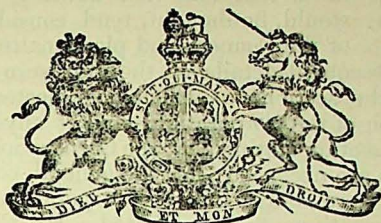


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 Separate paging is given to this Part, in order that it may be filed as a separate compilation.

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 COUNCILS' Act, 1861."

The Council met at Puna on Wednesday, the 18th September 1872, at noon.

PRESENT:

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

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

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

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHoy, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail.

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

Before proceeding to the consideration of Section 153 (which now became 154), the Honourable Mr. Tucker called attention to the heading "Building Regulations," and said that as such regulations did not commence until Section 162, the sections between which and 154 related only to the construction and repairing of streets, the title was a misnomer. He therefore suggested that the heading should be altered to "Construction, Paving, and Repairing of Streets."

This was agreed to.

The Honourable Mr. FORBES thought it would be well to strike out Section 154 and all

Mr. Forbes moves the deletion of a number of sections relating to the general conservancy of the city.

those that followed, down to Section 253. This course would, he thought, tend considerably to lighten the labours of the Council, and place matters upon a better footing than

they would be if all the subsequent details of the Bill were to be gone into and settled. The affairs mentioned in the sections to which he objected were matters which might fairly be left to the discretion of the Corporation, and if anything at all were necessary, it would be simply a single section stating that the Corporation shall have power to frame or alter such regulations as are necessary for the general conservancy of the town, and that, until these regulations were altered by the Corporation, those which were in force under the old Act should continue to be enforced. He thought that already the new regulations mentioned in the sections which he objected to had given rise to considerable alarm and dissatisfaction in Bombay.

The Honourable Mr. TUCKER—The bulk of these sections were in the old Act, and if the honourable member's proposition be seriously entertained, there will be an element of indefiniteness and uncertainty introduced which the city has hitherto been free from. The proposal of the honourable member that this Council should relieve itself from its troublesome duties and cast them on the Corporation would be a retrograde movement.

The Honourable Mr. MUNGULDASS—I think that the old sections were sufficiently stringent, and, as far as I can make out, there is no necessity for introducing more rigorous rules by this Bill.

The Honourable Mr. TUCKER—The Honourable Mr. Munguldass mistakes the character of the Honourable Mr. Forbes' suggestion, which is not to omit new sections which may be considered too rigorous, but to strike out the whole of the old and new clauses, and to leave the Corporation to grope in the dark about matters which this Council ought to regulate.

His Excellency the PRESIDENT—The very day this Bill comes into operation, there must be some means of regulating the matters affected by these sections, bye-laws, if there be nothing more definite, must be prepared, otherwise the old sections will remain in force until the new Corporation can alter them.

The Honourable Mr. TUCKER—It is a proposal simply to postpone the orderly management of these matters for an indefinite period and to waste the whole of the time and labour which have been bestowed upon making the Bill as complete as possible. I am of opinion that this Council has already affirmed the principle that these matters should be regulated by the Bill, and I therefore submit that the Honourable Mr. Forbes is out of order in the proposal which he has now made.

The Honourable Mr. FORBES—I clearly referred to this in my remarks upon the second reading of the Bill.

The Honorable Mr. TUCKER—Certainly the time for suggesting an alteration of this character which affects the principle of the Bill was when the motion for the second reading was before the Council. I have no objection to the Corporation being given power to make bye-laws, but I certainly think it would be highly inexpedient to leave the matters regulated by this part of the Bill to their discretion.

The Honourable Mr. ROGERS—Mr. Hope had great practical experience in the working of municipalities both in the Mofussil and in Bombay, and most of the new provisions which have been introduced are the result of his experience, I therefore think that it would be very wrong if this Council were now to set them aside for no reason whatever.

The Honourable Mr. TUCKER—They embody the experience of the last two Commissioners and of the various Committees of the Bench which have considered these matters.

The Honourable the ACTING ADVOCATE-GENERAL—Moreover, the suggestion of the Honourable Mr. Forbes is quite opposed to the principle upon which the British Parliament legislates upon such matters. The Metropolitan Building Act is no doubt very well known to the honourable member, and it illustrates the tendency of English legislation to consolidate regulations on these subjects in one Act, so that the public may have the fullest possible opportunity of knowing the rules affecting themselves and their property. By bye-laws which may be altered from day to day, the public cannot have the same facilities of knowing the regulations relating to building as they would possess with an Act such as the Metropolitan Building Act, and such as this Bill is intended to be. I certainly think it would be a very backward step in legislation if we were to omit these sections and leave the management of the city to be regulated by shifting bye-laws. I

think it of the greatest value that every citizen should have an Act which he can read and study at his leisure, and learn how he must guide himself in his actions and in the ordering of his property. I believe that in the course of a few years it will be necessary to introduce another Bill into this Council in order that the bye-laws which will be framed under this Bill may be incorporated in a new law which will be the result of later experience. The Honourable Mr. Munguldass wonders at new sections being introduced, but it would not have been wise not to have utilized the experience of the last seven years.

The Honourable Mr. FORBES—As to what has just been said, I should be very sorry indeed to be the means of a retrograde step in legislation, but at the same time I think it is a matter of opinion as to whether my proposition is a retrograde step or not. I object to Government legislation upon these little things, and I will read an extract from a writer whose opinion this Council will probably consider to be of equal weight with the opinion of the Honourable the Acting Advocate General. Mr. Toulmin Smith, in his work on "Local Self-Government," says—"One of the characteristics of modern law-making is the peddling detail into which it enters and by which it seeks to bind and tie men up, by pedantic foregone conclusions, from free action and responsibility. This is a style of legislation which produces multiplied evils. Its very character of detail is self-defeating. It is a sound maxim of logic and also of the common law of England that the enumeration of certain things implies the exclusion of those not enumerated. No man can foresee all the circumstances which may arise, nor all the resulting conditions of those which exist. The more detail is attempted the more are men drawn off from the habit of having recourse always to broad principles, while cases will ever be continually occurring to which no pre-ordained speciality of detail will apply. But again such is the overloading of the statute book which has grown out of this system, that men turn in despair from any attempt to know its contents; and instead of there being laws, few and plain, but certain and constant, there is a confused mass, endless, intricate, involved, contradictory, and ever changing, and consequently full of uncertainty and doubt." For my own part I think that legislating upon the minute points which the honourable gentlemen wish to fix by this Bill gives them undue importance. Look, for instance, at such petty details as the fixing of a width for streets, and regulating the distances between gass pipes and water pipes.

The Honourable the ACTING ADVOCATE-GENERAL—These are all fixed by the Metropolitan Building Act, one of the most perfect Acts of the kind there is.

The Honourable Mr. FORBES said that may be, but there must be general principles for guidance on the subject, and if the honourable gentleman settles details, it may on occasion be found impossible to carry them out. Therefore, we may now be framing sections to which under certain circumstances it would be impracticable to give effect. As to the cumbrous sanitary regulations which now stand in the Bill, I think that too great caution cannot be taken in settling them, because they may be made very oppressive to the town.

The Honourable Colonel KENNEDY—It seems to me that the Honourable Mr. Forbes is quite out of order.

The Honourable Mr. FORBES—I had better put forward a motion. I therefore suggest that instead of Section 154 we substitute the following:—"That the Corporation shall have full power to frame, make, or alter any such regulations as may be deemed necessary for the general conservancy of the town of Bombay, and until such regulations shall have been framed, made, or altered, the regulations embodied in Act II. of 1865 shall be held to be in force."

The Honourable Mr. TUCKER—By Section 2 of this Bill, the existing Municipal Acts are repealed, so that unless we alter that section, we cannot in this part of the Bill keep alive the building and conservancy regulations of the old Acts. The effect of such a measure would be to introduce the uncertainty and doubt which the authority the honourable member has read to us so very properly condemns.

His Excellency the PRESIDENT remarked that by one of the sections, the Commissioner might take possession of anybody's property for the purpose of making streets, and he should like to know if it was intended that such a power should fluctuate with a bye-law.

The Honourable Mr. FORBES said he supposed that in such a case the Commissioner and the Corporation would be subject to the general law of the land, because one portion of a community would never be allowed to seize upon the property of another except for some powerful reasons.

The Honourable the ACTING ADVOCATE-GENERAL said if Section 154 and the subsequent sections were not retained, the Town Council would go on week after week debating upon the rules which should govern the city in its general conservancy. This motion by the Honourable Mr. Forbes was the most extraordinary and indefinite proposition he had ever heard put forward.

The Honourable Mr. FORBES replied that he was afraid the honourable and learned Acting Advocate-General's imagination had again carried him away. He did not suppose that during the next twelve months more than one or two of the matters referred to in these sections would come up before the Corporation.

The Honourable Mr. TUCKER—If the honourable member, after the expression of opinion he has heard, is not prepared to withdraw his motion, I beg to submit to His Excellency the President that under the rules the motion cannot be put. The principle of the Bill has already been decided upon, and it is that all these things should be regulated by the Bill, and therefore in seeking at this stage to overturn one of the principles of the Bill the Honourable Mr. Forbes is out of order, more particularly as at the second reading he never indicated any intention of adopting this course, nor has he given the notice which is requisite for any alteration affecting the principle of the Bill.

The Honourable the ACTING ADVOCATE-GENERAL—I quite agree with the Honourable Mr. Tucker. We should never succeed with any Bill if we were at liberty in considering the details to turn round and say that the greater part of it is utterly useless.

The Honourable Mr. TUCKER—Certain irregularities took place on the second reading, when one gentleman wished to go into details; but now an attempt is being made to introduce another irregularity on the converse side of the question, as the Honourable Mr. Forbes wishes again to attack the principle of the Bill while we are engaged upon the discussion of details. I do not think this Council will agree to omit a large portion of the Bill merely because the honourable gentleman does not agree with a principle which has been already decided upon.

His Excellency the PRESIDENT—I take the same view as the Honourable Mr. Tucker.

Mr. Forbes' position ruled to be out of order. The subjects treated of in these sections are of infinite variety and importance, and though some might be regulated by bye-laws, yet the majority of them are proper subjects for legislation. I think that we should proceed to consider these sections in detail.

The Honourable Mr. FORBES—I see that there is no prospect of my motion being carried, so I shall acquiesce in His Excellency's expression of opinion and withdraw the motion.

The motion was then withdrawn.

The Honourable Mr. TUCKER said that as many improvements in travelling were being made, and as science might invent something in that way which was neither tramway nor railway, the words "or the like" should be inserted between "railway" and "without" in the eighteenth line of Section 153.

This suggestion was agreed to, and Section 153 as amended was agreed to and stands part of the Bill.

Section 154 became Section 155.

The Honourable Mr. MUNGULDASS said he supposed that the power to sell streets could only be exercised by the Commissioner with the sanction of the Corporation, and that the power to stop up the streets could only be exercised by the Commissioner under the same authority.

The Honourable Mr. TUCKER said he should certainly say that the Commissioner should not sell or stop up streets without the sanction of the Corporation.

His Excellency the PRESIDENT—Can the Corporation sell all their lands without the consent of Government?

The Honourable Mr. TUCKER replied that the Corporation could sell any lands it possessed except those regarding which there were restrictions placed by this or any other law, e.g., the lands on which tanks and water communications now existed.

His Excellency the PRESIDENT—Then if there should be a deficiency in the rates, I suppose that the Corporation may increase their funds by selling their lands?

The Honourable the ACTING ADVOCATE-GENERAL said that the Corporation must have a power to sell their immoveable property when requisite.

The Honourable Mr. TUCKER repeated that such a power was necessary.

The Honourable Colonel KENNEDY remarked that he observed the Corporation had the power to shut up streets. This he thought was a considerable power to be left in their hands.

The Honourable the ADVOCATE-GENERAL said he thought it extremely desirable that the Corporation should be invested with this power to shut up streets, if they thought it necessary for the benefit of the town.

The Honourable Mr. MUNGULDASS said that the power was not likely to be exercised rashly, because the Corporation might probably have to pay very large sums to the owners of houses in compensation for the means of access to their houses being destroyed.

The Honourable Mr. TUCKER pointed out that Section 157 made provision for compensation to owners for damages to their lands or buildings, caused by acts of this description.

The Honourable Mr. FORBES said that His Excellency the President need scarcely fear regarding the power given to the Corporation to sell their real property, because unfortunately the Corporation possessed very little property of that description.

Sections 155 and 156 became Sections 156 and 157 and were agreed to and stand part of the Bill.

Section 157 became Section 158.

The Honourable Mr. BYTHELL said he thought the Commissioner should only be allowed to exercise the powers given to him in this section with the sanction of the Town Council, because surely the ratepayers ought to have a word in deciding whether or not these alterations should be made. In the Bill the decision on this point was left to the judgment of the Municipal Commissioner.

The Honourable Mr. TUCKER thought that the power had very much better be left to one responsible person than to a Board like the Town Council or an assembly like the Corporation, where the personal interests of the members might influence the decision.

The Honourable Colonel KENNEDY thought so too, and approved of the section as it stood, because it only gave the Commissioner power to undertake what were purely executive duties.

The Honourable Mr. BYTHELL said that if a road were wanted from one place to another, this section gave the Commissioner power to say that it should go in a particular way, and he (the speaker) really thought that this was a matter in which the Corporation ought to have a voice. It was perfectly possible that a Commissioner appointed under this Bill might be a comparative stranger in Bombay, and it therefore stood to reason that the people themselves, who knew the city and its wants well, would be most likely to decide regarding the streets they wanted and how they should be laid out.

The Honourable the ACTING ADVOCATE-GENERAL thought that the Honourable Mr. Bythell was overlooking the fact that this section was meant to apply to the private owner dealing with his own land. Supposing that a man had some 20 acres of land on the Byculla flats and he wanted to let them out for building purposes, he could not do so without the sanction of the Commissioner, who was the best judge of where the roads should go, and accordingly he would go to the Commissioner, who simply had power to put a veto upon any proposition which he thought was not desirable, either because it would be injurious to the neighbouring property or would stand in the way of the proper conservancy of the town.

The Honourable Mr. MUNGULDASS—I believe that the private owners would prefer to have their claims put before the Town Council instead of the Commissioner alone.

The Honourable Mr. BYTHELL said he had not overlooked the fact mentioned by the Honourable the Acting Advocate-General, but he still held the same opinion that the people who were resident in the town, and representing the ratepayers, would be better able to judge as to whether a proposed street would be a public convenience than the Commissioner—a man who might be only a very few months in the place when he took upon himself to decide whether and whither a street should be executed.

The Honourable the ACTING ADVOCATE-GENERAL believed that if the suggestion made by the Honourable Mr. Bythell were agreed to, the private owners would be hampered immensely.

The Honourable Mr. TUCKER thought it would also put a number of matters of detail into the hands of the Council which they would never be able to dispose of expeditiously or satisfactorily.

The Honourable Mr. BYTHELL said that this was a matter in which a dispute might arise only once in a year, and he mentioned that in England these matters came strictly within the province of bodies like the Town Council or the Corporation.

The Honourable Mr. FORBES said that these private owners after having arranged with the Municipal Commissioner as to the width and level of streets, might afterwards hand them over to the Corporation to be maintained as a public street. He therefore thought that for this reason the Corporation should have a voice in the way indicated by the Honourable Mr. Bythell.

The Honourable Colonel KENNEDY said that the Corporation would not be bound to take the street over even though it were offered to them.

The Honourable Mr. FORBES said he thought the Corporation would be bound to take the street if it were put into proper order.

The Honourable Mr. NARAYAN agreed with the Honourable Mr. Forbes, and pointed out that under Section 158 the Commissioner was bound to take over the streets that had been completed according to his plans, even without the sanction of the Corporation.

The Honourable the ACTING ADVOCATE-GENERAL said that Section 158 did not compel the Municipal Commissioner to take over such a street, but simply gave him the power to do so.

The Honourable Mr. FORBES said that the power of hampering the town with a new street should not be left in the hands of the Commissioner, who might first arrange with the private owner to make a certain street according to his own fancy, and then agree to take it over, although it would be the Corporation that would have to pay for its maintenance.

The Honourable Mr. BYTHELL said he thought it clear from Sections 157 and 158 that if a private owner carried out the wishes of the Commissioner in respect of a street, the Corporation would be bound to take the street over. Now this was a power which the Corporation or the Town Council should alone have the right to exercise. He could not believe that it would hinder the Corporation or the Town Council from carrying on business if this power now given to the Commissioner were to be left under their approbation. He therefore moved that in line 12 the word "Commissioner" should be omitted and the words "Town Council" inserted, and that in line 20 "he think" should be made "they think"; also that in line 33 the words "by the Commissioner" should be omitted; that in line 48 the word "Commissioner" should be omitted and "Town Council" substituted; and also that in line 51 the word "him" be omitted and "they" inserted.

The Honourable the ACTING ADVOCATE-GENERAL said that the effect of these alterations would be that unless the Town Council and the Commissioner agreed, no one would have the power to arrange with a private owner, whose rights might thus be interfered with beyond all precedent.

The Honourable Mr. BYTHELL said that with all due deference to the Acting Advocate-General, the power he sought was not without precedent, because precedents could be found in almost all the municipalities in England.

The Honourable Mr. RAVENSCROFT intimated that he certainly should oppose the amendment, because it would make the Town Council interfere in matters which were purely executive.

The Honourable Mr. FORBES said that the duties could scarcely be called executive altogether.

The Honourable Mr. BYTHELL said that, as regards the matter of precedent alluded to by the Honourable the Acting Advocate-General, he should like to know if there was any precedent for a Corporation not having this power.

The Honourable Mr. TUCKER—The Honourable Mr. Bythell asked for a precedent. If he has taken any interest in the debates in Parliament during the last session about matters of local sanitation, he would find a precedent; because he would discover that a strong feeling existed in England to take away from local boards the control they had to exercise rather in matters affecting the public health and security and to place it in the hands of a central authority, who would discharge these functions by means of a

single but competent executive officer entrusted with large powers. There are many things which are far better left to the discretion of one competent and trustworthy man than to a board of men not possessed of equal skill, or influenced by so strong a sense of responsibility. The duties referred to in this section are matters of this description.

The Honourable Mr. BYTHELL said that there was a strong opinion on the other side, and that was that the local board should possess greater powers than they had at present. He said it had been argued at the second reading of the Bill that the Corporation had full power over the Commissioner, because they could refuse to give him money for works unless they approved of them ; but he now wished to point out that in Sections 157 and 158 the Commissioner could go on building new streets without asking the consent of the Corporation, which in consequence would very likely be led into great expenses.

The Honourable Mr. TUCKER—The Commissioner could not get any money without the authority of the Town Council.

Some further discussion took place, and the motion having been put to the vote the Council divided :—

Ayes—4.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—6.

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

The motion was lost.

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

Section 158 became Section 159.

His Excellency the PRESIDENT thought that it was not desirable that the citizens should be compelled to make the kind of streets required by this section.

The Honourable Mr. TUCKER said that it would be injurious to the Corporation and to the public to allow imperfect or badly constructed streets to be made. The Corporation would be liable to take over these streets subsequently, and they might not repay the cost of maintenance.

The Honourable Mr. BYTHELL said that this section seemed designed simply to give power to the Municipal Commissioner to gratify his own private spite or to put an owner to an expense of a few thousand rupees more than were necessary. He objected to this power being left in the hands of one man, especially when there was no control whatever by the Corporation alluded to in these sections.

The Honourable Mr. MUNGULDASS said this was one of the old sections.

His Excellency the PRESIDENT said that his objection still remained the same, that too much expense was likely to be thrown upon the owners of property if the full requirements of this section were enforced by the Municipal Commissioner.

The Honourable Mr. TUCKER said the section had been found to work well without complaint in the past, and he considered that it might be allowed to pass now without alteration.

The Honourable Mr. BYTHELL did not agree with the Honourable Mr. Tucker, because he believed that there had been complaints about one man being put in a position to do as he liked in a matter of this kind without anybody having the power to prevent him. He understood that this Bill was meant to introduce a new and more satisfactory state of things, but, judging by this and other sections, he must have been mistaken.

The Honourable Mr. FORBES said that several Native Justices had frankly avowed to him that such was the power of the Municipal Commissioner, that on certain subjects in which he was likely to be interested they dared not vote according to their private feelings, and were therefore forced to stay away from Bench meetings because they knew that if they were to vote according to their conscience, the Commissioner, by the great power which he was invested with, might do much to annoy them.

The Honourable Mr. MUNGULDASS said he knew from experience that the section had worked oppressively, and he remembered having heard of an instance in which certain

washermen had to undergo heavy expenses for putting a private street into such a state of repair as pleased the Commissioner.

The Honourable Mr. BYTHELL—Precisely. This is just what I thought. The Commissioner is invested with power to ride roughshod over the whole community and to defy the Corporation to interfere with him or his doings.

The Honourable Mr. RAVENSCROFT thought that in the sixth line the words "with the consent of the Town Council" might be inserted after "may."

The Honourable Mr. NARAYAN approved of some modification, but said it was quite necessary that somebody should have the powers mentioned in the section, otherwise landlords would refuse to keep the roads attached to their properties in good repair.

