distress warrants can be a just and equitable one for the city. I submit that the whole bulk of the taxation has been imposed upon one class of property, and what this bill ought to endeavour to do is to remove the inequality of the present fiscal system of Bombay, if it is the wish of this Council to allay the feelings of discontent engendered by it. I am certainly not in favour of any transit dues being imposed, but I do not see why recourse should not be had to indirect taxation to improve the resources of the Municipality. With any amount of supervision which the Corporation or the Town Council may exercise over the municipal finances of the city of Bombay, there is one notable fact, it is positively impossible to reduce the expenditure of the city below 30 lakhs of rupees per annum. What this Council therefore ought to endeavour to do when recasting the fiscal system is, as I have said, to remove the present inequality of taxation. Several honourable members have pointed out the objectionable clauses in this bill, and the Honourable Mr. Forbes, as well as the Honourable Mr. Munguldass, have, I believe, already stated that this bill has satisfied nobody, and I am not surprized at it, because half measures never can be satisfactory. The house-owning interest of the place believe that the tendency of the bill is to enhance the present direct taxation upon house property; the merchants think that it is the intention of the Legislature to impose transit dues upon cotton: the ratepayers, or rather some of the gentlemen who have been conspicuous in asking for representation, think that the representation clauses in this bill will not give them the powers to the extent they have been seeking for years past; and the majority of the people belonging to the old school are of opinion that Bombay is not fitted for representation yet. When the Council proceeds to consider the various clauses, I will then endeavour to submit, for the consideration of your Excellency, amendments which may help to give some satisfaction to the community.

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

Mr. Tucker's reply on the discussion.



Municipal Commissioner, and that they possess what is generally deemed in all constitutional bodies the greatest power of all, namely, the *power of the purse*—in fact the same power which is possessed by the Treasury at home over other departments of the administration. Not only has the power vested in the Controller by Act II. of 1865 been transferred to the Town Council to be created by the present bill, but with respect to contracts beyond a limited sum and to various other matters the confirmation of the Town Council is necessary to his acts, while with respect to others it enjoys a power of revision—not only must he confine his expenditure within the limits of the Budget, which may be altered by the Corporation at the recommendation of the Town Council, but he cannot draw a single anna from the municipal fund without the concurrence of a certain number of the Town Council. This Town Council has the opportunity of knowing every item of his expenditure from day to day, and can immediately put a stop to any extravagance or unauthorized outlay by refusing to sign cheques on the bank in which the municipal funds are lodged. I would put it then to the Council whether a board of direction which possesses these extensive powers has been correctly described by the hon'ble member as a board of auditors, and whether there is any foundation for the statement of the hon'ble member that the Municipal Commissioner will not be more under control if this bill pass into law than he was under the former Act. Even in the existing state of the law, the emancipation of the Municipal Commissioner from control, was the fault of the officer selected to be Controller and not of the law, and if the Town Council created by this bill consist of public-spirited and intelligent citizens, which I hope it may do, but which the hon'ble gentlemen seems inclined to doubt, they will find no want of power to control municipal expenditure or to exercise effective supervision over the acts of the Municipal Commissioner in every department. In fact, men like the present Commissioner, who are acquainted with the practical working of municipal affairs, consider that we have too much fettered the action of the Commissioner on many points, and I am inclined to think that if we have erred at all it has been in that direction, and not in according to him too much independence, as the Honourable Mr. Forbes has suggested. With regard to the reservation of powers to Government to compel the Corporation, the Town Council, or the Executive Municipal officers to do those acts necessary for the public health and safety which the law has declared it to be their duty to do, I have little to add to what I said in my opening speech. Recent experience in England and in other parts of Europe has shown that it is necessary that there should be some agency by which this object can be effected, and in the position that we hold in India it appears to me that this reserved power can be more promptly, beneficially, and effectually exercised by the local Executive Government than by any judicial tribunal. If the Council are of opinion that the matters to which the exercise of this power is to be restricted should be more clearly expressed and defined than they now are in the 40th or 41st sections of the bill, I shall offer no objection, but I shall strongly oppose the omission of those sections, as I consider that they are essential to the successful working of the experiment we are making. In England at the present moment there is a strong feeling in favour of giving the Central Government powers to overcome the inertness and obstructiveness exhibited by Corporations and other Boards entrusted with local administration to carry out those beneficial sanitary measures which are desirable in the interest of the whole community; and knowing the tendencies of municipal corporations and local government bodies elsewhere, it would be most improvident and unwise of us not to provide against similar contingencies in the new self-governing body which we are about to call into existence. If this latent power be reserved it will probably never be necessary to use it, as its mere existence will probably prevent any omissions on the part of the assemblies and persons concerned or any attempts to step beyond the limits of the authority entrusted to them. In creating a new body for the Government of the city we should be careful to avoid the mistake of the modern Prometheus Frankenstein and not create a monster which may subsequently turn against and defy its creator. As we shall be able, when considering these clauses in detail, to enter more fully into the discussion of them, I will not say more on the subject now, but I may state that though my honourable opponents have found fault with my comparison of the action of Government in the creation of this new Corporation and the action of a mercantile firm appointing an agent at a distant spot, it appears to me that the same reason exists for a reservation of a power of interference to the principal in one case as there does in the other. By this bill we are virtually delegating a portion of the administrative authority which we have hitherto exercised in the city of Bombay to other agencies, and in doing so we are bound to see that we reserve such ultimate authority as will prevent these agencies acting in a different way than we intended. The Honourable Mr. Forbes has referred to the case of an occupant of a back street who pays taxes but gets neither water, light, or a good road