The Honourable Mr. BYTHELL mentioned that in many large towns in England the Corporation had the power of compelling owners of property to pave their streets, because doing so not only was to the advantage of the Municipality, but the property was also improved in consequence of the access to it being made better. He thought the Corporation ought to have power to compel owners to carry out improvements, or at all events some of those which were mentioned in this section; but he did not think that that power should be left absolute in one man. However just and upright any Commissioner might be, he was yet but human, and in a dispute with an owner his temper might give way and then he might use his power arbitrarily whether he was right or wrong as to the matter in dispute.

The Honourable Mr. TUCKER—This section is merely meant to give the Commissioner power to render these streets capable of being taken over as public streets. The law in respect of this matter has worked well for six years, and I do not think there is any good reason shown for altering it now.

The Honourable Mr. RAVENSCROFT thought the section as it stood now might be made to work unjustly, and he should like to see it modified. From the top of Cumballa Hill was a private road, largely used by the public, yet the Commissioner might compel the owner to keep up that road in first class repair for the good of the general public.

The Honourable Mr. TUCKER intimated that a road of the description mentioned by the honourable member ought to be kept in good order. He repeated that he did not understand why the Council should alter a law which had been in operation for upwards of six years without complaint. The isolated instance mentioned by the Honourable Mr. Munguldass, of which no particulars were known, was not a sufficient reason.

His Excellency the PRESIDENT moved that in lines 4 and 5 these words should be omitted—"paved, metalled, flagged, channelled, or sewered," and the following words substituted, "and drained;" also that in lines 10, 11, and 12, the following words should be omitted, "metal, pave, flag, channel, or sewer, the same in such manner and in such proportions," and the following words substituted, "and drain the same."

The motion having been put to the vote the Council divided:—

Ayes—8.

Noes—2.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.

The Honourable A. ROGERS.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable H. P. St. G. TUCKER.

The Honourable the Acting ADVOCATE-GENERAL.

—Carried.

The Council then agreed to make the "proviso" read as follows:—"If any such street shall be levelled, paved, metalled, flagged, channelled, and sewered at the expense of the owners, to the satisfaction of the Commissioner, such owners shall have," &c.

Section 159 was then agreed to as amended, and stands part of the Bill.

Section 159 became Section 160 and was agreed to, and stands part of the Bill.

Section 160 became Section 161.

The Honourable Mr. MUNGULDASS said that under the existing Act the minimum breadth of public streets was fixed at 24 feet, and he could not see any good reason for raising the figure by this Bill to 36.

Alteration of the minimum breadth of streets.

The Honourable Mr. TUCKER—Dr. Hewlett writes on this point—"The Metropolitan Act of 1872 fixes forty feet as the minimum width of a street, and surely air and light are as important in Bombay as in London."

The Honourable Mr. FORBES thought this section should clearly come under the bye-laws, because it was a matter in which the Corporation might wish to make alterations as circumstances required, or according to the situation of the streets.

The Honourable Mr. TUCKER said that one object of the section was to discourage people from making too narrow streets, which were very objectionable from a sanitary point of view.

The Honourable the ACTING ADVOCATE-GENERAL concurred with the Honourable Mr. Tucker, and expressed his belief that if every street in the native town were as broad as Bhendi Bazaar and the other main roads leading to the Fort, the city would be much more healthy.

The Honourable Mr. MUNGULDASS moved that in line 4, "twenty-four" should be substituted for "thirty-six."

The Honourable Mr. FORBES thought it would be pity to fix any minimum, because the action of the Corporation would be cramped.

His Excellency the PRESIDENT reminded the Honourable Mr. Munguldass that the addition of footpaths made a great difference in the space to be allotted to a street.

The Honourable Mr. TUCKER thought that the minimum width fixed by the section was desirable for roads which were intended for carriage traffic as well as for the use of foot passengers.

His Excellency the PRESIDENT thought that though footpaths were made in every street in Bombay, the natives would still continue to walk in the middle of the road.

The Honourable Mr. TUCKER said that he believed the reason why the existing footpaths had not been freely used was that formerly they were so stony and rough that for men with naked feet it was more easy and pleasant to walk on the road itself; but recent experience had shown that directly asphalt pavements were introduced, the natives were ready enough to use the footways.

His Excellency the PRESIDENT remarked that although the footpath on the road to Government House, Gunnessh Khind, was a remarkably good one, he found that the natives always walked in the middle of the road and not on the foot ways.

The Honourable Mr. FORBES moved that the whole section should be expunged.

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

Ayes—3.

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

Noes—7.

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

The amendment was lost.

The amendment of the Honourable Mr. MUNGULDASS was next put to the vote, when it was carried by 7 to 3:—

Ayes—7.

His Excellency the Honourable SIR AU-
GUSTUS ALMERIC SPENCER.
The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—3.

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

HIS Excellency the PRESIDENT, alluding to the stipulation that no steps or projection of any kind should extend on to the street, asked whether this would not prevent an owner from arching over portions of a street as was done at Bologna and other Continental cities, much to the comfort of pedestrians.

The Honourable Mr. TUCKER said he apprehended that with the assent of the Commissioner and Corporation there would be no difficulty in erecting such arcades as His Excellency referred to, but that no house-owner of his own motion could make projections on or over the public streets. The reduced width which the Council had now sanctioned for streets at the suggestion of the Honourable Mr. Munguldass would make the construction of arcades more difficult than ever, and he considered that the amendment that had just been carried was a retrograde step and would greatly retard the improvement of the city. He would suggest that after Section 161 the heading "Building Regulations" should be inserted.

The addition was agreed to.

Section 161 became Section 162, and was carried and stands part of the Bill.

Section 162 became Section 163.

The Honourable Mr. BYTHELL thought this was a section in which the Town Council ought to have power to supervize the actions of the Municipal Commissioner.

The Honourable Mr. MUNGULDASS believed that a majority of the Select Committee had given their consent to this section.

The Honourable Mr. TUCKER said that in the matters mentioned in this section, he considered the Town Council ought to have a voice, because sums of money might have to be paid away as compensation for damage to houses or buildings.

The Honourable Mr. BYTHELL proposed that in line 9 between the words "may" and "require" the words "with the consent of the Town Council" should be inserted.

The Honourable the ACTING ADVOCATE-GENERAL suggested that in the 17th line "Corporation" should be substituted for "Commissioner."

The amendments were agreed to, and Section 163 as amended stands part of the Bill.

Section 163 became Section 164, and was agreed to and stands part of the Bill.

Section 164 became Section 165.

The Honourable Mr. TUCKER said that Mr. Peile objected to the words "in or near any street," and Dr. Hewlett also wrote on the same subject as follows:—"This section contains those fatal words *in or near any street*, and in effect it would mean that no house at a greater distance than 100 yards from a street need *have any drain, cesspool* or anything to convey away or receive the wastage water. Surely this is not the intention of Government. *I hope* the words may be left out. This section also says 'and if there be such means of drainage within one hundred feet of any part of such house or building, the Commissioner may,' &c. This is the distance fixed in the wording of the old Act. Much harm has ensued, as it has led to the introduction of cesspools in crowded parts of the town. The distance asked for in the draft Act was 100 yards, and it is not, I submit, too great. The cost of constructing a drain of this length would be as nothing compared to the constant expense of cleansing a cesspool, to say nothing of the increased danger to health from a cesspool." The Honourable Mr. Tucker continued—I agree with Dr. Hewlett and the present Municipal Commissioner that the words in the second line "in or near any street" should be omitted, and I move an amendment to that effect. The Health Officer is also very desirous that to prevent the risk of life which now often occurs and for the improvement of the public health, there should be a much more complete set of building regulations than is provided in the Bill. On this point he writes—"Such building regulations as we—not theorists, but practical men of many years' experience—ask for, ought, I would humbly submit, to receive a due consideration from Government. The Legislature in England has for many years recognised the necessity for making regulations: 1st—With respect to the levels, width, and construction of new streets and the provisions for the sewage of such streets; 2nd—With respect to the structure of walls of new buildings for securing stability and the prevention of fires; 3rd—With respect to the sufficiency of the space about buildings to secure a free ventilation of air and with respect to the ventilation of buildings; 4th—With respect to the drainage of buildings, to water closets, privies, ash pits and cesspools in connection with buildings and to the closing of buildings, to parts of buildings unfit for human habitation and to prohibition of their use for such habitation. Surely these are matters which demand legislation in India as much as in England. Every year several lives are lost by

houses falling, as I have, in my capacity as Coroner, more than once brought to the notice of Government, from faults of original construction and from the imperfect manner in which the wastage water pipes are fixed to the house. The Municipal Officers cannot interfere until the house appears to be in a dangerous state. Is nothing to be done to prevent this unnecessary loss of life? We have done all we can do in representing the matter to the Government." As there can be no doubt (the Honourable Mr. Tucker continued) that at present loss of life constantly occurs in the rainy season from the falling in of houses in consequence of faulty construction, of which there have been recently some conspicuous examples, and as also it is certain that improved ventilation in the existing dwelling places of a large majority of the inhabitants of the city would be greatly to the benefit of the occupiers of those houses and their neighbours; I think that the remarks of the Health Officer, who has a practical knowledge of the evils which he desires to remedy, deserve the careful consideration of this Council. I am disposed however to concur with Mr. Peile that a great portion of the reforms which Dr. Hewlett so earnestly desires to see effected can be more conveniently provided for in bye-laws to be made from time to time by the Commissioner with the approval of the Corporation and Government, and I propose to add "building regulations" to the subjects upon which in a subsequent portion of the Bill the Commissioner is empowered to make bye-laws. I would propose to add at the end of this section the following words, "the proposed means of ventilation, the height of the building, the number and height of the floors, and the materials and thickness of the walls and roof."

The Honourable Colonel KENNEDY thought there were many houses in Bombay with large compounds attached, and it would be a pity to prevent building operations from being carried on in these in such manner as the owner pleased.

The Honourable Mr. TUCKER said that if building regulations were expedient, they should be applied to all buildings whether constructed within a compound or not.

The Honourable Mr. BYTHELL agreed with the Honourable Mr. Tucker.

The Council divided on the amendment :—

Ayes—5.

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

Noes—5.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable COLONEL M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVIJEE.

His Excellency the PRESIDENT gave his casting vote in favour of the amendment, which was therefore carried.

The Honourable Mr. TUCKER then brought forward his other proposition for the addition of the following words to the section :—"the proposed means of ventilation, the height of the building, the number and height of the floors and the materials and the thickness of the walls thereof."

The Honourable Mr. MUNGULDASS said he thought that all the particulars which the addition required could not be supplied without the aid of a professional engineer. In many cases the houses would not be worth more than 1,000 or 2,000 rupees, and it would be a great hardship, he would even say tyranny, if householders were compelled to employ professional men to give such particulars about huts and small houses as the Commissioner required, and which particulars could only be given with the aid of professional men.

The Honourable Mr. TUCKER could not agree with the Honourable Mr. Munguldass, and said that a non-professional man could easily prepare the particulars that were required—in fact, any ordinary carpenter or mason could easily do what was necessary for a fee of two annas.

The Honourable Mr. NARAYAN was afraid that if the Honourable Mr. Tucker's suggestion were carried out, it would only prove the means of giving municipal underlings the opportunity for extortion.

The Honourable Mr. MUNGULDASS said he agreed with the last speaker and mentioned that already an owner had to pay four rupees for two printed forms simply intimating to the Commissioner that he was going to build.

The Honourable Mr. TUCKER said that of course these bye-laws would require to be carefully supervised, and among other things the fee just mentioned by the Honourable Mr. Munguldass; which appeared to be a very large one, would in all probability be reduced. It was one of the necessary conditions of residence in a large town that a man could not build according to his own pleasure to the injury of his neighbours, and in all great cities the regulation of buildings was found to be a *sine qua non*. It would be greatly to the advantage of the general public if the erection of houses on the plans often adopted at present should be put a stop to, as they were often unfit for human habitation and were one of the causes of the generation of preventible disease and greatly assisted its dissemination after it had been once brought into existence. Any improvement in the construction of houses would be of incalculable benefit to the community, and though these improvements must be introduced gradually and with consideration for the feelings of the people, they should not be altogether deferred.

His Excellency the PRESIDENT considered that regulations of this character might be necessary in the crowded parts of the town, but he did not see why the Commissioner should be required to interfere with the small huts and cottages in the suburbs or outlying parts of the island.

The Honourable Mr. TUCKER said that the object of these building regulations was to cause the adoption of a better kind of dwelling place than the people were content to use at present. If they were not to be applicable to the whole island, the present wretched huts, which were still scattered over parts of it, would multiply and increase. This, in the speaker's opinion, was not desirable.

His Excellency the PRESIDENT observed that he still thought that the particulars which it was proposed to add to the section would not be necessary in the parts of the island to which he had previously referred.

The Honourable Mr. NARAYAN mentioned that similar provisions in the Calcutta Municipal Act applied to the city and not to the suburbs.

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

Ayes—6.

His Excellency the Honourable Sir
AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-
GENERAL.
The Honourable E. W. RAVENSCROFT.
The Honourable J. K. BYTHELL.

Noes—4.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.

—*Carried.*

His Excellency the PRESIDENT proposed that in line 6 after "writing," the following words should be inserted, "stating where such building is intended to be erected, and if required so to do by the Commissioner, shall furnish him," and that "and shall accompany such notice" should be omitted.

The suggestion was agreed to.

Section 165, as amended on the motion of His Excellency the President and the Honourable Mr. Tucker, was agreed to and stands part of the Bill.

The Honourable Mr. TUCKER then proposed that the following new section should be Section 166:—"If within thirty days from the delivery of the notice required by the preceding section, the Commissioner shall not signify his disapproval or require a plan and statement as foresaid, the person may proceed with the building, and in case the Commissioner shall require a plan and statement as aforesaid, the Commissioner may within thirty days after receiving the notice as aforesaid, signify his disapproval of the proposed levels or privies or any other matters required to be mentioned in the statement referred to in the preceding section, and may fix other levels and privies in lieu thereof, and may require the ventilation, drainage, height of floors, materials and thickness of the walls and roofs to be altered in accordance with any bye-law laid down under the provisions of this Act, and he may require the said house to be set back or forward for the improvement of the street as he may think fit."

The Honourable Mr. MUNGULDASS moved that if the section should be amended in the manner proposed, the word "thirty" in line 1 should be omitted and the word

"fourteen" be inserted in its stead. He explained that in the former Act the figure had only been 14, and he did not think that there should be any alteration made now, especially to the extent of thirty days, as this would prove a source of great inconvenience.

The Honourable Mr. TUCKER said that thirty days had been fixed by practical experience as a reasonable time.

The Honourable Mr. BYTHELL thought thirty days was rather a long period for the Commissioner to withhold his consent.

The Honourable Mr. FORBES thought so too, especially when a clerk might decide the matter after an hour's investigation.

The Honourable Mr. TUCKER said that the Honourable Mr. Forbes' idea of the manner in which business should be transacted by the Commissioner was certainly a most extraordinary one, and that he (the speaker) considered that if any Commissioner delegated the exercise of the important power with which he was invested by this section to a clerk, he should not be allowed to hold office.

The Honourable Mr. FORBES thought that the duty of the Commissioner or the person acting for him would simply be to see that the plans met certain fixed rules.

His Excellency the PRESIDENT thought that "twenty" was a fair number.

It was then agreed that the word "twenty" should be substituted for "thirty" where it occurred. With this alteration the amendment of the Honourable Mr. Tucker was adopted.

Section 165 was expunged.

Section 166 became Section 167.

His Excellency the PRESIDENT suggested that in the first line "any" should be substituted for "such," that the words after "or" in line 4 down to and including "Act" in line 9 should be omitted, and that in lieu of such words the following should be substituted, "otherwise than in conformity with the provisions of this Act and the directions of the Commissioner as aforesaid."

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

Section 167 became Section 168.

The Honourable Mr. MUNGULDASS moved that the word "thirty" in line 8 should be omitted and the word "fourteen" inserted in its stead.

It was agreed to substitute "twenty" for "thirty" in line 8; in lines 5 and 6 to omit "shown on such plans as aforesaid," and substitute "mentioned in Section 165;" and in line 13 to omit "shown on such plan," and substitute "furnished by him."

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

No alterations were made in Sections 168 to 170.

Section 171 became Section 172.

The Honourable Mr. MUNGULDASS moved that the section be omitted, and the following section, 127 of Act II. of 1865, be inserted in its stead:—

"Whenever the Commissioner is satisfied that any huts or sheds, whether used as dwellings or stables, or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are, by reason of the manner in which the huts or sheds are crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants of the neighbourhood, he shall cause a notice to be affixed to some conspicuous part of such huts or sheds requiring the owners or occupiers thereof, or at his option the owner of the land on which such huts are built, within such reasonable time as may be fixed by the Commissioner for that purpose, to execute such operations as the Commissioner may deem necessary for the avoidance of such risk. And in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the Commissioner may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as the Commissioner may deem necessary to prevent such risk. If such huts or sheds be pulled down, the Commissioner shall cause the materials of each hut or shed to be sold separately, if such sale can be effected; and the proceeds shall be paid to the owner of the hut or shed, or if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioner until the person interested therein shall obtain the order of a competent Court for the payment of the same. The Court of Small Causes for Bombay shall be

Compensation to owners of huts sought by Mr. Munguldass.

deemed a competent Court for that purpose if such proceeds shall not exceed in amount the limit of its jurisdiction: Provided always that in case any huts or sheds existing at the time when this Act comes into operation should be pulled down under this section, by order of the Commissioner, or in pursuance of his notice, compensation shall further be made to the owner thereof, and the amount thereof in case of dispute shall be ascertained and determined as hereinafter provided."

The honourable member said that his intention was to compensate poor owners of huts if the Commissioner's orders were to inflict hardship or loss on them.

The Honourable Mr. TUCKER objected to the amendment, and contended that the owners of such huts could have no proper claim for consideration, as they had infringed the law by omitting to give notice to the Commissioner.

The Honourable Mr. MUNGULDASS asked for compensation being extended to the owners of huts or sheds at the time of this Bill coming into operation. He thought this would be only fair, because the previous Act did not affect owners who had already erected their huts or sheds.

The Honourable Mr. TUCKER said that before the last Act came into force there was no law prohibiting the erection of huts without preliminary notice to the Commissioner, so the owners of huts existing when Act II. of 1865 came into operation were entitled to consideration, and it was accorded to them. Now the prohibition had been in force for seven years and it was not probable that any huts remained which existed before 1865, so it was not necessary to repeat the provision of the old Act in this Bill. The persons who since Act II. of 1865 came into force had built huts in defiance of the law were not entitled to any consideration.

His Excellency the PRESIDENT thought that if any huts which had been built before 1865 existed now they must be such wretched habitations that the Commissioner should have full powers to deal with them. This was a measure which might entail a little annoyance and hardship upon both people, but it would work ultimately for their good.

The Honourable Mr. MUNGULDASS withdrew his amendment.

Section 172 was then agreed to, and stands part of the Bill.

Section 172 became Section 173, and was agreed to and stands part of the Bill.

Section 173 became Section 174.

The Honourable Mr. TUCKER moved the omission of the words "in or near any street" in lines one or two, for the reason which he had given for the omission of the same words in a previous section. This alteration, he said, was recommended by the Health Officer and Municipal Commissioner.

The Honourable Mr. NARAYAN mentioned that if this were agreed to the cost of making drains "to the satisfaction of the Commissioner" would in many isolated cases exceed the whole value of the houses.

The Honourable the ACTING ADVOCATE-GENERAL thought there could only be a few houses in the native town that were more than a hundred yards away from a public drain.

The Honourable Mr. NARAYAN said that in many parts of Bombay houses were more than a hundred yards away from sewers or drains communicating with the sea, and although he thought that in such cases it would be quite fair to levy a reasonable expenditure upon the house-owner, yet he must object to the unlimited expenditure that might be imposed under this section.

The Honourable Mr. TUCKER said that Dr. Hewlett mentioned the case of a range of huts which were built in Colaba, for which no means of drainage were provided and which had become very offensive, yet the owner could not be compelled to do what was necessary, because they happened to be beyond the distance prescribed by the previous Act. In the case of houses situated in large compounds, and which houses were not within a reasonable distance from a drain, all that the owner had to do was to construct a cesspool under the provisions of the next section.

The amendment was agreed to.

Section 174 became Section 175.

The Honourable Mr. TUCKER—Regarding this section Dr. Hewlett remarks—"No provision is made for payment to the Commissioner for the cleaning of cesspools, but this was not considered expedient." I suggest that after "cesspool" in line 10, the following words be inserted, "to be constructed by such owner or owners" and that the word "made" should be omitted. This was agreed to.

No alterations were made in Sections 175 to 178.

Section 179 became Section 180.

The Honourable Mr. TUCKER—Dr. Hewlett says regarding this section :—" It is in my opinion absolutely necessary that greater details should be specified regarding the regulations of privies. In the first place they ought not to be in the words of this section 'attached' to a house. It is of the greatest importance that they be 'detached.' 2nd—Their form and the material used in their construction ought to be such as is approved by the Health Officer. The insides of the privy shoots now in existence throughout the town are the resting places where the contagion of zymotic disease breeds. Instead of these shoots being composed of a glazed non-absorbent pipe presenting an even surface throughout its length, they are composed of absorbent uneven bricks laid in mortar. Urine falling on lime sets up chemical changes which are most injurious to health. It must be clear also that a dysenteric or choleraic stool thrown into one of these shoots from a privy on the upper storey of a house cannot reach the receptacle placed below without some portion of it remaining on the uneven sides. Here it undergoes putrefaction, and in doing so, disseminates disease. 3rd—The Health Officer should have power to order a receptacle to be placed below which would prevent the escape of urine, night-soil, and ablution water. I trust that Government will take the question of the site, the material for, and fittings of, privies into its earnest consideration. No other question can be of equal importance, for it embraces the comfort, health, and life of the people. If Government still decline to do so, I hope that the Commissioner may be empowered to make bye-laws for their regulation, although at the same time I beg to express my conviction that if this question is left to the Corporation, private interests will prevent this much-needed reform. I must also point out that the concluding part of this section throws the duty of causing additional privies to be constructed on the Commissioner, instead of making the person in default liable to a fine and a daily penalty for continuance of default." I move that in line 6 the words "attached to or" be omitted.

The Honourable Mr. MUNGULDASS said that most of the houses in Bombay were built in such style as would not permit of the improvements desired by Dr. Hewlett being carried out. And moreover, a majority of the houses had no compounds attached in which isolated privies could be erected. He thought it would not be right to go the length of pulling down the old houses to carry out these improvements.

The Honourable Mr. TUCKER said the Honourable Mr. Munguldass had proved, by the facts which he had stated, how necessary it was that an alteration should be made in the existing state of things.

The Honourable Mr. MUNGULDASS said that if the Honourable Mr. Tucker's amendment were agreed to, the Council would practically be giving powers to one single person to do anything he might choose regarding private properties; in fact, the Commissioner might compel many owners to sell their properties. This section, he said, was a new one, and he thought that its provisions would work very harshly.

The Honourable Mr. ROGERS said that this was another of the cases in which discretion ought surely to be left to the Municipal Commissioner.

His Excellency the PRESIDENT asked the Honourable Mr. Munguldass if the working of this section would be attended with great hardship.

The Honourable Mr. MUNGULDASS replied that it would, and that the poorer classes would especially feel its incidence. He considered that if the power were given to a body like the Town Council, justice might be done; but so long as it was left to the discretion of a single individual, hardship might in a number of cases be the result.

The Honourable Mr. BYTHELL concurred to a certain extent with the Honourable Mr. Munguldass, and suggested that a power of appealing to the Town Council should be provided, because at present, apparently, appeals could only be heard by the Government of Bombay.

The Honourable Mr. TUCKER said he should oppose strongly any alteration in the section, because he considered that it would be better to leave the matters in the hands of the Municipal Commissioner, whose business it would be to make personal inspections and to enter into details which the Town Council could scarcely be expected to do.

The amendment proposed by the Honourable Mr. Tucker was then agreed to.

The Honourable Mr. TUCKER suggested that after the word "constructed" in line 10 and before the word "in" the following words should be inserted—"in such manner as may be prescribed by the bye-laws to be framed in that behalf."

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

Section 180 become Section 181.

The Honourable Mr. MUNGULDASS said that many owners had only one side of their houses on which there was any open space, and thus they would be compelled to make their privies open into the streets. He therefore thought that this section was rather stringent.

No alterations were made in Sections 180 to 185, except in line 12 of Section 184 in which the word "clean" was inserted after the word "repair."

Section 186 became Section 187.

The Honourable Mr. BYTHELL thought that the Commissioner should only be allowed to exercise the powers of making public sewers with the consent of the Corporation.

It was then agreed that in line 1 after the word "shall" the following words should be added "with the sanction of the Corporation."

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

Section 187 became Section 188.

The Honourable Mr. BYTHELL objected to the power being given to the Commissioner to repair and alter and discontinue sewers "as he might see fit," and suggested that in line 4 "may with the sanction of the Corporation" should be substituted for the words "as he sees fit."

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

Section 188 became Section 189, and was agreed to and stands part of the Bill.

Section 189 became Section 190.

The Honourable Mr. TUCKER wished to add between the word "into" and the word "any" in line 6, the words "or out from," because it has been brought to the notice of the Health Officer that people were in the habit of, so to speak, "tapping the main drain" for sewage, and of course this should not be done without the approval of the Health Officer or the Commissioner.

His Excellency the PRESIDENT thought that if these people would take all the sewage away, it would be a very good thing for the Municipality in its present condition.

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

No alterations were made in Sections 190 to 195.

Section 196 became Section 197.

The Honourable Mr. MUNGULDASS moved that in line 6, "24" should be substituted for "36."

The Honourable Mr. TUCKER was opposed to this, and said that if sanitary officers considered that there should be more space for the circulation of air and if Bombay was to have streets of a tolerable width, it would never do to narrow them by permitting the indiscriminate projection of verandahs.

His Excellency the PRESIDENT remarked that in many Italian towns the streets were not so wide as in Bombay, and yet most of the houses possessed verandahs.

The Honourable Mr. FOBBS said that he thought that verandahs should not be objected to, because they acted as so many sunshades.

The motion having been put to the vote the Council divided:—

Ayes—8.

Noes—2.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.

The Honourable A. ROGERS.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

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

The Honourable the ACTING ADVOCATE-GENERAL.

—Carried.

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

Section 197 became Section 198 and was agreed to and stands part of the Bill.

Section 198 became Section 199.

The Honourable Mr. TUCKER—Dr. Hewlett says regarding this section:—"This most necessary section ought to be made compulsory on the Commissioner instead of a permissive power being given to him. We have had much trouble from this action having been neglected. It would probably be advisable to make the house-owners pay for the metal or porcelain number plates, and only those of pattern approved by the Commissioner should be allowed to be fixed."

The Honourable Mr. NARAYAN moved that the following words in lines 16 to 18 should be omitted—"and any owner or occupier who shall not at his own expense keep such number in good order after it has been put up."

The Honourable Mr. TUCKER could not see why a man should not be compelled to pay for what he had to do, and certainly every man in Bombay ought to number his own house.

After some conversation the section was amended as follows:—In lines 3 and 4, "names and numbers of streets" was omitted; in line 7, "or number" was inserted after "name"; in line 16 "of a house" was inserted after "occupier;" and in line 17 "such number" was omitted and "the number of the said house" substituted.

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

Section 199 became Section 200.

The Honourable Mr. FORBES said very large powers were here, too, given to the Commissioner.

The Honourable Mr. TUCKER said it was true the powers were large, but the necessity for such powers had been clearly demonstrated, as repeatedly houses fell in and destroyed lives. There had been many recent instances, and the security of the public demanded the creation of authority of this kind.

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

No alterations were made in Sections 199 to 203.

Section 204 became Section 205. It was proposed that in line 10 "Corporation" should be substituted for "Commissioner."

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

No alterations were made in Sections 205 and 206.

Section 207 became Section 208.

The Honourable Mr. MUNGULDASS proposed that this section should be omitted and the following Section 123 of Act II. be inserted:—"Whoever, after this Act comes into operation, builds any wall, or erects, or sets up any fence, rail, post or other obstruction, or encroachment, in any public street, or deposits or causes to be placed or deposited any box, bale, or package of merchandize or any other thing in or over any open drain, sewer, or aqueduct along the side of any such street, shall be punished with fine which may extend to one hundred rupees, and the Commissioner shall have power to remove any such obstruction or encroachment; and the expense of such removal shall be paid by the person erecting or despoiting the same, and shall be recoverable as hereinafter provided. Nothing herein contained shall prevent the Commissioner, with the concurrence of the Commissioner of Police, from allowing any temporary erections in any public street on occasions of festivals and ceremonies."

No alteration was made in this and in Sections 209 and 210.

Section 211 became Section 212.

The Honourable Mr. TUCKER—Dr. Hewlett says, regarding this section:—"This section only applies to places which are dangerous to persons passing along a public street which by the interpretation clauses means a street which has been repaired out of municipal funds. This section will therefore not allow any action to be taken regarding dangerous places such as I frequently see as Coroner. Deserted quarry holes and wells full of water situated within private enclosures far from any public street and yet extremely dangerous to the inhabitants of houses living perhaps in the same enclosure. None of the by-lanes in Mahim are ever repaired by the Municipality, and yet there are many dangerous wells situated near them, which it will be impossible to get protected. For the prevention of accidents I hope Government will amplify this section. I regret that the section in the draft Act regarding the permission of the Commissioner being necessary for the purpose of digging wells and making excavations is omitted in the Bill. It is

much needed, as much harm has already been done by persons excavating sand-stone in "many parts of the town. These excavations form unwholesome receptacles for all kinds of filth, and should not be made except under supervision." The Honourable Mr. Tucker continued—I was myself quite astonished to learn the number of deaths caused last year by people tumbling into unfenced wells, quarries and other excavations, and I would suggest that if we leave out the words 'passing along a public street or thoroughfare,' in line 1, the section might then apply to all dangerous places. Most of us remember the terrible accident at Bandora which occurred less than two years ago, and the returns show that there is constant loss of life among the people from the unprotected state of wells, tanks, pits, quarries and other dangerous places near public thoroughfares. I propose that these words should be omitted.

The Honourable Colonel KENNEDY was opposed to the alteration.

The Honourable Mr. RAVENSCROFT agreed with the Honourable Mr. Tucker.

The Honourable Mr. MUNGULDASS and the Honourable Mr. NARAYAN thought that if the amendment were agreed to, it would result in an undue interference with private property.

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

Ayes—2.

The Honourable H. P. St. G. TUCKER.
The Honourable E. W. RAVENSCROFT.

Noes—8.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable Colonel M. K. KENNEDY.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The amendment was therefore lost.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Puna, 18th September 1872.

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 COUNCILS' ACT, 1861."

The Council met at Púna, on Thursday, the 19th September 1872, at noon.

P R E S E N T :

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

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

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

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHROY, C.S.I.

The Honourable Colonel M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Bombay Municipal Bill considered in detail.

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

The Honourable Mr. TUCKER asked the Council to reconsider Section 213, and said that he wished the word "public" taken out, because then there would be a better security for the general safety of the inhabitants of the island.

The Honourable the ACTING ADVOCATE-GENERAL approved of the amendment, and the Council agreed to it.

His Excellency the PRESIDENT mentioned that he had received a petition from the Managing Committee of the Bombay Association, asking the Council to consider several points in the Municipal Bill. He did not think that the Council should go back over the portion of the Bill which had been settled and reconsider the section in connection with the criticisms of this Association; but he thought that as the subsequent sections came up, the remarks of the Association with relation to these sections could be considered at the same time. Regarding most of the sections in these building clauses, the Association desired that the action of the Municipal Commissioner and the Health Officer should be made subject to the Town Council or the Corporation. The Council, however, had already anticipated the Bombay Association to a considerable extent in this respect, the consent of the Town Council having been made necessary for a number of things which the Commissioner had previously been empowered to do without any check.

Section 212 became Section 213.

The Honourable Mr. FORBES thought that this was quite an unnecessary clause to put in the Bill, and said that if the Legislative Council were to regulate the Commissioner's conduct regarding dust boxes in streets, they might as well order brooms and so forth.

The Honourable Mr. TUCKER said, that considering that this section had been in operation for seven years, he did not think the Council needed to waste any time in discussing its suitability.

This section was agreed to and stands part of the Bill.

Section 213 became Section 214.

The Honourable Mr. TUCKER—Dr. Hewlett objects to the omission of the provisions of the existing Act on this point. The section alluded to by the Health Officer was left out simply because it was considered unnecessary. However if it would be to the advantage of the town, he would be very glad to see this section replaced in the Bill. He therefore proposed that Section 21 of Act II. of 1865 should become Section 215 of this Bill, and that the word "rags" should be placed before the word "rubbish" and that the word "Corporation" be substituted for "Justices."

This was agreed to, and Section 21 of Act II. stands part of the Bill.

Section 214 became Section 216.

The Honourable Mr. FORBES objected to the Commissioner having power to fix the hours within which it should be lawful to move the night soil. He thought it would be quite as well to leave it to the Council to decide at what hours these duties should be undertaken by the Commissioner. At present the municipal carts went through Bombay at a very unpleasant time of the day, because it happened not unfrequently people going to and from the Fort were met at 10 o'clock in the morning, in the most frequented streets, by the municipal carts. He therefore begged to move that in line 2 after the word "may" the following words should be inserted, "with the approval of the Town Council."

The Honourable Mr. TUCKER opposed the amendment, because this was a matter which should be left to the discretion of one person.

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

Ayes—3.

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

Noes—7.

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

Section 215 became Section 217.

The Honourable Mr. TUCKER—Dr. Hewlett says that he would prefer a penalty inserted for the throwing of nuisances from windows.

The Honourable Mr. MUNGULDASS thought the penalty was not necessary, because it would not be possible to find out the particular person who might commit the offence referred to; and he certainly did not think that it would be fair to make the owner pay the penalty for an offence committed by some of his tenants.

The Honourable Mr. TUCKER said that the penalty should be imposed upon the head of the family if he did not point out the offender.

The Honourable Mr. BYTHELL suggested that the occupant of the house might be held responsible.

The Honourable Mr. TUCKER mentioned that during the late Mohurrum it was found that many people retired into houses and threw missiles from the windows at the police, and as the chief occupant of the house could not be held responsible, it was impossible to get at the offenders. Mr. Souter, the Commissioner of Police, was in favour of some regulations by which the owner or occupant of a house should be held responsible for any thing thrown from the windows of his house.

After some further discussion the alteration was not pressed.

His Excellency the PRESIDENT suggested that in line 9 between "any" and "sewer" the word "street" should be inserted.

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

Section 216 became Section 218.

The Honourable Mr. MUNGULDASS considered that between "land" and "causes" in line 3, the word "wilfully" should be inserted.

The proposal was not supported, and the section was agreed to and stands part of the Bill.

Section 217 became Section 219, and was agreed to and stands part of the Bill.

Section 218 was then read and discussed.

The Honourable Mr. MUNGULDASS proposed that in lines 10 and 11 the words "in the opinion of the Commissioner after consulting the Health Officer" should be omitted. He (the speaker) certainly thought that the Commissioner should not be invested with this power to turn people out of their houses because he thought it was overcrowded or in a state prejudicial to health. In this case the Commissioner would be both prosecutor and judge, and an arbitrary, hasty man might work much mischief. In sanitary matters great differences of opinion occurred, and these were not questions to be left to the sole adjudication of one man.

The Honourable Mr. TUCKER thought that if any benefit was to result from inter-

The powers of the Commissioner relating to overcrowded houses objected to.

ference in these matters, the powers must be entrusted to one competent and trustworthy man. In most cases immediate action would have to be taken, and a reference to any Board or assembly would possibly cause consider-

able evil. It was a question whether men's lives were of more account than the property of persons who constructed and let out for profit buildings unfit for human habitation. Half the town might be decimated while a Board was deliberating whether houses unfit for human dwellings should be put into a proper condition.

The Honourable Mr. BYTHELL remarked that the Corporation were allowed to appoint their own Health Officer, but were not given power to control his proceedings. He thought the large powers conveyed by this section should not be confided to any one man without check or supervision. The Commissioner might act hastily or in a moment of irritation refuse to listen to argument that ought to have weight with him, and considerable mischief might be done.

The Honourable Mr. TUCKER thought that it might be assumed that a magistrate would not impose a penalty unless a good cause for interference was established to his (the Magistrate's) satisfaction.

The Honourable Mr. MUNGULDASS—This might be so, but still a number of persons and their families might be turned out into the streets on account of some crotchet or whim of the Health Officer.

The Honourable Mr. NARAYAN VASUDEVJEE—The clauses in the existing Act on the subject of overcrowding and of the power of the Health Officer had often formed the subject of discussion in the Court of Petty Sessions. They were, however, not nearly so stringent as those intended to be conferred by the section before the Council. Under the Criminal Procedure Code the powers given to Magistrates in such matters were much more restricted, and the owner of property pronounced to be in a condition which constituted a nuisance was able to have the question of the justice of the Magistrate's order tried by a jury. Why should the inhabitants of Bombay be worse off in this respect than those in the Mofussil?

The Honourable Mr. TUCKER—The Criminal Procedure Code has not yet been made applicable to the Presidency towns.

The Honourable Mr. NARAYAN—But surely in legislating for Bombay we should provide the same safeguards as have been found expedient in the Mofussil.

The Honourable the ACTING ADVOCATE-GENERAL—As no penalty can be imposed except by a Magistrate, there will be some supervision over the proceedings of the Health Officer and Commissioner in matters of this kind.

The Honourable Mr. MUNGULDASS—If the Health Officer certifies that the place is a nuisance and the Commissioner produces the certificate in justification of his acts, the Magistrate will not be able to refuse to impose a penalty.

The Honourable Mr. BYTHELL—It seems to be undisputed that in the Mofussil the act authorised by the section could not be done without due enquiry and a decision based on evidence, but it would seem that here the Commissioner might pull down dwellings and remove the inhabitants on the opinion of the Health Officer alone.

The Honourable the ACTING ADVOCATE-GENERAL said that the Commissioner could not impose a penalty; that can only be done by a Magistrate.

The Honourable Mr. BYTHELL—But the Commissioner may direct the pulling down of the house, and if the order be not obeyed, the person to whom the order is addressed will be liable to a penalty. These are not powers which should be entrusted to a single man. I propose that the section be omitted or that a power of appeal be given to the Town Council.

The Honourable Mr. TUCKER—There is nothing about pulling down the house in the section we are discussing. I think that the honourable member is confounding this with another section which has been already passed, and if so, he is scarcely in order.

The Honourable Mr. BYTHELL—According to the Section 200, if the Commissioner considers a house to be in a ruinous condition, he may take down, repair, or secure the same within three days after giving notice to the occupier to do so. There is therefore no confusion in my mind on the point. I would submit that I am not out of order in the remarks I have made. In assigning a reason for the grant of a power of appeal, I referred to the power given by this and a preceding section, and I apprehend that I was quite in order in doing so.

The Honourable Colonel KENNEDY said he could not agree in the suggestions of the Honourable Mr. Bythell, he thought it was desirable that the executive power mentioned in this section should be left in the hands of two competent officers.

The Honourable Mr. FORBES thought that, if two single officers were placed in the position this section sought to assign to them, the result would be extreme hardship and annoyance to the public.

The Honourable Colonel KENNEDY thought it would be safer to trust to two selected men than to a dozen or more of persons of less experience.

The Honourable Mr. RAVENSCROFT—I do not think it should be forgotten that Section 47 provides that in the event of a difference of opinion arising between the Commissioner and the Health Officer, a statement of the case must be laid before the Town Council, which shall decide in the matter, and the Commissioner cannot refuse to obey the decision so given.

The Honourable the ACTING ADVOCATE-GENERAL said that Section 47 gives a power of appeal in cases in which they differ.

His Excellency the PRESIDENT—But it does not meet the cases in which an occupier or owner desires to appeal when these officers agree.

The Honourable Mr. RAVENSCROFT thought that as the Health Officer and the Commissioner were appointed by different powers, the one by the Corporation and the other by Government, there would be no collusion between them, and it might be anticipated that the public interest would be properly looked after.

The Honourable Mr. MUNGULDASS said that, on the other hand, as the Health Officer was subordinate to the Municipal Commissioner, he would probably to a certain extent be under the influence of the latter.

The Honourable Colonel KENNEDY—But it is provided that the Municipal Commissioner must consult the Health Officer.

The Honourable Mr. ROGERS—But I do not think that, as this clause stands, the Municipal Commissioner is bound to consult anybody.

After considerable discussion,

The Honourable the ACTING ADVOCATE-GENERAL proposed that the section should be struck out and that after Section 219 there should be inserted in the Bill as Section 220, Section 144 of Act II. of 1865, omitting the words “in or near any street;” that, as Section 221 of this Bill, there should be inserted Section 145 of Act II. of 1865, substituting the words “5 A.M. and 7 P.M.” for “sunrise and sunset;” that, as Section 222 there should be inserted Section 22 of Act I V. of 1867, omitting the words “Section 146 of Act II. of 1865 is hereby repealed,” and “and the inhabitants shall consist of more than one family,” and inserting after the words “lodgers or inhabitants,” “or other inhabitants.”

This amendment was agreed to, and Sections 220, 221, and 222 stand part of the Bill.

Section 219 became Section 223.

His Excellency the PRESIDENT—Should we not say here “the Commissioner, with the sanction of the Town Council?”

The Honourable Mr. MUNGULDASS proposed that this section should be omitted and the following Section 175 of Act II. of 1865 be inserted in its stead:—“When any private tank or low marshy ground, or any waste or stagnant water, being within any private enclosure, appears to the Commissioner to be injurious to health, or to be offensive to the neighbourhood, the Commissioner shall require, by notice in writing, the owner of the said premises to cleanse or fill up such tank or marshy ground, or to drain off or remove such stagnant water; and if the said owner shall refuse or neglect to comply with such requisition during eight days from the service thereof, the Commissioner, his officers, and workmen shall enter into the said premises, and do all necessary acts for all or any of the purposes aforesaid, and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided.”

The Honourable Mr. TUCKER would not object to the addition proposed by His Excellency the President, because matters of this kind involved expenditure. He could not, however, approve of the motion to substitute the section in the existing Act for the one in the Bill.

The Honourable Mr. MUNGULDASS could not press his amendment.

In line 9, between “may” and “by,” “with the sanction of the Town Council” was inserted, and the section as amended was agreed to and stands part of the Bill.

Section 220 became Section 224. In line 1, between "Commissioner" and "is" "with the sanction of the Town Council" was inserted, and the section was agreed to and as amended stands part of the Bill.