in front of his house from the existing Corporation of Justices. To grievances of this description the much-abused bludgeon clauses will to a certain extent provide a remedy, and on that ground, if on no other, should receive the support of the honourable member and of all who feel an interest in the well-being of the poor. I now pass to the question of the duty on cotton, which has been added to the schedule of Town Duties, and which has called forth a strong expression of condemnation from both the honourable members who represent the European mercantile community in this Council. Now there is one objection or another to every description of tax which the ingenuity of man can devise, and we are all aware of the impolicy of subjecting any trade to burdens which are likely to check its expansion and development. I am ready to concede also, that in the present critical state of the Indian cotton trade, in consequence of its inability to compete with the United States of America in the supply of this article to *England*, it would be inexpedient to impose any duty which was likely to impede or retard the growth of the trade or to aid the influences now at work to effect its contraction. From the peculiar circumstances in which the trade in this staple article of produce is now placed, it would seem that the infinitesimally small duty which it is proposed to impose by this bill would have no appreciable effect on the price of the article at Liverpool, as the price there depends mainly on the extent of the American supply and not on the cost of the production and distribution of the commodity in India. It appears to me, then, that the objections which ordinarily apply to transit duties fail in this particular case, and the services rendered to the cotton trade by the improvements which have been of late years effected in the city of Bombay afford an ample justification for giving to the revenues of the city of Bombay the benefit of the imposition of this insignificant impost. There can be no doubt that a portion of the fees paid at Liverpool under the designation of dock and town dues are in the nature of a contribution to the general revenues of that city, and there seems no reason why the principal cotton port of India should receive no contribution from its chief article of trade. The municipal revenues must be increased, and it would not be right to increase the pressure of taxation on those interests on which it is now too heavy. It is equitable to place any new tax which it may be necessary to impose on other classes than those on whom the burden now falls. I see therefore no objection to the addition of this trifling duty to the schedule. No recognized authority on Political Economy has been cited to show that a small transit duty levied in return for services rendered, and confined within limits which do not check the growth of the trade, is opposed to the principles of that science. There can be no doubt that the cotton brought to Bombay is protected from theft and fire by the Police and Fire Engine Department, paid from the municipal fund, and that the circulation and distribution of this article of commerce is facilitated by the improvement that has been made in the roads and lighting of the city. The transit by land or sea has also been expedited and cheapened by the construction of the guaranteed railways and by the suppression of robbery and piracy. A contribution by the trade to the principal city of Western India is therefore equitable and, in my opinion, legitimate. I may remark that all direct inland transit duties in this presidency have been done away with under the orders of the Government of India, and that besides Bombay there are now only dues of a most limited character taken at Karachi, Gogo, Kárwár, Compta, which are collected by the Municipalities of those towns in return for the services rendered to the trade there. At Súrat, Broach, and Ahmadabad, there is a toll on carts carrying cotton which is higher there than the tolls on carts carrying other commodities. When we come to the discussion of that part of the bill which refers to Town Duties I shall be prepared to show the exact amount of the duties taken at the different places I have named, and as this matter will come up before us again it is not necessary to enter into further particulars now. I do not agree with the Chamber of Commerce that there is any legal objection to our adding this duty to the other Town Duties mentioned in the bill. I shall be glad to hear all the objections that can be urged against the measure before it is finally carried. I have expressed my personal view on the subject, and have no wish to dogmatize. I conclude by again proposing that the bill as it stands be read a second time.