The Honourable Mr. TUCKER—I may mention that Dr. Hewlett desires the introduction of a section here to compel the Corporation to provide places for the disinfection of infected clothes and vehicles for the carriage of infected persons, as well as proper lodging for such persons. He would also enact penalties for infected persons who entered public conveyances without giving notice, or for the fumigation and purification of rooms which had been occupied by infected persons. All these things would be advantageous, but the Select Committee considered that the provision of disinfecting chambers and vehicles for the use of infected persons might be left to the Corporation, and that the time had not come for the attachment of penalties to acts of the character specified. It is but right, however, that the Council should know the opinions of the Health Officer on this subject.

His Excellency the PRESIDENT mentioned that he had just received a letter from England, stating that at home Dr. Hewlett's report on the sanitary condition of Bombay had attracted much attention and received great commendation.

The Honourable Mr. TUCKER though there could be no doubt that Dr. Hewlett had done a great deal for the improvement of the city. His earnestness and unremitting exertions had done much to influence the natives of Bombay to attend to sanitary requirements.

Section 221 became Section 225.

The Honourable Mr. TUCKER—Dr. Hewlett says :—"I very much regret the alteration made in the Bill from the wording of the section as submitted in the draft Act. The section as it stands at present is very bald and imperfect—blood bones and offal are not boiled, nor are rags, until after they may have done incalculable mischief by having been stored. Storage of bones as well as of the other articles and the mode of manufacture of each requires regulation. Again, dammer is boiled or rather heated in many parts of the native town where there is most valuable property. I constantly receive complaints from house-owners regarding the boiling of dammer, but I am unable to take action, as the Magistrates say this is not dangerous to life or health, although it may be to property. From the wording of this section the storing of explosive or combustible materials is not forbidden, unless either offensive or unwholesome smells arise from them. A man may therefore store any quantity of dynamite, gunpowder, kerosine oil, &c., on the ground floor of a house. Surely this cannot be the intention of Government. The washing and drying of wool is named, but not that of hair or cotton, as it should be. I would hope that the wording of this section may be altered to that submitted in the draft Act, as it is one that was drawn up with the greatest care and was based upon the practical experience of our wants, extending over many years. I must also mention that in my opinion power ought to be given to the Commissioner to refuse to allow the erection of mills or factories in localities where they are likely to prove nuisances. Three new cotton spinning and weaving mills are in course of erection at Tardeo, where four other mills are clustered. Vast volumes of smoke are emitted from their chimnies, to the great annoyance of residents on Cumballa Hill. It is extremely probable that other mills will be established in this district as there is no law to empower municipal officers to refuse their assent to an arrangement which they know will eventually prove a great nuisance."

After some discussion, various alterations were made in the section, which after being amended reads thus :—"The owner or occupier of every place within the city used for any of the following purposes—viz., for melting tallow or sulphur, or for boiling or storing offal, blood bones, or rags, or for washing or drying wool or hair, or as a soap house, dyeing house, oil boiling house, tannery, brick, pottery, or lime kiln, sago manufactory, distillery or other manufactory or place of storing hides, fish, horns, skins, from which either offensive or unwholesome smells arise, gunpowder manufactory, manufactory of fireworks, place of storing explosive or combustible materials, or of any place which is used for any purposes which are calculated to be dangerous to life or health or property, shall within three months," &c.

Section 222 became Section 226.

The Honourable Mr. NARAYAN—This is altogether a new section, and I propose that it be omitted, as I know it will press very heavily upon persons who keep horses or cattle for hire, and others.

The Honourable Mr. TUCKER—These stables may become a great nuisance, and should be brought under regulation.

The Honourable Mr. NARAYAN—My own idea is that the Municipality wish this section introduced, because they desire to build stables and force people to occupy them.

The Honourable Mr. RAVENSCROFT could not believe this.

The Honourable Mr. TUCKER—We cannot allow collections of buffaloes or other cattle to exist in crowded parts of the town, and this matter must be regulated in some way. It would be much for the benefit of the inhabitants generally if these cattle-keepers and milk-sellers were collected in a place where they would not be a nuisance to the neighbourhood.

The Honourable Mr. NARAYAN—This section is simply meant to compel these owners to occupy places built by the Municipality. Now, if a man has a good stable and keeps it in good order, I cannot see any justice in compelling him to go into the municipal stables. Why should you not have adopted the section of the old Act, which states that if a person keeps a place in a filthy state he shall be fined? If the Commissioner has the power of withholding licences, the owners or occupiers of stables will be compelled to go into the municipal stables, otherwise they will not get a licence to carry on their trade. These municipal buildings may be let at fancy rates, because of course the Municipality with this power in the hands of the Commissioner may charge as they choose. The Municipal Commissioner has already got land from Government for this particular purpose of erecting stable accommodation, and if the property is not used for that purpose, it must revert to Government. This is the reason of this objectionable section.

His Excellency the PRESIDENT—How would it do to say that if a man has a proper stable he shall not be disturbed?

The Honourable Mr. NARAYAN—That would suit my purpose exactly.

The Honourable Mr. RAVENSCROFT mentioned the case of the stables of horse dealers in the Bhendy Bazaar, Byculla Road, and elsewhere, and remarked that if the Commissioner were to suspend a licence to these horse-owners, a great deal of property would be rendered useless.

The Honourable Mr. TUCKER said he did not suppose that the occupiers of the stables mentioned by the Honourable Mr. Ravenscroft would be refused licences. The Municipal Commissioner must be trusted with some discretion in these matters.

The Honourable Mr. NARAYAN—I know that the proceedings of the Municipal Commissioner have been very arbitrary in getting the present Crawford Markets filled.

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

Ayes—3.

The Honourable MUNGULDAS NUTHOOBHAY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVIJEE.

Noes—7.

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

The amendment was therefore lost.

HIS EXCELLENCY the PRESIDENT raised a question as to the meaning of the word "private use," and

The Honourable the ACTING ADVOCATE-GENERAL proposed that in line 5, the words "other than for private use" should be deleted, and the following words inserted after animals, "which are let out on hire or the produce of which is made an article of trade."

These alterations were agreed to.

The Honourable Mr. FORBES remarked that the penalty was most enormous.

The Honourable Mr. TUCKER said that although the maximum fine which could be inflicted was high, the determination of the amount was left to the discretion of the Magistrate.

The section was passed as amended and stands part of the Bill.

Section 223 became Section 227, and was agreed to and stands part of the Bill.

With regard to Section 224 His Excellency the PRESIDENT considered that it was not required, seeing that the Commissioner had power already to cancel, revoke, or withhold licences. He therefore suggested that it be struck out.

This was agreed to.

Section 225 became Section 228 and was agreed to and stands part of the Bill.

Section 226 became Section 229.

The Honourable Mr. TUCKER—Regarding this Dr. Hewlett says—"By the addition of the words to reduce as far as may be practicable, the smoke arising from such furnaces, a very wide door is opened to litigation. This section, as it at present stands, will be a dead letter." The words objected to by Dr. Hewlett were put in, because it has been ascertained that it is not possible at present to make these furnaces consume all their own smoke. Dr. Hewlett's suggestion in another place that the Commissioner shall have power to prevent the erection of more factories in the city of Bombay seemed worthy of consideration. The multiplication of these establishments will be in time a great nuisance.

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

No alterations were made in Sections 227 to 230.

Section 231 became Section 234.

The Honourable Mr. TUCKER—Dr. Hewlett says:—"I think distinct power should be given in this section to the Commissioner to levy certain fees from the dealers and butchers, such as fair fees, standing ground fees, slaughter fees and carrying fees."

No alteration was made in Section 232 which became Section 235.

Section 233 became Section 236.

The Honourable Mr. MUNGULDASS proposed that in Section 233 between the words "shall" and "feed" in line 1 be inserted "wilfully," and in line 3 the word "animal" be omitted, and the words "milch she-ass, she-goat, cow, and she-buffalo" be inserted.

After a brief discussion these amendments were withdrawn, and the section was agreed to and stands part of the Bill.

No alterations were made in Sections 234 to 237.

Section 238 became Section 241.

The Honourable Mr. TUCKER—Dr. Hewlett says:—"I think the Commissioner should have power to make bye-laws for the management of all public markets."

The Honourable Mr. NARAYAN—I think that the word "commodities" in line 3 is very vague, and I propose that the words "meat and fish" be substituted for it, because I think that the restriction should only be placed upon markets for articles that are likely to putrify.

His Excellency the PRESIDENT said that this was a section which the Bombay Association considered ought to be placed under the sanction of the Town Council.

The Honourable Mr. BYTHELL wondered why "new private markets" should be so objectionable that their erection was not to be permitted.

The Honourable Mr. MUNGULDASS believed that the prohibition of erection of private markets was simply an indirect means of doubling taxation, because the people could not get the benefit of competition if municipal markets alone were to be allowed a monopoly. Besides this, the inconvenience caused to many people was very great, because, although living in remote localities from the municipal markets, they had to go perhaps three or four miles before they could get their wants supplied.

The Honourable Mr. NARAYAN mentioned that at present the finances of the Municipality were not in such a position as would enable them to supply convenient markets in different parts of the city.

His Excellency the PRESIDENT remarked that he observed the Municipality drew Rs. 19,000 a year from the Crawford markets, and possibly it might be a very good speculation if the Municipality were to build more throughout the city.

The Honourable Mr. NARAYAN agreed with his Excellency, but said that until these markets were made it was hardly fair to compel people to go possibly five or six miles a day for the articles they required to get from the markets.

The Honourable Mr. MUNGULDASS thought it would be very bad policy if the Council were to decide that the Municipality should have a monopoly, the effect of which would be that consumers would be compelled to pay enhanced prices for the articles sold in the municipal markets.

The Honourable Mr. BYTHELL considered that it might safely be left in the hands of the Corporation to decide whether certain districts should be supplied with markets. He therefore proposed that after "shall" in line 4, the following words should be inserted, "except with the sanction of the Corporation," and that in line 9, "Town Council" should be substituted for "Commissioner."

The Honourable Mr. TUCKER said he would not oppose this alteration.

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

Section 239 became Section 242.

The Honourable Mr. BYTHELL—I propose in lines 9 and 10 to add the words "Town Council" after "Commissioner."

The Honourable Mr. TUCKER—I shall oppose this, as I consider the draining of markets, &c., to be an executive matter, which might well be left to the Commissioner.

The motion having been put to the vote the Council divided :—

Ayes—4

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—6

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

The amendment was lost.

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

Section 240 became Section 243 and was agreed to and stands part of the Bill.

Section 241 became Section 244.

The Honourable Mr. TUCKER—Dr. Hewlett writes :—"No provision is made in this section to punish the sale of adulterated food or drink. Milk, the principal food of the young, is commonly sold in this city with a large amount of water added to it. The Magistrates refuse to convict for such addition, holding that water is not unfit for human food. I think a section should be added providing that every person who shall sell or offer for sale any article of food or drink which is adulterated or not pure, shall be liable on conviction to the penalty provided by Section 272 of the Indian Penal Code, and that in Section CCXII. after the words 'unfit for food or drink,' the words 'or that has been adulterated' should be added. I also think that another section such as the following is required : 'In case any article of food or drink which has been sold to a purchaser as human food shall be proved to the satisfaction of a Magistrate to have been adulterated or unfit for human food, the party who shall have sold the same shall be liable to the penalty provided by Section 273 of the Indian Penal Code, although no such seizure of the same may have taken place as hereinbefore mentioned, and the Magistrate may at his discretion order the purchase money to be refunded.' And in the Interpretation clauses I would hope that the words articles of food or drink may be defined as including not only all alimentary substances, whether solids or liquids, but also all eatables or drinkables whatsoever, including medical drugs or articles usually sold as medicines. I am of opinion that it would be a very good thing if this adulteration by water could be stopped."

His Excellency the PRESIDENT mentioned that in Madras recently the Madras Club prosecuted a milkman for this offence, and he obtained a sentence of imprisonment.

The Honourable Mr. TUCKER said that there had been decisions to a contrary effect in some of the High Courts, so he feared the ruling would not be upheld if appealed against. This section as it stands does not go as far as Dr. Hewlett wishes, but it was settled after considerable discussion in the Select Committee, and I do not propose any alteration.

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

The Honourable Mr. TUCKER proposed that after this section the following heading should be placed, "special sanitary exigencies."

This was agreed to.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Pina, 19th September 1872.

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 COUNCILS' ACT, 1861."

The Council met at Puna on Friday, the 20th September 1872, at noon.

P R E S E N T :

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

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

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

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHAY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

Affirmation of office taken by the Chief of Meeruj.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN took the affirmation of office and declaration of allegiance to Her Majesty.

Bombay Municipal Bill considered in detail.

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

Section 242 became Section 245.

The Honourable Mr. NARAYAN said that a good deal had been said about the necessity of the Commissioner having certain powers, because in emergencies his action would require to be immediate, but if this were so, the Commissioner, in regard to this section, need not be compelled to obtain the previous sanction of the Governor in Council before taking measures in the case of a violent outbreak of epidemic disease. If an action were really emergent, he should not be trammelled by this specification. He suggested that the words "Governor in" in line 7 should be omitted, and the word "town" substituted.

The Honourable Mr. TUCKER said he appreciated the objections of the Honourable Mr. Narayan, and thought that the obligation on the Commissioner should only exist when epidemic diseases were threatened, and not actually present.

"Or threatened" was inserted after "visited" in line 2, "unusual and violent" was deleted in line 4, and "prevent" was inserted between "to" and "meet" in line 9.

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

Section 243 became Section 246 and was agreed to and stands part of the Bill.

Section 244 became Section 247.

The Honourable Mr. MUNGULDASS thought it would be better to allow the Town Council or Corporation to have a voice in the sanctioning of new places for the disposal of the dead. The Town Council were likely to be more interested in such matters than the Commissioner.

The Honourable Mr. TUCKER could not see how the Town Council should be more interested in good management than the Commissioner. He thought that no alteration should be made in the section.

His Excellency the PRESIDENT was afraid that it would not be expedient to leave it absolutely in the power of one man to say whether or not there should be a burial ground. People had strong ideas on the subject of burial grounds; and it might be more satisfactory to agree to the suggestion of the Honourable Mr. Munguldass.

The Honourable Mr. TUCKER—Then we might say that the power to grant or withhold sanction should be subject to the sanction of the Town Council.

His Excellency the PRESIDENT—I think it ought to be “subject to the sanction of the Corporation,” because it is a large question indeed, in which many people would be interested.

The Honourable Mr. TUCKER—I think that the larger the body, the worse it would be. Sixty-four persons discussing a matter like this might make it a party or race dispute, and they would be likely to forget that the whole interests of the town were concerned.

The Honourable Colonel KENNEDY approved of “Town Council.”

The Honourable Mr. BYTHELL—I think that scarcely any more important matter than this could come before the Corporation, a special general meeting of which could be called at any time when an emergency arose. I do not think the Commissioner should be allowed to have all this power left in his hands.

The Honourable Mr. TUCKER—Would the honourable gentleman wish this to become a party fighting question between the different races of people?

The Honourable Mr. BYTHELL—What I mean to say is that if 64 people in the Corporation are not able to decide what should be the best site for a cemetery, or whether a cemetery was required in any particular place, no one can decide.

Between “empowered” and “at,” the words “with the sanction of the Town Council” were inserted.

Section 247 was agreed to and stands part of the Bill.

Section 245 became Section 248.

THE Honourable Mr. NARAYAN—It seems to be unjust to inflict a penalty upon any person attending what under this section would be an objectionable funeral. To protect themselves from the serious consequences involved in this section, it would be necessary for those attending funerals to demand an inspection of the licence at the time of the burial, a proceeding so rude that no gentleman would resort to it. Surely it cannot be supposed that any such proceeding would ever be resorted to. I have to propose that the words “any person so making any vault, or grave, or so interring or exhuming or assisting or attending at such making or interment or exhumation” in lines 13 to 16 of Section 245 be omitted, and the following words substituted for them “whoever shall bury, burn, exhume, or expose, or cause, permit or suffer to be buried, burned, exhumed or exposed, any corpse in any vault, grave, burial or burning ground, or place for the exposure of the dead, opened, made or formed without such licence, or contrary to the terms thereof.”

His Excellency the PRESIDENT thought that the words “or attending” were not necessary.

The Honourable Mr. TUCKER thought they must have found their way into the Bill by mistake, and he had no objection to their removal.

His Excellency the PRESIDENT asked if it were intended that an absolute penalty of Rs. 500 should be inflicted upon any person doing the things prohibited by this section.

The Honourable Mr. TUCKER said it was intended that, to prevent any of the offences being committed, a very heavy penalty should be inflicted.

His Excellency the PRESIDENT said he thought it would be advisable to alter the last three lines of the section to read as follows, “or assisting at such making or interment or exhumation, shall be liable to a penalty not exceeding five hundred rupees for each offence.”

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

Section 246 became Section 249.

The Honourable Mr. NARAYAN—I think it would be expedient that in a matter of this kind affecting large sections of the community, no steps should be taken in shutting up burial or burning grounds without the concurrence of the Corporation, especially as in the following section the obligation of providing funds for new burial places is imposed upon the Corporation. In the case of the Parsee community this provision will afford them no relief whatever, because their religion precludes them from using any Towers of Silence which are not constructed exclusively from contributions by their own community. With the Mahomedans the consequence of any interference with their burial places without the concurrence of their representatives in the Corporation will be disastrous. I will therefore move that the words “the Corporation and of” be introduced between the words

"of" and "Government." The new Code of Criminal Procedure provides that in the case of a nuisance created even by a private individual, the order for its removal shall not be absolute or arbitrary. The Imperial Legislature recognises the right of the subject to be heard and to show cause against the order, and to demand the appointment of a jury to try whether such order is reasonable or proper. For want of such a precaution, a proclamation issued by the Municipal Commissioner, with the sanction of Government, for closing Hindoo burning grounds at Tank Bunder and Colaba, some eighteen months ago, remains to this day a dead letter. When these grounds were being closed, I pointed out the injustice and hardship that would be inflicted upon the people, and the late Municipal Commissioner very properly withdrew the prohibition. It may not be out of place for me to mention that in 1864 Sir Cecil Beadon, the then Lieutenant-Governor of Bengal, being persuaded that a certain Hindoo burning ghat at Nimtollah, in Calcutta, was dangerous to the health of the neighbourhood, ordered it to be closed. The inhabitants memorialized the then Secretary of State, the Right Honourable Sir Charles Wood, now Lord Halifax, who ordered the restoration of the ghat and animadverted upon the inexpediency of initiating any measures calculated to create dissatisfaction amongst the masses of the people. I submit, Sir, that when you are taking any measures affecting large sections of the people, it is not too much to expect you to take the representatives of the people into your confidence.

The Honourable the ACTING ADVOCATE-GENERAL was afraid that if the amendment of the Honourable Mr. Narayan were carried, it would induce the different sections of the community to dispute hotly about their particular burying ground, and each section would look with jealousy about the privileges it fancied that another was receiving. Parsees, Mahomedans and Hindoos would debate about the burial grounds of the Christians and *vice versa*.

The Honourable Mr. NARAYAN—But surely there will be a sense of justice somewhere—in Jews, Mahomedans, or Parsees, as well as in anybody else—whereas at present the people will have no voice in the matter at all. All that the Commissioner has to do, as the Bill stands at present, is to send up a report to Government which may act summarily without consulting anybody but the Commissioner.

The Honourable Mr. TUCKER thought that there had been instances in the past of summary procedure being taken by Government.

The Honourable Mr. NARAYAN—There is the instance which I have already mentioned. When it was proclaimed that the burning grounds at Colaba and Tank Bunder should be shut up, I waited personally upon Mr. Crawford and represented the injustice that was about to be committed, and the consequence was that he withdrew the orders he had issued.

His Excellency the PRESIDENT said he did not think there was any clause in the Bill empowering the Commissioner to enter into any private burying or burning ground.

The Honourable Mr. TUCKER said that there was a general power given to the Commissioner to enter into any property for the purposes of the Act.

After some further conversation,

The Honourable the ACTING ADVOCATE-GENERAL took the section into consideration, and then submitted it to the Council in the following shape:—

CCL.—"If upon the evidence of competent persons and after personal inspection, the Commissioner shall be satisfied that any place used for the disposal of the dead is in such a state that it is or may be dangerous to health, or that any church or other place of public worship is or may be dangerous to health, he shall report the same to the Town Council, and it shall be lawful for the Commissioner with the concurrence of the Town Council to issue a certificate to the above effect, and it shall be lawful for the Governor in Council, upon the receipt of such certificate and after due inquiry by him, to issue a declaration that any such place or church or other place of public worship as aforesaid shall be closed. The said certificate and declaration shall be published in the *Government Gazette*, and in one or more of the public English and in two Vernacular newspapers published in Bombay, and a copy of such certificate, with a translation thereof in the Marathi and Guzerathi languages, shall in the case of a place for the disposal of the dead, be affixed on some part of the said ground or place, and after the expiration of two calendar months from the date of such publication, it shall not be lawful to dispose of or permit or suffer any corpse to be disposed of in, upon, within, or under the place, ground, or place of worship to which the certificate and declaration relate; and whoever, after due publica-

tion of such certificate and declaration as hereinbefore provided, disposes of, or causes, permits or suffers any corpse to be disposed of contrary to this enactment, shall be punished with fine which may extend to one thousand rupees for each offence. Provided always that in the event of any places for the disposal of the dead being closed under the provisions of this section, the Corporation shall, with the sanction of Government, provide out of the Municipal fund such fitting places to be used for the disposal of the dead as may be required in place thereof."

The Honourable Mr. TUCKER said that he thought this section should be brought under the "bludgeon" clause. It was necessary that more burying space should be provided for the community, and it should be left to Government to see that the Corporation did its duty in respect of providing sufficient burial accommodation.

The Honourable Mr. MUNGULDASS considered that this was a matter in which Government need not interfere. The Corporation would provide such additional burial grounds as may be necessary, and if they did not, public opinion would soon compel them to do so.

The Honourable Mr. NARAYAN thought it was quite unnecessary for Government to interfere.

The Honourable the ACTING ADVOCATE-GENERAL said he had modified the liability of the Corporation in the proviso, so that they were only required to provide burial accommodation in the event of places for the disposal of the dead being closed under the provisions of this Bill.

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

Section 247 became Section 250.

The first six lines and a portion of the seventh down to and including "and" were omitted. The first three lines read thus—"At every such place used for the disposal of the dead there shall be a police officer and other person duly appointed by the Commissioner, who shall enter in a register," &c.

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

In proposing the omission of Section 248, the Honourable Mr. Munguldass said he thought this was an attempt to tax indirectly the burial and burning grounds and places for the exposure of the dead, for this section empowered the Health Officer to insist upon the managers of these places to employ competent registrars to be approved of by the Health Officer, and the managers of these places were to pay their salaries! He did not see for what other purpose this section was framed—because, up to this time, a policeman had been always kept at these places and he got printed forms of the register (supplied to him by the Health Officer) filled up by the chief mourner, and in case of the mourner not knowing how to write, the policeman had to write for him. Now if the Corporation or the Health Officer wanted to employ professional men instead of policemen, there could be no objection; but if they insisted upon the manager of these places paying for the expense of the same, it would be nothing less than taxing dead bodies, which, according to Hindoo religion, was most disgusting and an interference with their religion.

The Honourable Mr. TUCKER said that the provisions of this section were necessary in the interests of proper registration.

The Honourable Mr. MUNGULDASS said that up to this time the registration had been done by the people, but it now seemed as if the Government desired to throw a new burden on them.

The Honourable Mr. TUCKER said that the former registration was very bad indeed, and this section was intended to secure a more perfect system of registration.

The Honourable Mr. NARAYAN thought that the Corporation should incur the expenses of registration.

The Honourable Mr. TUCKER considered that the Corporation should not be compelled to bear this burden, but that every race should look after its own burial grounds.

The Honourable Mr. NARAYAN submitted that every burning and burying ground in the city was under the management of the Municipality, and under this Act the Commissioner possessed power to regulate them.

The Honourable Mr. TUCKER said that if people desired to keep up burying grounds as private property, they ought to bear the burdens incident to the privilege. The Honourable Mr. Narayan and the Honourable Mr. Munguldass apparently wish that the Hindoo community should have the rights of owners, and yet have none of the responsibilities.

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

Ayes—8

The Honourable A. ROGERS.
The Honourable Mr. MUNGULDASS NUTHOO-
BHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB
PUTWURDHUN.

Noes—3

His Excellency the Honourable Sir
AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. ST. G. TUCKER.
The Honourable the ACTING ADVOCATE-
GENERAL.

The amendment was therefore carried.

The Honourable Mr. RAVENSCROFT—The question now remains, who should pay for the protection of these grounds.

The Honourable Mr. NARAYAN—I think that the Corporation should. Already Hindoo burning grounds are not looked upon by the Municipality as private properties because water and light are supplied to them free of charge.

The Honourable the ACTING ADVOCATE-GENERAL—Are rates not levied upon them ?

The Honourable Mr. MUNGULDASS—No.

The Honourable the ACTING ADVOCATE-GENERAL—Where is the section in this Bill that exempts them ?

The Honourable Mr. NARAYAN—This Council surely would not rate burial places for municipal purposes. Surely, that would be carrying rate-paying too far.

The Honourable Mr. TUCKER—Burial grounds are charged for in England.

The Honourable the ACTING ADVOCATE-GENERAL—I do not see that there is any law to prevent the Municipal Commissioner levying a rate on all burial grounds.

Section 249 became Section 251.

The Honourable Mr. NARAYAN—In legislating for the masses of the community care should be taken that no morbid feelings of squeamishness are permitted to interfere with the religious usages of the people. Among the Hindoos a corpse is carried with the face open, the rest of the body being well covered. When therefore you have to deal with some four hundred thousand Hindoos in Bombay, it would be manifestly unjust to interfere with the custom which has prevailed from time immemorial. I propose to omit the words "and concealed from public view" in lines 52 and 53. The corpse of a widow only is carried with the face covered. It must be remembered that this Council has no independent power to pass any law affecting the religious customs and usages of the people.

The Honourable Mr. TUCKER—I do not think that carrying bodies about the streets is a religious rite.

The Honourable Mr. NARAYAN—But it is a religious custom.

The Honourable Mr. TUCKER—Do the "Rules and Regulations" which the honourable gentleman refers to apply to customs ?

The Honourable Mr. NARAYAN—They distinctly refer to "customs and usages."

The Honourable Mr. TUCKER—But decency is a thing which we have power to look after. Many years ago I saw in this very town of Puna a corpse being carried through the streets absolutely naked. I am happy to say that the ideas of the people seem to have improved since that time ; but nevertheless, there is a possibility of such a sight recurring.

The Honourable Mr. MUNGULDASS said he would bear out the Honourable Mr. Narayan, that it was the custom amongst the Marathee portion of the Hindoo community that if any female died whose husband was alive her corpse must be carried without covering the face, and any interference on the part of the authorities in this matter would be considered by Marathee Hindoos as an interference with their religious rights and usages.

His Excellency the PRESIDENT said that the words "decently covered" would meet the requirements of decency.

The words "and concealed from public view" were omitted, and the section was agreed to as amended and stands part of the Bill.

No alterations were made in Sections 250 to 252.

Section 253 became Section 255 and Schedules G and H therein alluded to were agreed to after the following alterations were made :—" Race or " was inserted before "caste" in Schedule " G, " and the last line in Schedule " H" was made to read, " race or caste." The section was agreed to and stands part of the Bill.

No alterations were made in Sections 254, 255 and 256.

Section 257 was altered to Section 259.

His Excellency the PRESIDENT said that, regarding this section, the Bombay Association considered it would be the means of imposing great hardship upon the people.

The Honourable Mr. NARAYAN said that he thought it was too much to expect a medical practitioner to attend at the office of the Registrar and give information in respect of the several particulars required by Schedule H. He considered the old section much more reasonable, and he proposed that the present section in this Bill should be omitted, and that there should be substituted for it Section 215 of Bombay Act II. of 1865 amended as follows :—

" Information of the several particulars required by Schedule H to this Act annexed concerning the death of every person dying in the city shall be given in writing if the informant can write, otherwise orally, to the policeman or other person appointed to receive it at the place of burial, burning, or exposure, as the case may be, by some one of the persons present at the death or in attendance in the last illness, or, in case of disability, or default of all such persons, by the undertaker or other person conducting the funeral, and every one of these may be required thus to give or cause to be given the information, and to attest its correctness to the best of his knowledge and belief by the signature of his name, designation, and residence. Every policeman or other person whose duty it shall be to receive information at the funeral places concerning deaths, shall truly register the same, and shall every morning render or cause to be rendered at the office of the Commissioner of Police the completed and signed register made by him during the preceding twenty-four hours. The Commissioner of Police shall immediately on receiving all the reports of the preceding day transmit them to the Municipal Commissioner, to be embodied according to districts in English form in his register book, and to be reduced to such tabular forms as may be most useful for sanitary and other purposes. Any person who shall refuse or neglect to give any information which it is his duty to give under this section, shall be liable to a penalty not exceeding one hundred rupees for each offence."

The Honourable Mr. TUCKER said that what was wanted was that information should be supplied to the Registrar by a skilled and competent man if possible. He, however, quite agreed that the section required some amendment, but he was not prepared to go the length of the Honourable Mr. Narayan. He would not insist upon the medical practitioner attending at the office of the Registrar.

The Honourable Mr. RAVESCROFT agreed with the Honourable Mr. Tucker and mentioned that many poor people died without having the benefit of medical attendance.

The Honourable Mr. TUCKER thought that if the medical practitioner were omitted, the duty should be thrown upon the next of kin.

His Excellency the PRESIDENT said that this was one of the recommendations of the Bombay Association.

The Honourable Mr. TUCKER said that it was difficult to see why advantage should not be taken by the Municipality of the services of a medical man if he were in attendance on a person who had died. This was always what was done in England.

The Honourable the ACTING ADVOCATE-GENERAL remarked that it appeared to him that Mr. Hope had this clause framed in accordance with the practice under the English law.

The Honourable Mr. MUNGULDASS said that this section was most objectionable. It would be a great injustice and oppression to medical practitioners to be compelled to wait upon the Registrar, and it was also unjust to compel the chief relation of the deceased to do the same within 24 hours. As regards Hindoos, it would be utterly impracticable, because a Hindoo was prevented by his religion and social custom from going out of the house or putting on his turban for some days after the death of his parents or such other near relations.

The Honourable Mr. RAVESCROFT said that it appeared to him that the only way to get correct registration was to compel the policeman at a place of burning or burial to obtain a certificate from the people attending the body.

The Honourable Mr. NARAYAN said that this was done at present, people attending funerals having to fill up certain certificates which were afterwards taken by the policeman to the Registrar.

The Honourable Mr. TUCKER thought that information regarding a death should be given to the Registrar within twenty-four hours.

The Honourable Mr. NARAYAN said that an orthodox Hindoo was not permitted to leave his house for ten days after a death had taken place in it, excepting when he accompanied the corpse to the burning ground; therefore it would be a hardship to compel a next of kin to depart from a custom which was regarded somewhat sacredly, by going specially to the house of the Registrar.

His Excellency the PRESIDENT said that in that case perhaps it would be the better plan to get the information at the burial place where the certificate was delivered to the policeman.

The Honourable Mr. RAVENSCROFT said he had no doubt whatever that the only place at which full and correct information could be got was the burying ground.

After some further discussion,

The Honourable the ACTING ADVOCATE-GENERAL suggested an amended clause to the effect that the medical practitioner or any person in attendance during the last illness of any person dying in the city should furnish in writing to the Registrar of the district within forty-eight hours a certificate containing the particulars mentioned in Schedule H attached to this Act, and that in case of there being no such medical practitioner in attendance at the last illness of the person deceased, then some member or relation of the family, or some person resident with the deceased in his lifetime, or the undertaker or other person conducting the funeral, should within the said time attend personally at the office of the Registrar of the district in which the deceased person resided, and give the information to the Registrar to the best of his or her ability and belief of the several particulars required by Schedule H. Any person who should refuse or neglect to furnish required certificate or attend at the Registrar's office or to give any information which it should be his duty to give under this section shall be liable to a penalty not exceeding Rs. 100 for each offence.

The Honourable Mr. NARAYAN—I prefer my own amendment to the Honourable the Acting Advocate-General's section, by adopting which you simply inflict upon a man who loses his relatives the hardship of going to the Registrar's office, even though that might be miles away from his house. In such an hour of affliction I think it would be unjust to impose such an irksome duty upon any man. The clause of the old Act which I propose is as nearly perfect as I could imagine.

The Honourable Mr. RAVENSCROFT concurred with the Honourable Mr. Narayan, and mentioned that it seemed to be thought that a Registrar was always bound to be in his house. Thus a man might be compelled to go several times to a Registrar's office before he could get his duty off his hands.

The motion having been put to the vote the Council divided:—

Ayes.—7.

The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB
PUTWURDHUN.

Noes.—4

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable J. K. BYTHELL.

—*Carried.*

Section 215 of Bombay Act II. of 1865 as amended was then agreed to and stands part of the Bill as Section 259.

Section 258 became Section 260.

His Excellency the PRESIDENT remarked that this section would come under the bludgeon clause.

The Honourable Mr. NARAYAN did not think this section was just, and mentioned that formerly the expense of taking a census was borne in equal parts by the Municipality and Government.

The Honourable Mr. BYTHELL said that this section seemed to provide for the Municipality taking a local census as well as a general census.

His Excellency the PRESIDENT said that if the Municipality wanted a local census in addition to the general one, it would have to pay for it.

The Honourable Mr. TUCKER said that of course the Corporation could order a census under this section if they chose ; but he agreed with His Excellency the President that if the enumeration was distinct from the general census and was for their own purposes, they would have to pay for it.

The Honourable Mr. BYTHELL said that apparently if the Government of India ordered a general census, the Corporation would have no voice in the matter and would be compelled to make a census whether they required it or not.

His Excellency the PRESIDENT asked the Honourable Mr. Tucker if it was intended that this section should apply to a general census of all India.

The Honourable Mr. TUCKER replied that it would if the Government of India and the Municipality agreed that there should be a census.

His Excellency the PRESIDENT—But supposing that they do not agree ?

The Honourable Mr. TUCKER—Then it would be a matter of negotiation between the Government of Bombay and the Corporation, and the Government of Bombay would be the instrument by which the wishes of the Government of India will be carried out.

The Honourable the ACTING ADVOCATE-GENERAL—The section only authorizes the taking of a census by the Municipality, when the different authorities concerned shall have agreed that a census is to be made.

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

No alterations were made in Sections 259 to 264.

Section 265 became Section 267.

The Honourable Mr. FORBES thought the Commissioner's power in this section should be subject to the sanction of the Town Council.

The Honourable Mr. TUCKER did not think that this was necessary.

The Honourable Mr. FORBES then moved that in line 1 the words " with the sanction of the Town Council " should be inserted between " may " and " from."

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

Ayes—7.

The Honourable A. ROGERS.

The Honourable MUNGULDASS NUTHOOBHUY.

The Honourable Colonel M. K. KENNEDY.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB
PUTWURDHUN.

Noes—4.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

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

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable E. W. RAVENSCROFT.

After clause B the following clause was inserted as clause C :—" For the regulation of buildings in the matters directed by this Act." Clause C. became Clause D., and so on.

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

Section 266 became Section 268. On the motion of the Honourable Mr. Munguldass the following alterations were agreed to :—In line 1 " and the Town Council " was inserted between " Commissioner " and " by," in line 3 " them " was substituted for " him " and in line 5 " they think " was substituted for " he thinks."

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

Section 267 became Section 269. In line 2 " and Town Council " was inserted between " Commissioner " and " under."

The Honourable Mr. TUCKER proposed that for the sake of uniformity in all the sections, lines 5, 6 and 7 should be altered to read as follows :—" Solely to the officers or servants of the Corporation subordinate to the Commissioner shall come into operation until," &c.

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

No alterations were made in Sections 268 to 274.

With regard to Section 273, which became Section 275, His Excellency the President mentioned that the Bombay Association objected to this clause because it though that on principle the power to repeal bye-laws should be vested in the same body that possesses such authorities to make bye-laws.

The Honourable Mr. TUCKER said that it was very necessary that such power should be left with Government, so that it might correct any mistakes which might occur.

The Honourable the ACTING ADVOCATE-GENERAL said that the principle which the Bombay Association seemed to seek to lay down was that this Council, though they may legislate to-day, ought never to legislate hereafter.

Section 275 became Section 277.

The Honourable Mr. NARAYAN thought that in line 19, and between "may" and "from," "subject to the sanction of the Town Council" should be inserted.

The Honourable the ACTING ADVOCATE-GENERAL said that this had been purposely omitted in the Select Committee, because it would be observed that it was only temporary occupation which was referred to, and if the Commissioner could not make his own arrangement regarding offers which the parties wished to be executed at once without applying to the Town Council, these offers might be lost.

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

Section 276 became Section 278.

The words "or presented" were inserted after "given" in line 4; "or presented to" was inserted between "on" and "the" in line 7; "or presented" between "served" and "or" in line 11, "or presented to" between "on" and "such" in line 22; and "or presented to" between "with" and "some" in line 23.

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

Section 277 became Section 279. In line 4 "or presenting" was inserted between "given" and "by," in line 12, "or presenting" was inserted between "giving" and "the," and in line 19 "or presented" was inserted between "served" and "by."

No alterations were made in Sections 278 to 282.

Section 283 became Section 285. In line 6 "5 A.M." and "7 P.M." were substituted for "sunrise" and "sunset."

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

Section 284 became Section 286. Line 3 was altered to read as follows:—"Other than Sections 228 and 285."

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

No alterations were made in Sections 285 to 292.

Section 293 became Section 295.

The Honourable Mr. NARAYAN wished that "with the sanction of the Town Council" should be inserted between "may" and "direct."

The Honourable the ACTING ADVOCATE-GENERAL said that it was expedient that the Commissioner should have the power of prosecuting in simple cases without having to apply to the Town Council.

After some discussion the matter dropped, and the section was agreed to and stands part of the Bill.

No alterations were made in Sections 294 to 300.

Section 301 became Section 303.

Suggestion to allow the Municipality to purchase their own debentures. The Honourable Mr. NARAYAN suggested that the Municipality should be allowed to invest in their own debentures which they were prevented from doing by the present law.

The Honourable Mr. TUCKER said that there could be no objection to the Corporation buying up their own debentures and cancelling them, if they could obtain them at a price at which it would be advantageous to do this; but they could not purchase their debentures and substitute them for other securities for the purpose of forming a reserve fund, as such a course would be a practical annihilation of any fund of the kind which they might be required to keep up. No deposit of municipal debentures would be any protection to the municipal creditor.

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

Sections 302 and 303 became Sections 304 and 305, and were agreed to and stand part of the Bill.

Section 304 was omitted, and the following sections prepared by the Honourable the Acting Advocate-General were added to the Bill :—

CCCVI.—“ This Act shall come into operation from a date hereafter to be declared and notified by the Governor in Council in the *Government Gazette*, and it shall be lawful for the Governor in Council, in order to bring into operation this Act for the year 1873 by notice in the *Government Gazette*, to declare the day before which the payment of the municipal rates as provided by this Act shall qualify a person to be appointed a member of the Corporation and to vote at the election of any such members, and to fix the time for electing, nominating, and appointing the members and officers of the Corporation and the Town Council, and also to fix the date upon which the Municipal Commissioner shall lay before the Town Council an estimate prepared by him of the proposed expenditure of the Municipality for the year 1873, and to issue any other notifications that may be necessary to bring this Act into operation for the year 1873, and subject as aforesaid the provisions of this Act shall take effect for the purpose of enabling the Corporation and the Town Council to manage the municipal affairs and municipal revenues during the year 1873, and in the event of all the members of the Corporation and of Town Council not being elected, nominated, or appointed, on or before a day to be fixed and notified as appointed by the Governor in Council, it shall be lawful for the Governor in Council to authorise the Corporation and the Town Council to proceed for the year 1873 with the management and consideration of the municipal affairs and revenues in the same manner as if all the members and officers of the Corporation and Town Council had respectively been elected, nominated, and appointed under this Act: Provided that any Budget which may be fixed by the Bench of Justices under the provisions of (Bombay) Act II. of 1865 for the year 1873 shall continue to be in force until a new Budget is settled under the provisions of this Act, and it shall be competent for the Corporation to be created by this Act to adopt the said Budget if the said Corporation shall think it expedient to do so.”

CCCVII.—“ This Act shall be in force for a period of three years from the date referred to in the preceding section, and it shall be lawful for the Governor in Council from time to time to extend, by a notification to be published in the *Government Gazette*, the period for the operation of this Act for such term or terms as he may think fit.”

CCCVIII.—“ This Act may be cited for all purposes as ‘ the Bombay Municipal Act of 1872.’ ”

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, 20th September 1872.

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 COUNCILS' ACT, 1861."

The Council met at Púna on Saturday, the 21st September 1872, at noon.

P R E S E N T :

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

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

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

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHoy, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The Bombay Municipal Bill considered in detail.

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

The Honourable Mr. TUCKER observed that there was one very important point to be considered. It was plain now that this Bill if passed

The Corporation to accept the Bench of Justices' budget if they choose.

could not come into operation till 1873, it must therefore be decided what effect should be given to the Budget for 1873, which will be settled by the Corporation of the Justices for the present year. He would ask the Advocate-General whether under the Bill as it stands the new Corporation could carry out the Budget settled by the Justices or would be bound to proceed to fix a new one.

The Honourable the ACTING ADVOCATE-GENERAL said that on the Act coming into force, the Corporation of Justices would be abolished, and the new Corporation would be required to prepare its own Budget.

The Honourable Mr. TUCKER said that he considered it was scarcely desirable to have a second Budget for 1873, and he thought a proviso might be inserted at the conclusion of the bill, directing that the new Corporation should adopt the Budget of the Bench of Justices for 1873.

The Honourable the ACTING ADVOCATE-GENERAL said that if the Budget for 1873 were passed by the Bench of Justices before the Act became law, the Commissioner, on the Act coming into operation, may submit to the new Corporation the Budget settled by the Justices, and it would remain with the Corporation to consider and adopt that Budget if it chose. But of course acts which had already been done to carry out the Bench of Justices' Budget could not be set aside by the new Corporation.

His Excellency the PRESIDENT—So that all contracts will hold good?

The Honourable the ACTING ADVOCATE-GENERAL—Certainly.

His Excellency the PRESIDENT—Then the honourable gentleman considers it quite clear that as the Bill now stands, the Corporation may reconsider the Budget of the present Justices?