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



This was a very different thing from proposing that Government should resign all their power in favour of the Corporation.

His Excellency the PRESIDENT—It is not my wish to stifle discussion upon this bill, but I can not agree with my honourable friend on my right, the Honourable Mr. Forbes, that we should postpone for a time the consideration of this measure, because to follow that suggestion would be nothing more nor less than to let the whole session pass without any substantial progress being made upon a scheme which we know the Bombay public are looking for anxiously. I cannot see any good reason for postponing the discussion, because I believe that no man in Bombay who will be likely to take an active part in inquiring into the measure has not already formed his opinion upon it, and those who wish to object must have ample opportunities of doing so before we can get to the end of the clauses; but should we get on much faster than I for one can anticipate, then we can leave the bill open for a short time, in order that opinions upon it may be received, and that, if certain suggestions are considered to be really desirable, we may go back upon the clauses and make the alteration. I have always been alarmed at what is called the “bludgeon clause,” and if it is to remain, I think it will be necessary to settle very carefully the matters upon which Government shall interfere. I also think that some such alteration as this might be made. If the Corporation fail to do their duty, the Government should go before the High Court, and satisfy the Judges that what they wish to recover from the Municipality is right; but procedure to levy rates should be made dependent upon an order of the High Court. This bludgeon clause as it stands might be the means of increasing those powers of the Commissioner which are already looked upon with apprehension. It is said he is restrained by the Budget, but I have no great faith in that, as I can quite conceive circumstances in which it might be desirable not to go to the full extent of the Budget, and if the Municipality felt it their duty to say such and such a work should not be gone on with, even though it were in the Budget, the Commissioner might not be compelled to follow out their wishes.

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

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

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

The Honourable Colonel KENNEDY—If this were a new bill that course might be very proper, but practically it is not a new bill, having been substantially before the public since April last. I cannot see to what good object further delay would tend—in fact, I consider that more delay would only give rise to further objections and impede business. There are three or four parties expressing interest in this bill—there are some in favour of the principle of representation, some against it, some with one view and some another. These will all have objections to make, and if we go on listening to this sort of thing month after month, I cannot see how we shall possibly get to an end at all. Therefore, as this bill is merely a concession upon the previous one, and is in all its main provisions the same, I think we should have no more delay in proceeding with it. As His Excellency has just said, we should be wasting a whole session by further delay.



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

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

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

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

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

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

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

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

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

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

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

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

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

Agreed to.

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

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

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

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

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

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



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

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

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

*Ayes.*

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

*Noes.*

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

The amendment was therefore lost.

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

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

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

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

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

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

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

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

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

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

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

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

Section eight stood part of the bill.

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



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

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

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

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

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

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

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

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

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

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

*Ayes*—6.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.  
The Honourable the Acting ADVOCATE-GENERAL.  
The Honourable MUNGALDASS NATHOOBHoy.  
The Honourable J. A. FORBES.  
The Honourable NARAYEN VASUDEVJEE.  
The Honourable J. K. BYTHELL.

*Noes*—4.

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

—*Carried.*

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



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

*Ayes*—8.

*Noes*—2.

His Excellency Sir AUGUSTUS ALMERIC SPENCER.

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

The Honourable A. ROGERS.

The Honourable MUNGULDASS NATHOOBHAY.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable the Acting ADVOCATE-GENERAL.

The Honourable J. A. FORBES.

—*Carried.*

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

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

His Excellency the PRESIDENT then adjourned the Council.

*By order of His Excellency the Governor in Council,*

JOHN NUGENT,

Acting Under-Secretary to Government.

*Puna, 11th September 1872.*