The Honourable the ACTING ADVOCATE-GENERAL—Yes; I think so. The old Budget of the Justices will practically be defunct when the new Corporation comes into power. Under this present Act the Commissioner was bound to bring up the Budget for the current year before the 1st January. If the present Act does not receive the assent of the Governor-General until after that date, of course some other date will be fixed when the Commissioner may bring up the Budget to be framed under the new Act for 1873.

The Corporation may have the Bench of Justices' Budget placed before it, and after altering or amending or adding to it as they think fit, it will be the Municipal Budget for 1873.

The sections which were added at the end of the Bill were then read over, and received the assent of the Council.

His Excellency the PRESIDENT—Before we go further, we might take up the objections of the Bombay Association to the different sections. Their first objection is regarding the qualification necessary for candidates. We have already reduced the qualification to Rs. 50. The matter referred to in their third paragraph has also been discussed by the Council.

The Honourable Mr. TUCKER—Your Excellency may have to go through the whole Bill again if you now proceed to consider in detail the objections taken by this Association to those portions of the Bill which had been discussed before the receipt of their memorial. It is contrary to the practice of this Council to go back again over sections that have been passed, save in certain exceptional circumstances. Most of the objections of the Association have been already raised in the Council and fully discussed.

His Excellency the PRESIDENT—I am pledged to take the course I am now pursuing, because on the motion for the second reading I said that the Bill might be gone on with without delay, and that objections to the details could be heard afterwards.

The Honourable Mr. TUCKER—There must be other alterations made in the Bill, and I think it would be better to adhere to the usual practice of this Council and to postpone any further consideration of details that may be deemed necessary till the motion for a third reading comes on. It is a point of order however, the decision of which rests with your Excellency.

His Excellency the PRESIDENT—It was said that no new arguments could be brought against this Bill which had not already been raised in this Council, and I am exceedingly glad to find that this has been for the most part true. There is little which has not received the most patient consideration during the ten days we have sat here, and my reason for wishing to go back and consider any objections of the Association which have not been already debated upon, is that we may show the public that we have been willing to consider all the objections which they themselves have raised. I therefore rule that we should now proceed to reconsider those sections to which their objections more particularly apply.

His Excellency the PRESIDENT—The Association say that the objection which they took in paragraph 2 of their memorial applies with great force to the qualification of electors, and they think that if the qualification fixed by the Bill is adhered to, the elections will consist chiefly of the house and land owning class, to the exclusion of a large majority of occupiers.

The Honourable Mr. BYTHELL—By omitting the wheel tax as a qualification, we exclude nearly every European from taking a place in the Corporation.

The Honourable Mr. TUCKER—Sir, I personally have always been very desirous to do anything which would make the better educated of our citizens eligible for election or appointment as members of the Corporation, and in the Select Committee we discussed several ways of creating an educational test, but found some objections to all that were suggested. I shall be very glad to support any measure which can be brought forward to give the more educated and more intelligent classes of citizens a place in the representation. It was at one time suggested that a certain knowledge of the English language should be made requisite in every candidate for election, but it was thought that in the present state of education in Bombay, this test might exclude many who would be otherwise competent to sit in the Corporation, and there was the difficulty of finding any way of ascertaining the candidate's acquirements, which was free from objection. I see that the present French Government in creating Legislative assemblies in their colonies and dependencies have insisted on a knowledge of the French language as a qualification for membership; and it was thought at one time that we might have introduced such a test, but there was a difficulty in arranging how it should be applied and in fixing upon any person who should be entrusted with the duties of declaring the fitness or unfitness of a candidate. The objection of adding the wheel tax to the list of rates, contributions to which qualify, is that it would make eligible for election a large class of ignorant persons, and that it is a tax leviable in arrear and constantly fluctuating in accordance with the number of vehicles and animals kept up.

The Honourable Mr. FORBES—As this Bill stands, we are excluding, I think, the class of Bombay citizens which would be most useful to the citizens. I mean the Euro-

pean community. Professional men, men living at clubs and so forth, will be excluded, even though their intelligence and their power of usefulness to Bombay are undeniable.

The Honourable Mr. TUCKER—If these gentlemen are very anxious to take a share in the management of the public affairs of the city, they can easily qualify by living in separate houses and paying occupiers' rates.

The Honourable Mr. BYTHELL—A man may have many reasons for not taking a house of his own and he would not probably care to make the sacrifice of leaving his club just to get the privilege of being an elector of the Bombay Municipality. Even on grounds of economy many Europeans may prefer not to qualify themselves for paying these taxes.

The Honourable Mr. TUCKER—The qualification is only £5 a year, something less than five rupees a month.

The Honourable Mr. FORBES—It may be much more than that if the man has to take a house at a long rent and furnish it.

The Honourable Mr. TUCKER—If the European gentlemen referred to did not care to adopt the necessary means of obtaining a qualification which was quite within their reach, they could hardly complain if they were not admitted into the Corporation. I should certainly desire to see many of this section of the community in the Corporation, and if a fair proportion were not chosen by the rate-payers and the Justices, Government would have the power to restore the equilibrium by selecting their nominees among the Europeans. It was principally for this reason that I desired that Government should have the nomination of one-third of the members instead of one-fourth as has now been allotted. The Municipal Commissioner fears that as the late census shows more than half the 640,000 inhabitants are Hindus, that that class will obtain a large preponderance in the representation, and that Mahomedans, Parsees, Portuguese, Jews, and Armenians, as well as Europeans, may not be able to get a fair proportion of their numbers elected. If the rate-payers and the Justices should return a large majority of Hindus, it will remain for Government to rectify the balance by confining its selection to the other races. With regard to houses taken in the name of mercantile firms, it will be easy to arrange that the house should stand in the name of a member of the firm in the municipal books, which would make one member at least of each firm an occupying rate-payer and eligible for election.

The Honourable Mr. FORBES—I pointed out that virtually three-fourths of the Europeans who pay wheel tax would be excluded from the Corporation, and I do understand the Honourable Mr. Tucker to say that these persons will be eligible for nomination by Government.

The Honourable Mr. TUCKER—Not unless they contribute fifty rupees annually to the rates. Practically they will have no real difficulty in obtaining this qualification if they desire it. As the Bill now stands, the rate-paying qualification applies both to the nominees of Government and the elected of the rate-payers and Justices.

The Honourable Mr. BYTHELL—It may be easy, but at the time of an election the European will be excluded from taking any part in the proceedings, if he have not paid a year's rates. Therefore, even though he takes a house, he will not get electoral privileges through it for a whole year or more.

The Honourable Mr. TUCKER—That will be no real hardship to him.

The Honourable Mr. BYTHELL—But it may be to the Corporation and the city generally, since his valuable services will be lost to them.

The Honourable Mr. FORBES—I think it is one of the worst features of the constitution proposed by this Bill, that what may be considered the most intelligent class in the community will be to a great extent excluded.

His Excellency the PRESIDENT—It is laid down as a principal of the Bill that no one shall have a right to deal with the funds of the Municipality who shall not have paid municipal rates, and it now seems to be a question whether this Council shall open the way into the Corporation to certain people merely because they pay a tax which is not a municipal rate.

The Honourable Mr. BYTHELL—Many of these European gentlemen pay much more for wheel-tax than Rs. 50 per annum, and I think that that should be made a fair ground for securing electoral privileges.

The Honourable Mr. TUCKER—It has been pointed out that to make the wheel-tax a qualification would admit the class of persons who let out vehicles on hire as candidate

for election, and I consider that it is not desirable that ignorant persons, such as buggy-wallas and cab-owners, should obtain seats in the Corporation.

The Honourable Mr. BYTHELL—It is a matter entirely of opinion whether the respectable portion of the community who pay wheel-tax should be excluded merely because a certain number of ignorant persons might obtain a qualification if that tax were added to the section.

The Honourable Mr. TUCKER—I confess that I have been agreeably surprised to find the Honourable Mr. Forbes advocating that something should be done to make the more intelligent and better educated classes of the community eligible for election without a rate-paying qualification. As I had always understood that the cry of the rate-payers, who proceeded in procession last year to the Town Hall with flags and banners to signify their approval of the views expressed by the honourable member in the Bench of Justices, and who afterwards on the honourable gentleman's departure for Europe crowned him with roses and desired to drag his carriage to the Bunder, was that none but rate-payers should have a voice in the management of the affairs of the city. It was to meet these supposed views that a rate-paying qualification was made compulsory in this Bill, but I shall be glad to support any honourable member who will propose an educational qualification which may be free from objection in addition thereto.

The Honourable Mr. FORBES—I may say that I never took part in any such procession as the honourable gentleman has described, nor have I any knowledge that such a procession took place.

The Honourable Mr. TUCKER—I think that there are some gentlemen here who can bear me out in saying that the honourable gentleman's supporters did assemble in the Town Hall in the manner I have described—at least it was so reported in the public journals of the day—and that the main object of their demands was the representation of rate-payers and a rate-paying qualification.

The Honourable Mr. FORBES—I beg to state that I never pledged myself in any way to an exclusive rate-paying qualification, and that I played no part in the meeting to which the honourable gentleman refers, and witnessed no procession such as he describes.

The Honourable Mr. TUCKER—I have not the reports of the honourable gentleman's speeches in the Bench of Justices to refer to; but I think that if they are examined it will be found that the honourable member's views have undergone a change—of which I do not complain, but which, on the contrary, am glad to acknowledge.

The Honourable the ACTING ADVOCATE-GENERAL—I think we are departing from the matter before us. The question is whether the wheel-tax shall be one of the qualifications. This matter has been already debated and a majority of the Select Committee of this Council came to the conclusion that the principle laid down in Section 4 should stand. I therefore think that it is very undesirable to renew this discussion now, because we cannot very well have anything new said upon the subject. The rate-book has not been drawn out to show how many people will be affected by the exclusion of this wheel-tax, and we do not know as a fact whether any hardship will be inflicted upon any class of the community by this exclusion. Seeing that at the third reading it would be fully open to any member of the Council to bring up the subject, I certainly would ask your Excellency to remit the further discussion of it to the third reading of the Bill. By that time the Honourable Mr. Bythell may have statistics prepared to show how many and who will be affected by the wheel-tax being left out as an electoral qualification.

The Honourable Mr. BYTHELL—If we are to admit the principle just laid down, then I submit that it will be a waste of time to go through this petition.

His Excellency the PRESIDENT decided to go on with the consideration of the Bombay Association's memorial. The next point, he said, which the Association raised, was the dividing of the city into wards.

The Honourable Mr. MUNGULDASS submitted that a clause should be added to the Bill in conformity with the wishes of the Bombay Association

The Honourable Mr. TUCKER—The elections are to be regulated by rules to be hereafter made by Government, and the statements of the Association can best be considered when those rules are finally settled. So far as representation is concerned, the Bill introduces an entirely new experiment, and great care will be taken in framing the rules to make the election proceedings as simple and plain as possible.

His Excellency the PRESIDENT—The Association next want the reporters of the press to be allowed to be present at meetings of the Town Council and Corporation.

The Honourable Mr. TUCKER—As far as the Corporation is concerned, the admission of the public under certain restrictions will be provided for in the bye-laws. The Town Council will not be a deliberative assembly but a board of direction, and the presence of the public at their meetings would be embarrassing and impede the transaction of business. It would be altogether unprecedented for the managing committee of an institution to hold its proceedings in public, and no good reason has been shown for such an innovation on the ordinarily recognized practice.

The Honourable Mr. MUNGULDASS—The reporters of the press have always been allowed to be present at the meetings of the Bench of Justices.

The Honourable Mr. TUCKER—The honourable gentleman is confusing two things which are quite distinct. Apparently he thinks that the Town Council is the Corporation. It is proposed to enact in the bye-laws that the public will be admitted to the meetings of the Corporation subject to conditions which recent occurrences at the meetings of the Bench of Justices have been shown to be absolutely necessary.

The Honourable Mr. MUNGULDASS said that at the time of the third reading of the Bill he would give notice of such amendments of some of the sections complained of by the Bombay Association as would in his opinion be an improvement on the present provisions.

His Excellency the PRESIDENT—Up to the eighth para. of the petition the matters mentioned have been settled after discussions by the Council. In the eighth para. they object to Section 18, and say that the Corporation should have power to frame regulations for the conducting of Corporation meetings. The section has been already modified by the Council. The matters alluded to in paras. 9 and 10 have also been fully discussed. The Association next refer to the various powers given to the Municipal Commissioner in respect of buildings, the removal of huts, &c.; but every one of these matters we have also discussed, and the sanction of the Town Council has been made essential to a number of the acts the Commissioner is authorized when to do.

The Honourable Mr. FORBES—This concession has been granted only in very few cases.

The Honourable Mr. TUCKER—If the honourable gentleman takes the trouble to go over the different sections, he will probably find that alterations in this direction have been made in many more instances than he imagines. If we have made any fault at all, I think we have given the Corporation and Town Council too much power to interfere.

The Honourable Mr. FORBES—The Association next object to Sections 40 and 41. I think that what they say, that these sections place the Town Council and the Corporation entirely at the mercy of Government, is correct.

The Honourable Mr. MUNGULDASS admitted that as regards Section 42, the Corporation were invested with power of dismissing the Municipal Commissioner if forty of their number should consider it necessary to do so.

His Excellency the PRESIDENT—The Association next think the salaries of Health Officer and Executive Engineer too high. These matters have been fully discussed already.

The Honourable Colonel KENNEDY said that Captain Tulloch had to take leave to England last year, and the reason was that his health had been ruined in the service of the Municipality on the surveys in connection with proposals to increase the water supply. He was so very ill that he had to be carried on board the vessel, and this officer, whom the Association now wanted to dismiss, deserved every possible consideration at the hands of the Municipality.

His Excellency the PRESIDENT remarked that as the Executive Engineer's appointment would expire in six months, it was not worth while interfering with present arrangements. The Association objected to the proviso in Section 16, by which a whole flat was made assessable if only a portion were occupied.

The Honourable Mr. TUCKER—I referred this matter to Mr. Peile, and he says that houses let out in single rooms and chawls are not brought under this section. The section applies only to cases where the whole of a floor or certain parts of a floor are let out in sets of apartments containing two or three rooms occupied as separate domiciles.

The Honourable the ACTING ADVOCATE-GENERAL—This section was one of those the consideration of which was reserved.

The Honourable Mr. MUNGULDASS—I give notice that at the third reading I will move that the whole of the section be struck out. I know a chawl or a range of rooms is often let out as shops or godowns to separate tenants. If one or two only are occupied, the owner will have to pay house-tax, police and lighting rates on the whole range on each floor.

The Honourable Mr. TUCKER—These shops which the Honourable Mr. Munguldass alludes to must, I should think, be in reality separate tenements.

The Honourable Mr. MUNGULDASS said he knew from personal experience in regard to his own property that what the Honourable Mr. Tucker stated was not the fact. Shops, godowns or habitable apartments on the same floor are not treated as separate tenements.

The Honourable Mr. BYTHELL—In a place like the piece-goods bazaar, the whole of the shops must be paid for.

The Honourable Mr. TUCKER remarked that if the Honourable Mr. Munguldass had been paying in the manner he mentioned for what was in truth a chawl, he ought to have taken legal advice. He (the speaker) understood from Mr. Peile that chawls were not ordinarily treated under the clause.

The Honourable Mr. MUNGULDASS—I know, from personal experience, that each floor in a chawl is assessed separately.

His Excellency the PRESIDENT—The next point the Association allude to is the assessment of Government property, but we need not again enter into this subject, as we have fully discussed it. The matters referred to in paragraphs 23, 24 and 25 have also been discussed. Section 130 is objected to by the Association, who quote General Marriott's Committee that "the recovery of occupiers' rates from owners during the non-occupancy is indefensible."

The Honourable Mr. MUNGULDASS—Can any member of Council show one instance of occupiers' rates being recovered from empty houses in any civilised community in Europe or even India?

His Excellency the PRESIDENT said that the matter should be considered on the third reading. The Association objected to Section 104.

The Honourable Mr. NARAYAN—General Marriott's Committee recommended that municipal taxes should be levied on vehicles, horses, or ponies belonging to Government.

His Excellency the PRESIDENT—The Association do not approve of Sections 118, 146, 160, 191, 192, 193, 205, 206, 217, and 247.

The Honourable Mr. TUCKER—All the objections taken by the Association are repetitions of what we have heard in the Council over and over again.

The rest of the paragraphs of the Bombay Association's petition were alluded to, and the Council then went on to the consideration of the preamble and the first three sections.

Section 1 was agreed to and stands part of the Bill.

The Honourable Mr. TUCKER—Regarding the word "street" in Section 2, Dr. Hewlett objected to the exclusion of certain words which had been originally entered in the section, but has been excluded by the Select Committee.

The Council agreed to insert "square" after "street" in line 24.

The Honourable Mr. NARAYAN said that "feet" should be substituted for "yards" in line 45.

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

Ayes—3.

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTBAO TATTYA SAHIB
PUTWURDHUN.

Noes—7.

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

The motion was lost.

The Honourable Mr. TUCKER—Regarding "what are to be deemed nuisances," Dr. Hewlett writes:—"In each successive English Act pertaining to public health, the Legislature has wisely amplified such illustrations for the guidance of Magistrates. If the wording of the present Bill becomes law, it will be almost impossible for the Health Department to appear in Court to prosecute the perpetrators of a nuisance without the assis-

tance of a lawyer, as the present wording opens out the widest field for legal quibbles and special pleading. I earnestly trust that Government will be pleased to re-insert the illustrations given in the Amended Draft Act, as I am certain that they are absolutely necessary. These additions are—'All noxious or offensive emanations, all rank or noisome vegetation, all water and refuse from factories, places of trade or manufacture, from slaughter-houses, markets, bazaars, from land, houses, out-houses, kitchens, stables, huts and sheds of all descriptions. Any animal, vegetable or mineral matter, fluid or solid, which is or may be offensive or injurious to health. Any land, pool, ditch, tank, well or receptacle for fluid, pond, quarry hole or low ground, or any water or stagnant water or any gutter, water-course, privy, urinal, cess-pool, sewer, drain or ashpit, any structure whether of wood, mud, masonry or metal so kept that it is or may be offensive or injurious to health. Any animal so kept that it is or may be offensive or injurious to health. Any accumulation or deposit which is or may be offensive or injurious to health. Any factory, workshop, or workplace emitting smoke, or not in a cleanly state or not ventilated in such a manner as to render harmless as far as practicable; any gases, vapours, dust or other impurities, generated in the course of the work carried on therein that are or may be injurious or dangerous to health, or so over-crowded while work is carried on as to be prejudicial or dangerous to the health of those employed therein.' It will be observed that the last illustration copied from the Public Health Act of 1866 has been added, as there is in this city no Act for the general regulation of factories or bakehouses. I would also wish to add another illustration from the same Act. "Any house or part of a house so over-crowded as to be dangerous or prejudicial to the health of the inmates." I propose that the words "or property" should be inserted after "health" in line 78.

The proposal was agreed to.

After "mules" in line 82, "deer, sheep," were inserted.

In line 111, "or due to" was inserted between "of" and "the," and after "of" in line 115, "or due to" was inserted.

Section 2 as amended was then agreed to and stands part of the Bill.

No alterations were made in Section 3.

The Council then proceeded to the consideration of what sections should be brought under the operation of Section 40.

It was agreed that the provisions of the section should be made applicable to Sections 86 and 93.

The Honourable Mr. NARAYAN considered that Section 93 should not be brought under Section 40. Government had sufficient protection in having the maximum house-rate to resort to.

The Honourable Mr. TUCKER—If certain money is never absolutely needed, this clause will be quite innocuous.

The Honourable Mr. NARAYAN—I think it will be very arbitrary.

The Honourable Mr. TUCKER—It is as well to have it though we may not use it. "Fast bind, fast find."

The Honourable the ACTING ADVOCATE-GENERAL—There is no good in saying that Government shall be empowered to do certain things if powers are not also given to provide means.

The Honourable Mr. NARAYAN—Under similar powers the Municipality has already been saddled with an enormous debt.

The Honourable Mr. TUCKER moved that Section 96, relating to the supplementary rate, be added after Section 93.

The motion was put to the vote and carried by 7 to 3.

It was agreed that Sections 138, 142, 145, 189, 246 and 250 should also be brought under Section 40.

The Council then considered and passed the preamble and title, and His Excellency then proposed that the third reading of the Bill should take place on as early a date as would suit the convenience of the Council, and after some discussion the third reading of the Bill was fixed to take place on Tuesday, the 15th October.

The Honourable Mr. TUCKER—I beg to give notice that at the third reading of this Bill I shall move that the duty on cotton shall not be raised or altered from time to time. An argument has been used against this duty of 4 annas per candy to the effect that our proceeding was but the thin end of the wedge, and that more burdens would be placed on cotton; but the motion of which I now give notice will meet this objection. I also beg to give notice that at the conclusion of the third reading of this Bill I shall introduce the Vaccination Bill.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Pina, 21st September 1872.

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 COUNCILS' ACT, 1861."

The Council met at Púna on Tuesday, the 15th October 1872, at noon.

PRESENT :

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

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

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

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHoy, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

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

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

Affirmation of office, &c., taken
by Sir Jamsetjee Jejeebhoy.

The Honourable Sir JAMSETJEE JEJEEBHoy took the usual affirmation of office and declaration of allegiance to Her Majesty.

His Excellency the PRESIDENT—Before proceeding to the business of the day, I would call the attention of the Council to two petitions which we have received regarding the Municipal Bill since our last sitting. Shortly after the last meeting of Council a memorial was sent to the Government from the Rate-payers Association of Bombay. We also have more recently received a memorial signed by several inhabitants of Bombay. With reference to this memorial, the Secretary will read a communication which has reached him this morning.

Mr. NUGENT (Acting Under-Secretary to Government) read a letter which had been received from certain persons, stating that they had signed the latter-mentioned memorial through misrepresentations.

His Excellency the PRESIDENT—We have also received a memorial from the Chamber of Commerce. These petitions will lie on the table for the consideration of the members of the Council, and we can proceed with the list of business appointed for this day's sitting.

The Honourable Mr. TUCKER—Sir,—It does not ordinarily happen, when a Bill has reached the stage of progress to which this Municipal Bill has advanced, that the member in charge of it, and upon whom devolves the duty of moving the third reading, is called upon to make any lengthy observations either with reference to the principles or the more prominent details of a measure which has been so far considered by the Council. But there are special circumstances connected with this Bill which, perhaps, render it necessary that I should, to a certain extent, deviate from the usual practice, and make a few preliminary remarks, which otherwise I should not have been disposed to make, as the Council has already so fully discussed and deliberated upon every section of the Bill as it now stands. The proposed legislative enactment is so important and comprehensive, deals with so many subjects of material consequence to the future well-being of one of the most populous cities in Her Majesty's dominions, affects so many interests, and has excited so much attention and has called forth such an accumulation of hostile but discordant opinions, that it may be well, before we proceed further, to review some of the principal objections which have been taken to it, and to examine whether they are reasonable and rest upon

Mr. Tucker's remarks preliminary to moving the third reading of the Bombay Municipal Bill.

any solid foundation. This is the more necessary, because the exigencies of the situation have compelled us to proceed with the consideration of the details of this Bill before receiving the full expression of the opinions of the different sections of the community who will come under the operation of the Bill. These opinions have found utterance in the various memorials and petitions which have been received by Government since the second reading of the Bill, and also in the leading articles and correspondence of the public journals published in the English or Native languages. There have also been meetings of the Bench of Justices, of the Chamber of Commerce, and of the Bombay Association, at which resolutions have been passed and speeches made, indicative of dissatisfaction at particular portions of the Bill, and of the insufficiency of the measure as a whole, and I have also received several unofficial communications on the subject. I in no way regret the rigorous criticism to which the Bill has been subjected in or out of this Council—in fact, I invited this criticism, and I trust that it has had a beneficial effect in modifying many of the details of the Bill, and in improving its form and shape. Fortunately, in the new members who have been added to the Council since the first introduction of the Bill, the public have found excellent exponents of the popular sentiments entertained by different classes of the citizens with respect to the measure, so that most of the objections put forth in the various petitions, representations, and memorials which have reached the Council, have been raised and discussed both in the Select Committee and by the Council itself when considering the Bill in detail, and alterations have been made in the direction indicated by many of the objectors. Apparently we have not satisfied the extreme views entertained by any of the sections of the opposition who hold conflicting and irreconcilable opinions upon many points; but we have made numerous and liberal concessions to each class of opponents, and have only resisted where it would seem clear that the interests of the entire community would suffer if further concessions were made. We are even now prepared, with respect to the qualification of representatives, the supplementary rate, and other matters which I shall hereafter mention, to make further alterations, to remove some of the objections which we consider to have most weight, and I think we are not open to the charge of undue obstinacy which has been preferred against the local Government and against myself especially. Now to turn to the particular objections. First comes the Chamber of Commerce. Their main objection is to the duty upon cotton, and to the imposition of additional burdens upon the trade of the place. Although the arguments advanced in the debates in the Chamber have not convinced me that Transit Duties under certain exceptional circumstances, and with certain limitations, are not a legitimate source of taxation to meet such an exigency as has arisen, in consequence of the insufficiency of the municipal income to provide for the urgent wants of the town, or that the imposition of a small duty of 17*d.* per ton would, under the peculiar circumstances of the trade, have any appreciable effect upon it, or that the dealers in the article would not receive ample compensation in consequence of the abolition of all inland transit duties, which has been already carried out, and in the other benefits now enjoyed by the trade, yet I regret to state that a communication has been received from the Viceroy, which His Excellency the President will mention hereafter, which renders it inexpedient that we should persist in including cotton in the list of dutiable articles, and it has therefore been resolved, with great reluctance, on my part I must admit, to omit this commodity from the schedule of Town Duties. In deference to the views of superior authority, therefore, the part of the Bill to which the Chamber of Commerce so much objects will disappear. The next objection which I am about to notice, appears to me to carry with it its own refutation, and to be altogether unreasonable. It was brought prominently forward at the meeting of the Bench of Justices in a sensational speech made by a distinguished member of an eminent firm of solicitors, and, to my surprise, has found support in some of the organs of public opinion. It is that it will be an insult to the citizens of Bombay if the members of the Town Council are placed under the same special laws and restrictions which are now applicable to all the public servants of the Crown. As these gentlemen are to be entrusted with important public functions, and to be invested with considerable powers over the rest of the community, and as they are to be remunerated for the performance of their duties, there would seem to be *prima facie* no reason why they should be placed in a different position to other public servants, or granted an immunity which the highest executive or judicial authorities in the land cannot claim; and it seems preposterous to call it an insult to the gentlemen who may find seats in the Town Council, that they should be placed in the same position in this respect as the members of this Council and as all judges and magistrates and other official magnates throughout the empire. The clamour which has been raised on this account recalls to my mind a scene I once witnessed from the visitors' gallery in the House of Commons, in one of the debates

which took place with respect to the Acts passed in 1860 or 1861 with reference to India. It was proposed by some member that the restrictions upon trading and the receiving of presents, which had been placed on the Covenanted Servants of the East India Company, should be removed. To this it was answered, that the removal of these restrictions would give facilities for corruption and other malpractices, and the statement was received with a cheer from the whole House, and the proposal was at once negatived. I trust that any motion which may be made in this Council to free the members of the Town Council to be created by this Bill from the restrictions imposed on all public servants, and which are necessary for the future well-being of the community, will meet with a similar reception here. I next come to the two most prominent objections which find a place, not only in the memorials from the Rate-payers and the Bombay Associations, but also in the petition from the assembly of citizens which was held at Sunkersett House. I mean the general mistrust of the Corporation shown in the scheme of administration fixed in the Bill, and the inadequacy of the powers given to the Town Council. Both these charges have been made and met in this Council, and, it appears to me, are founded on a misconception of the real character of the measure and a want of sufficient acquaintance with the details of the Bill. The extent of the powers given to the Town Council are shown by one of the papers which lie upon the table. It exhibits clearly the different matters in which the Town Council is empowered to control the action of the Commissioner. I shall leave it to other members to call attention to the details of this statement, and I would only once more repeat, that the Bill gives to this Council complete financial control, and that it will be impossible for the Municipal Commissioner in future to construct unauthorized works, or to enter upon a career of extravagance if the Town Council exercise due vigilance and are ordinarily careful and diligent in the discharge of their particular functions. The fear I entertain is not that they have too little power but too much, and that they may be able to hamper the action of the Commissioner without corresponding advantage. On the other point it seems to me hardly fair to accuse the Government of mistrust, when it is willing to give so large an instalment of self-government to the town. This charge had some foundation when the Bill was in the form in which it was first introduced; but since the alterations which have been made in it by the Select Committee and the Council, it is really baseless. As I have said before, Government have only reserved to itself such power of intervention as could not be abandoned without absolute danger to the State. Mention is also made of the excess of power which has been given to the Municipal Commissioner, but if the Bill be closely examined, it will be found that he has only been given independent power in those executive matters which are better left to the will of one competent man than made to depend on the judgment of a large number of persons, who would not have the same knowledge or means of ascertaining the actual state of facts, and would be liable to be influenced by many other considerations than those which should be of the first importance, viz., the public health and safety. There is another proposal that an appeal should lie from the acts of the Commissioner to the Town Council, but this, so far from being a benefit to the town, would, in my opinion, be the very reverse. The Town Council would not be so competent a body for the adjudication of the various matters on which the Commissioner is called upon to decide and take action as a man of the character and qualifications whom it is designed to appoint as Commissioner under this Bill, and the interests of the citizens will be far safer and better cared for by leaving undivided responsibility on such questions with one competent person, trained in the administration of public affairs, than with a Board of Direction such as the Town Council will be. It is not my intention to take up the time of the Council by noticing *seriatim* all the objections which have been brought forward and have been more or less answered in the course of the long discussions which we have already had; but I may call attention to the fact that there is considerable resemblance between the representations of the Bombay and the Rate-payers Associations and the resolutions of the Bench of Justices, and that it may be gathered that they all emanate from one and the same set of persons, viz., the so-called reform party in the Bench of Justices, which is more particularly represented in this Council by the Honourable Mr. Forbes. The Sunkersett House petition comes from a different section of the community, who appear to hold very different views as to the requirements of the city. They apparently put forward the view of the owners and occupiers of house-property, and are represented in this assembly by the Honourable Mr. Narayan Vasudevjee and to a certain extent by the Honourable Mr. Munguldass, whose sympathies extend to both of these divisions of his countrymen. Notwithstanding the conflicting character of their views, it appears to me that this the latest petition more accurately represents the real views of the bulk of the inhabitants of the city than any other representation which has been made, and it would seem from it that a great

deal of the agitation which has taken place during the last year, has arisen more from the desire of a large and influential class to escape from some of the burdens of taxation which now fall somewhat heavily upon them, rather than from an urgent demand for representative institutions which have been sought for not so much for their own sake, but rather as the instrument by which a particular end was to be obtained. This is more or less admitted in the petition to which I refer, and it is to be regretted that the admission was not made at an earlier date. Though I am unable to assent to many of the statements which have been put forward on the part of the house-owners of Bombay as to the incidence of the rates which are at present imposed on the owners and occupiers of houses, yet I am willing to acknowledge that, in the present state of house property in the island, the pressure of taxation does fall somewhat severely on house-owners, and I should be glad to extend to this class of persons some substantial relief. We have already fixed the minimum of the house-rate at one per centum less than the rate which is now being collected in Bombay, and we have reduced the maximum from ten to eight per centum. We have also given to the Municipal Commissioner power to grant exemption to the poorest class of occupants. I shall be willing, if the Council approve, to go still further and to reduce both the maximum and minimum house-rate one per centum; but if this be done, it will be necessary to provide some additional income for the Corporation. A reduction of one per centum on the house-rate would cause a loss to the Municipal Fund of about one lac and thirty thousand rupees annually, and as cotton is to be excluded from the Town Duties, it will be difficult to make up this sum. By the increase of duties which has been already made, and the new tax on Fire Insurance Companies, the deficit by a diminution of one per cent. on the house-rate will be nearly supplied; but additional income is urgently wanted by the Municipality, and it was intended to provide it by the duty upon cotton. To make up for the surrender of that duty, it will be necessary to increase other duties, and an addition of two annas per gallon to wines and spirits is proposed by the Honourable Mr. Narayan Vasudevjee, to which might be added some further augmentation in the duty upon ghee. The additional duty on spirits and wines will press hardly on the consumers of light clarets and other cheap wines, which are now heavily taxed, in the shape of customs and municipal duties, and it will be for the Council to consider carefully whether we should impose these duties and reduce the minimum house-rate. As the house-owners will be so largely represented in the Corporation, it is not likely that any rate in excess of the minimum rate will be often sanctioned, and so we must consider how the administration could be carried on if the house-rate should be practically reduced to four per centum. The proposal to consolidate the rates is one that has been recommended in England, and for which good arguments can be advanced; but it has not been adopted yet at home, and it is too late now for us to consider such a proposal or the further suggestion to levy a license or income-tax on those inhabitants who do not contribute to the house-rate. Undoubtedly the introduction of a license tax under proper regulations would tend to equalize the pressure of taxation, and so would a Municipal Income-tax. But we could not introduce a Municipal Income-tax without the special permission of the Government of India. Nor have we at the present moment sufficient facts before us to enable us to decide in what way a perfectly equitable distribution of taxation could be effected. As the good Government of the city materially increases the value of real property within its limits, it is right that the owners of such property should bear a considerable proportion of the burden of municipal taxation, and in England it is thought that the rates upon houses should be divided equally between owner and occupier. If the minimum house-rate be reduced one per cent., the nominal rates upon owner and occupier will be equal: but without further information, it would be impossible to say whether the distribution would be in reality equal, and after giving this amount of sensible relief to the house-owners, it would be as well to allow the present scheme of taxation to remain as it stands, leaving further adjustments for the future. I may mention that from the time when the idea of altering and consolidating the present municipal law was first seriously taken up, it was never proposed to revise the entire fiscal system of the town, and that the present Bill was not prepared with that object. It was intended only to repair and reconstruct those portions of the existing law which had been found on trial to be defective and work badly. It was intended to maintain the existing system with such modifications and improvements as experience had shown to be requisite, but no radical change in the fiscal system was contemplated, or further investigation would have been ordered to ascertain the preliminary facts necessary for a reorganization of that system. The outcry was for economical management so as to prevent an increase of taxation, but till recently I certainly never understood that it was an entire remodelling of the fiscal system that was sought for. Nor do I think that any occasion for so extreme a measure has been

shown. If so great a change should in truth be needed, of which I entertain great doubts, the Corporation to be created by this Bill will be a proper body to take up the matter and to make such representations as will enable Government to judge of the propriety of such a revision as is now demanded in the interest of the house-owners. I would point out that it is proposed to give further relief to this class and to house-occupiers by the amendment of which I have given notice with regard to the supplemental rate. It will now be left to the Corporation in the case of a deficit in any particular year, to meet that deficit either by a reduction in the proposed expenditure for the following year, or by an increase of any rate, tax or duty which they will have the power to increase under the provisions of the Act, and therefore, if there should ever be any need to make up a deficiency, the burden of the exigency will not fall on the house-owners and house-occupiers alone, unless it should seem to the Corporation that the necessary funds should be raised by an increase of rates rather than of other taxes. The matter will be left to their discretion, and as the house-owning interest will be amply represented in the Corporation, the payers of owners and occupiers' rates are not likely to be the sufferers. It appears to me that a great deal of unfounded alarm has been raised about this supplemental tax, which will never be needed if the Corporation show ordinary prudence in fixing their expenditure and in their estimate of their ways and means, and so far from this provision in the Bill being an incentive to extravagance as asserted, it will, on the contrary, I feel convinced, be a direct inducement to frugal and careful management. The knowledge that any annual deficit cannot be tided over by loans, and must be at once provided for either by immediate reductions of expenditure or recourse to increased taxation (a measure which will always be unpopular) will tend to make the Municipal Executive Officers cautious in their estimates, and ensure vigilance on the part of the Corporation in the regulation of the Budget. I have also given notice of an amendment by which the owners of chawls or lodging houses or sets of godowns will be allowed a certain remission of rates to cover the risk of a portion of these rooms being unoccupied. It seems to be admitted by the public writers on the subject that it is proper that some reduction of rates should be made with regard to such buildings, and I consider that this will be an equitable and simple way of settling the matter. It will be seen then that we have spared no effort to mould and adapt the Bill to meet such objections as appear to be substantial and reasonable, and that we have only refused to accede to alterations which would change the whole structure of the measure, and would cause it to fail in securing the objects for which it was intended. It is a tentative measure, in the nature of an experiment which is to be tried for three years, and at the expiration of that period it can be altered or set aside, if it prove to be unworkable, and that it does not effect the purposes for which it has been framed. Although we have not been able to go to the extremes desired by any section of the community who have expressed decided opinions on the character of the legislation required, yet we have gone far in the direction in which the majority have wished us to move, and I trust that on further reflection and consideration, the members of the Council who are still dissatisfied with some portions of the Bill, will be content with what they have received, and leave to time to show the correctness or the incorrectness of their views, or the soundness or unsoundness of the considerations which have influenced the action of Government. The financial condition of the Municipality has been placed on a healthy basis, and a liberal instalment of self-government is offered to the citizens of Bombay. It will surely be wiser and more reasonable to accept what has been given and to see how the new project will work, than to prolong the present state of uncertainty, and to leave the administration of the city under a law which has been found to be defective in some points, and has been loudly condemned by those who now seem disposed to do what they can to ensure its continuance. Inasmuch, Sir, as the notices of amendment which have been made will render it necessary for us to go into further consideration of the details of the Bill before the motion for the third reading is finally put to the Council, I think that I have said enough at the present moment to induce honourable members to ponder well upon the important issues which we are now called upon to decide, which will materially affect the welfare of a large and populous town, and I trust that we may be able to lay aside all party spirit, and be influenced only by considerations of what is best for the future welfare of the 650,000 persons for whom we are called upon to legislate.

His Excellency the PRESIDENT—With regard to what the Honourable Mr. Tucker has mentioned with respect to the proposed Town Duty upon cotton, I may explain that since the Council last met I wrote to the Governor-General to ask whether he entertained objections to such a duty being imposed. I received an answer a few days ago, and

have the Viceroy's authority for saying that though he would not go the length of positively disallowing the Bill on account of the presence in it of the tax on cotton, yet he entertained serious objections to the tax. The Government of India, he says, consider the tax a transit duty, and such duties have been prohibited in the Municipal Bills for other places in India, because they would be opposed in principle to the policy pursued with regard to independent Native States, the rulers of which had been requested to abolish transit duties in their territories. After this strong expression of opinion from the Governor-General, I think this Council will agree with me as to the propriety of removing cotton from the schedule of Town Duties. I think that our best course now as regards the business before us is to proceed with the amendments according to the numerical order of the sections to which they refer.

The Honourable Mr. BYTHELL—Sir, I beg to move that after the words "lighting rates" in line 19 of Section 4, the words "the taxes on carriages and animals" be inserted. It will be remembered that I proposed this amendment on the second reading, and that it was lost. I now introduce the subject again because I think that it must be the object of Government to get as large a choice as possible in nominating their own members for the Corporation, and also because it must be the object of Government to allow the rate-payers as good a choice as they can get in selecting their representatives. There can be no doubt of the fact that this clause as it now stands will preclude Government from nominating, and the ratepayers from electing, Europeans who live in Clubs, or who may be living, four or five together, in one house registered in the name of only one of them. I understand that there are 280 Europeans in Bombay paying wheel-tax, and only 150 could be qualified if this section is carried as it now stands. I shall not trouble the Council with any further remarks, but merely hope that my motion will be adopted.

The Honourable Mr. NARAYAN—Before the motion of the honourable gentleman is put to the Council, I consider that it would be well to go into a few statistics of the wheel-tax. In 1870 there were 8,263 persons who paid this tax. It may be difficult to ascertain the number of carts or carriages for which each person paid the tax, but it is noticeable that the number of the different kind of public vehicles as shown in the Municipal Returns was:—Labour carts, 5,641; public hackeries, 511; private do., 75—6,227; hack buggies, 580; hack four-wheeled carriages, 47—627. Sum total, 6,854. Now, the question is whether it would be desirable to admit the owners and drivers of these carts and buggies into the constituency for the sake of the handful of Europeans mentioned by the Honourable Mr. Bythell.

The Honourable Mr. BYTHELL—Do they pay Rs. 50 a year each?

The Honourable Mr. NARAYAN—Most of them do, because the majority pay taxes on two or three vehicles.

The Honourable Mr. TUCKER—We have already considered this subject twice in the Council as well as in the Select Committee, and the real objection to the measure is the fluctuating character of the contributions to this tax, and the fact that it would give a qualification to a large number of ignorant and incompetent persons as well as to the limited number of intelligent Europeans who would become eligible for election or nomination if this alteration were made. I should have been glad to enlarge the field of selection so as to admit more freely the class of representatives whom Mr. Bythell thinks will be excluded—but I cannot agree to the means by which he seeks to attain that end. In the first place, I am inclined to think that the honourable member has somewhat exaggerated the difficulties that will stand in the way of Europeans who desire to qualify. An amendment which is to be made to the clause about the rating of houses let out in sets of apartments or flats will make persons who live in clubs and chambers liable to occupiers' rates, and therefore bring them within the scope of the qualifying section. The Honourable Mr. Narayan also has given notice of an amendment to add Fellows of the University to the list of persons eligible for election, and if this is agreed to—and I shall offer no objection to this amendment—I think we shall have provided, as much as can possibly be done, for the admission of the more intelligent portions of the European community into the Corporation. Any European who is anxious to get a qualification has only to go into a house and pay a sum of less than Rs. 5 a month as occupiers' rates to secure a qualification, and if he has not public spirit sufficient to do this, I do not think that we need feel any regret at his exclusion. If he prefers to

live in hotels and these rooms in clubs in which he will not be liable to be rated as an occupier of chambers, I think he will have no just cause of complaint at his exclusion from the Corporation.

The Honourable the ACTING ADVOCATE-GENERAL—I shall object to this amendment, because I think that if we agree to it we shall get an enlarged body of ignorant persons as candidates for election, and although we might get a small and valuable addition by including some of the Europeans who at present will be disqualified, yet I do not think these would be sufficient to leaven the mass of buggy drivers, owners of vehicles, and bullock carts, who would also be admissible to the Corporation. We cannot forget that a man having a certain number of buggies, carts, or horses, would have the same right to stand upon the candidates' platform as the Byculla Club resident or the sharer in a house on Malabar Hill. The statistics of the Honourable Mr. Narayan are quite sufficient to condemn this amendment, and I therefore, although regretting that many Europeans may possibly be excluded, will support the section as it stands.

The Honourable Mr. RAVENSCROFT—This subject has been already discussed on the motion of the Honourable Mr. Bythell, and as I cannot see that he has brought forward any additional arguments or shown any new facts, I shall vote against his proposal.

The Honourable Mr. BYTHELL—I have given statistics to show the limited number of Europeans who will be eligible. What more could the honourable gentleman wish?

The Honourable Mr. RAVENSCROFT—But I think these statistics have imparted very little additional information to this Council, and I do not think there is any better reason for making the alteration now than when it was proposed before. If any additional arguments against the amendment are required, I think they are to be found in the figures quoted by the Honourable Mr. Narayan.

The Honourable Colonel KENNEDY—This being avowedly an experiment in representation, I think it would be better to start with a small but intelligent body. Therefore I agree with the Honourable Mr. Mayhew that it would be inadvisable to agree to this amendment, which would be sure to introduce a large and ignorant body into the constituency.

The Honourable Mr. FORBES—I apprehend that if the Honourable Mr. Bythell's amendment were carried, the number of persons who should be entitled to election would not be very great after all, and as to the body of ignorant persons that has been made so much of, I think that it might be well to trust to the electors, because this Council cannot suppose that these electors would deliberately choose an ignorant and uneducated man to represent them—or that if two men, one intelligent and the other a buggy-wallah, presented themselves for election, the latter would be chosen. I cannot imagine the electors of Bombay preferring buggy-drivers and ignorant men to enlightened Europeans or Natives, because I do not think they could be so lost to all sense of what is becoming and due to their own interests.

The Honourable Mr. NARAYAN—But the honourable gentleman is forgetting that if buggy-wallahs obtain the franchise, they are likely to return to the Corporation persons belonging to their own fraternity.

The Honourable Mr. BYTHELL—As regards the Honourable Mr. Narayan's statistics, I do not think that they prove so much as he thinks. He has produced no figures to show how many people paying the wheel-tax pay a large enough sum to qualify them to be elected, and I do not think that we can correctly infer that the insertion of my amendment would have the effect of putting all these buggy-drivers, who may not be paying the necessary Rs. 50, upon the register. As it is, even though my amendment were carried, I think it is very probable that buggy proprietors if they own vehicles as largely as the Honourable Mr. Narayan thinks they do, are already paying, on their stables and their houses, sufficient rates to qualify them for being electors or elected. I have introduced this amendment, not with the idea of increasing the electoral constituency, but with the idea of giving the Government of Bombay the means of getting hold of the best men as their nominees. Regarding what the Honourable Mr. Tucker has said—that if a man has not public spirit enough to take a house in order to pay Rs. 5 a month—

The Honourable Mr. TUCKER—It will be less than Rs. 5.

The Honourable Mr. BYTHELL—In pressing this point, I think that the honourable gentleman has misunderstood me. A man might be willing enough to serve in the Corporation, and in the month when Government would appoint him it might be found that he had not paid rates for the twelve months ending the previous September. This would make it necessary for Government to look about for three or four months before the time

for nominating members of the Corporation, or they might find the very men they wanted were not qualified to act. I do not think that the question of public spirit can be entertained in the matter at all, because whether or not a man wished to become a nominee, his non-payment of rates for the previous long term would disqualify him.

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

Ayes—2.

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

Noes—8.

The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHoy.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB.

The amendment was therefore lost.

The Honourable Mr. TUCKER moved that the words "and supplementary rate" authorized to be levied under this Act in lines 20 and 21 of Section 4 should be omitted. This alteration, he explained, was intended to have reference to another amendment of which he had given notice on Section 96.

The amendment was agreed to.

The Honourable Mr. NARAYAN moved that a proviso be added to the end of Section 4 in these words—"Provided that Fellows of the University of Bombay shall be deemed qualified to be appointed members of the Corporation in any of the ways hereinafter provided, notwithstanding that they may not be qualified as aforesaid." He considered that this was an amendment which would commend itself to the Council without remark.

The Honourable the ACTING ADVOCATE-GENERAL approved of the amendment.

The Honourable Mr. TUCKER also favoured the amendment, because while it would increase the number of persons eligible for election, it would enable the city to obtain the services of many intelligent men possessing a high order of qualification.

The Honourable Mr. ROGERS thought that this alteration would remove many of the objections of the Honourable Mr. Bythell.

The Honourable Mr. BYTHELL—Only to a very small extent.

The amendment was agreed to.

His Excellency the PRESIDENT could not approve of Section 5 as it stood, because he thought it would be unnecessary and confusing to have an election every year. He moved that lines 7 and 8 should be struck out and part of line 9 down to "sixteen" should be omitted, and that the remainder of the section from "eight" in line 15 should be omitted, and the following words substituted, "and the like nomination and election shall be made at the same periods at recurring intervals of two years."

The Council approved of the amendment, which was agreed to.

The Honourable Mr. NARAYAN moved that "persons" should be substituted for "rate-payers" in line 2 of Section 6. The alteration, which was verbal, was a consequence of the addition made to Section 4, and it was agreed to.

The Honourable Mr. TUCKER moved that the words "of this Act" be inserted in line 11 of Section 6 after the words "Section 4."

The amendment was agreed to.

The Honourable Mr. NARAYAN proposed that the word "persons" be inserted in place of the word "rate-payers" in line 3 of Section 7.

His Excellency the PRESIDENT suggested that the word "appointed" should be substituted for "elected" in line 4.

Both amendments were agreed to.

The Honourable Mr. TUCKER moved that the words "to be" be inserted in line 2 of Section 9 after the word "continue."

The amendment was agreed to.

His Excellency the PRESIDENT suggested that the proviso in Section 8 should be omitted—that is, from and after the word "years" in line 5, down to and including "only" in line 9.

This amendment was agreed to.

The Honourable Mr. TUCKER moved that the words "of this Act" be inserted in line 3 of Section 13 after the words "Section 35."

The amendment was agreed to.

The Honourable Mr. TUCKER moved that the words "and for providing at the close of the year a cash balance of not less than one lakh and a half of rupees" be inserted in line 12 of Section 35 after the word "expenditure." This alteration was necessary to carry out the provisions of Section 39, and to make it clear that the Corporation must always see that they have a lakh and a half to go on with at the beginning of each year.

The amendment was agreed to.

The Honourable Mr. TUCKER proposed that the words "of this Act" be inserted in line 3 of Section 37 after the words "Section 35."

The amendment was agreed to.

The Honourable Mr. TUCKER moved that "one lakh and a half" be substituted for "one and a half lakhs" in line 9 of Section 39.

This amendment was agreed to.

The Honourable Mr. TUCKER moved that the figures "187" in line 10 of Section 40 be omitted, and "189" be substituted.

The amendment was agreed to.

The Honourable Mr. ROGERS proposed that the word "or" in line 12 of Section 44 be omitted, and that the words "and shall be removed" be inserted before the word "by" in the same line. He considered that this would make the intention of the Council clearer with regard to this clause.

The Honourable Mr. TUCKER asked the Honourable the Acting Advocate-General whether the words of Section 42 as they were then standing would support the interpretation that the Municipal Commissioner could not be removed excepting by the vote of two-thirds of the Corporation. One of the petitions contained an interpretation to this effect, but he thought that it would be scarcely necessary to consider it, because the words seemed to indicate quite clearly that Government could dismiss him upon a day's notice, if that were considered necessary.

The Honourable Mr. BYTHELL thought that the section showed clearly enough that Government could at once dismiss the Commissioner for any of the reasons mentioned in the section.

The Honourable Mr. MUNGULDASS begged to move that the words "and with the confirmation of Government" in line 15 of Section 44 be omitted.

The Honourable the ACTING ADVOCATE-GENERAL concurred with the Honourable Mr. Tucker.

The Honourable Mr. MUNGULDASS, in support of his amendment, said—The amended bill confers on the Corporation the right of selecting and appointing the Executive Engineer and Health Officer, and by the amendment made by the Council on the 13th of last month, the right of dismissing the Municipal Commissioner, the highest officer to be appointed by Government, has been vested in the Corporation. I therefore submit that the Council should be consistent and should carry out the same principle in regard to these subordinate officers, and that the restriction placed on the power of the Corporation to remove the Executive Engineer and Health Officer should be withdrawn by omitting from Sections 44 and 45 the words "with the confirmation of Government." This restriction, if retained, will practically nullify the power proposed to be given to the Corporation to remove these subordinate officers who are to be appointed by it, because it will always be in the power of Government to interpose its authority by declining to sanction the removal of these officers whenever the Corporation might desire to dispense with their services.

The Honourable Mr. ROGERS did not approve of the amendment, because, while 40 out of 64 votes were necessary for the dismissal of the Commissioner, 20 votes would be sufficient to dismiss either the Executive Engineer or Health Officer, because the quorum for a special general meeting was only 30, and of this number, two-thirds could dismiss either of the officers named.

His Excellency the PRESIDENT—The Executive Engineer and Health Officer are the officers appointed by the Corporation, which should have the power of dismissing them, if that course were deemed to be necessary.

The Honourable Mr. BYTHELL concurred with His Excellency.

The Honourable Mr. TUCKER thought that, considering that the salaries now fixed for the Health Officer and Executive Engineer were not calculated to attract the best class of men, it was not expedient to make the dismissal of these officers too difficult a matter. He was therefore in favour of the amendment proposed by the Honourable Mr. Munguldass.

The word "or" was omitted as proposed by the Honourable Mr. Rogers, and the amendment of the Honourable Mr. Munguldass was agreed to.

The Honourable Mr. Rogers moved that the word "or" in line 12 of Section 45 be omitted, and that the words "and shall be removed" be inserted before the word "by" in the same line.

The Honourable Mr. MUNGULDASS proposed that the words "and with the confirmation of Government" in lines 14 and 15 of Section 45 be omitted.

The word "or" was omitted, and the amendments proposed by the Honourable Mr. Munguldass were agreed to.

The Honourable Mr. MUNGULDASS proposed that the words "member of the Town Council" in line 1 of Section 51 should be omitted. In supporting

It is desired to exempt Town Councillors from the sections of the Penal Code to which public servants are liable.

his proposed amendment he said—I do not consider it advisable to make gentlemen of such position and influence as ought to be encouraged to accept the office of members of the Town Council for a small honorarium liable to the indignity of being prosecuted and punished for a number of offences specified in chapter 9, and particularly in Sections 161, 162, 163, 164, 165, 166, 167, 168, 169 of the Indian Penal Code. I therefore ask the Council to omit the words "member of the Town Council" which occur in Section 51, because this provision is calculated to deter respectable gentlemen from giving the Town Council the benefit of their services, on account of their being in constant fear of evil-disposed persons annoying and harassing them with criminal prosecutions. Moreover, I do not see the necessity of making Town Councillors specially amenable to the penal clauses of the Code, simply because it is desirable to prevent them from being concerned in contracts made with the Corporation, as due provision is made with that object in Section 53 of the Bill, which makes the act a penal offence punishable with fine or imprisonment for a term extending to one year.

The Honourable Mr. TUCKER—A member of the Town Council might be guilty of other derelictions of duty besides engaging in contracts. For instance, he might take a bribe to exert his influence to cause a particular person to be appointed Health Officer or Engineer, or he might be corrupt in other matters. Does the honourable gentleman consider that Town Councillors are to enjoy the power conferred upon them by this Act and not to be subject to the responsibilities and penalties to which other public servants similarly situated are liable?

The Honourable Mr. MUNGULDASS—Members of the Corporation may receive gratifications from Health Officer or Executive Engineer, and is this Council prepared to put all the members of the Corporation under the Penal Code? The simple object of this clause, as I understood it, was to prevent the members of the Town Council from being concerned in contracts, and if it is meant for any other object, I contend that the Corporation also should be included in this section, because bribes may be offered to the members by unscrupulous persons desirous to be appointed Health Officer or Executive Engineer.

The Honourable the ACTING ADVOCATE-GENERAL—I cannot at all agree with the Honourable Mr. Munguldass. It is manifest, if you look at the words "Municipal officer or

subordinate officer," that this Section is intended to make every person who receives money for services rendered to the Corporation amenable in the same way, and for the same reasons, as if he was a public servant and came under the penalties of the Code. No doubt it is an indignity to be prosecuted at any time, but the indignity consists more in the act which causes the prosecution than in being brought before a judge or jury. So long as certain acts are held to be criminal in public servants by the Penal Code, it is right that those acts should be punishable when committed by the officers of the Municipality, and I can see no reason for exempting a Town Councillor from this liability which would not apply to any other officer in the service of the Municipality.

The Honourable Mr. TUCKER—I had hoped that the remarks which I made in my opening speech would have induced the honourable member not to persist in this proposal. He appears to think that persons who are not called upon to devote their whole time to public duties are exempt from the frailties which are incidental to all public servants and to all human beings, and that regulations and restrictions which are found necessary in the case of the highest officers of the State are not wanted in the case of the Town Councillors, who will be elected or nominated under this Bill. So inconsistent is my honourable friend, that though he wishes to convert the Town Council into a "quasi" judicial tribunal to hear appeals for the acts and orders of the Municipal Commissioner, yet he would exempt these Councillors from the restrictions which are imposed on all the Judges and Magistrates in the land. A more unreasonable and a more unwise proposition I cannot imagine, and till I saw the honourable gentleman's amendment on the paper, I could not have supposed that any member of this Council could be found who would seriously advocate such an exemption. I have observed, however, that in the discussions on the Bill, the honourable gentleman has more than one taken up the untenable position that persons may enjoy the benefits arising from a particular state of affairs without being subject to the responsibilities which attach to such a condition. For instance, in the debates with respect to the regulation of burial grounds, he wished certain classes of persons to have all the rights of owners, but to be free from all the obligations which the possession of those rights entailed. As I cannot agree with the honourable gentleman that these Town Councillors will be superior to the ordinary weaknesses of humanity, I cannot assent to their exclusion from this section, which merely sets forth plainly the state of the law respecting the members of this new body, who would, I believe, be liable under the existing law to the penalties for misconduct applicable to public servants, even if there had been no express declaration of their liability in this section.

The Honourable Mr. MUNGULDASS—I do not at all agree with the Honourable Mr. Tucker, who seems to forget that the services which are to be rendered by these Town Councillors will be given to the Municipality almost for nothing. If you want the best men for the Town Council, they will only come for the honour of the thing or from motives of public spirit, and not for the paltry sum of Rs. 30 weekly; and if you pass this section as it stands, I am afraid that, so far at all events as the native community is concerned, the Municipality will not get the services of the best men.

His Excellency the PRESIDENT—One impression made on the mind of the honourable gentleman might, I think, be removed. He says that this section may expose the members of the Town Council to malicious prosecutions. In regard to this, could we not have a provision to the effect that no prosecution shall be commenced except under the authority of the Municipal Commissioner, or some person authorized by him?

The Honourable Mr. TUCKER—The Honourable Mr. Munguldass fears the Municipal Commissioner more than any one else.

The Honourable Mr. MUNGULDASS—That plan might work well in other matters, but not in this, because the Town Council are supposed to keep the Municipal Commissioner in order.

The Honourable Mr. FORBES—Supposing this section were expunged, would members of the Town Council who committed any of the offences here alluded to not be amenable still to the Penal Code?

The Honourable Mr. TUCKER—I consider that they would. The courts would hold them to be public servants, but to prevent any doubt on the point, they have been included in this section.

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

Ayes—11.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.

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

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable Colonel M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHoy, BART., C.S.I.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The amendment was therefore lost.

In line 17 of Section 58, officers was made officer.

The Honourable Mr. TUCKER moved that the word "tax" be substituted for the word "rate" in line 14 of Section 66.

The amendment was agreed to.

The Honourable Mr. NARAYAN proposed that the minimum and the maximum house-rate mentioned in Section 69 be reduced from five and eight to three and five per cent. respectively. He said—

Taxation on house-owners. Although very reluctant to have to bring the question of the incidence of taxation upon house property again before the Council, I should fail in my duty were I to allow this opportunity to pass without urging upon your Excellency's notice the injustice which the present Bill seeks to perpetuate. When discussing Section 86 at the second reading, I pointed out what I considered to be the glaring inequalities of the present fiscal system, and I shall not now take up your time in recapitulating the various considerations I then submitted to this Council. It is clear to me that the principle contended for, that the occupiers' rates generally fall upon occupiers in Bombay, is a myth. From the report of General Marriott's Committee, of which Mr. Hope was a member, it is perfectly clear that the tenants of only 2,500 out of 21,000 houses in Bombay pay the occupiers' rates. Section 101, which imposes upon the house owners the obligation of paying occupiers' rates on chawls or ranges of buildings, further reduces the number of tenants in all Bombay paying occupiers' rates to 472. I submit that it is not expedient, for the sake of these 472 properties, to impose upon the Municipality the cumbrous system of recovering house-rate and occupiers' rates paid by the same individuals separately, involving the issue of nearly 136,000 bills. As the owners and occupiers' rates are paid for the most part by the house-owners, it would simplify matters if the rates were consolidated, and the whole recovered from the owners. As it is they that pay both kinds of taxes, it would be inflicting no hardship upon them to make all these rates payable by them in one consolidated rate. If any pains were bestowed upon ascertaining the actual incidence of the occupiers' rates, it will be found that there is no foundation in fact for the assertion that the owners recoup themselves for the outlay they incur for those rates. I submit to your Excellency that we ought to look closely under the surface, and not be deceived by the simple designation of these taxes. Because they are styled occupiers' rates, it does not necessarily follow that they fall upon the occupiers. It behoves us to examine how they affect the people in reality. I make no apology for quoting the words of a noted writer on English taxation—"It is said that there is no use in inquiring into the incidence of taxation; that taxes have always been imposed in a rough and ready manner, without looking narrowly into the comparative burdens which they impose; and that such scrutiny is too minute for the dignity of statesmanship. But no inquiry into details is beneath the dignity of statesmen if it affects the well-being of a people, or is likely to introduce greater justice and fairness into the Financial Government of the country." I find Sir Seymour Fitz Gerald had directed his attention to the question of the incidence of taxation, for when discussing the Provincial Budget in April last year, he said that the taxation which is levied here already, is felt to be of almost crushing severity, and nothing would justify increased taxation except an absolute and inevitable necessity, which we could not by any

Noes—1.

The Honourable MUNGULDASS NUTHOOBHoy.

possibility meet by any other mode. In asking therefore to reduce the minimum and maximum house-rate to 3 and 5 per cent. respectively, I do not wish to be misunderstood. I am willing to allow that as house property derives the greater share of the benefits from local conveniences and improvements, that it should bear a comparatively larger portion of the burden of municipal taxation. But this is no reason for exempting altogether all

Mr. Narayan proposes the abandonment of occupiers' rates and the imposition on house-owners of one consolidated rate.

other classes of property from contributing their fair quota towards the municipal expenditure of the city. I would even urge the expediency of doing away with the occupiers' rates altogether, and of imposing a consolidated rate at the minimum of 6 or the maximum of 8 per cent. Surely an income tax of 6 or 8 per cent. on house property ought to satisfy those who complain that the owners of house property wish to shift their just burdens upon the shoulders of the rest of the people.

The Honourable SIR JAMSETJEE JEJEEBHoy—I have much pleasure in endorsing the views of my honourable friend Narayan Vasudevjee. There can be no doubt that our fiscal system was among the chief, if not the chief, cause of all the discontent and dissatisfaction which has prevailed in the minds of the people, and has produced a large amount of distress and misery among

It is suggested that consideration of the Bill should be postponed, in order that inquiries be made into the incidence of taxation in Bombay.

them. This is one of the most important things which it was necessary the Bill ought to have grappled with. In the first instance the people, for whose benefit the Bill has been framed, do not feel satisfied with it. It does not give the people what would be far more acceptable to them than even representation, namely,—a relief from the pressure of taxation. It contains no provision tending to a readjustment of the fiscal system which I fear has been the cause of incalculable mischief and misery. I do not desire to speak in favour of this or that faction, but it is admitted on all hands that the weight of taxation presses heavily, too heavily, upon only one class of property, namely, houses and lands, and that an equalization of the rates among the different classes of the community, and a distribution of the imposts among other kinds of investment would go far to enlist the sympathies of the people in favour of the Bill. I would suggest for the consideration of the honourable mover of the Bill, whether it would not even now be useful to have the Bill referred once more to a committee in order to the fiscal system being remodeled and recast.

The Honourable Mr. ROGERS thought that the Honourable Mr. NARAYAN's proposal would involve an alteration in the principle of the Bill, and he could not therefore give it his assent. The constant increase of houses in Bombay showed that investments in house property were not such bad things as had been alleged.

The Honourable Mr. TUCKER—I agree with the Honourable Mr. Rogers that the suggestion to consolidate the rates and to place them at a reduced amount entirely upon house-owners would be an alteration that would affect the principle of the Bill, and I have already pointed out that at this stage of the discussion no such proposal could properly be entertained. I regret that the honourable mover of the present amendment did not tell us more plainly at the second reading that it was not representative institutions that the Town wanted, but merely a diminution and re-distribution of taxation. If it had been understood at an earlier period that this was the real want of the bulk of the community and not only of the house-owning interest, inquiries might have been instituted which would have enabled this Council to go into a question of so much nicety and difficulty, but at this the eleventh hour, it is hardly reasonable to expect that this Council will go back and discuss points which may well be left for the consideration of the Corporation hereafter. I confess I should require very strong and unimpeachable testimony to convince me of the correctness of the assertion that the occupiers' rates now all fall on the house-owners. Such a fact would be contrary to the experience of other countries, and would be an exception to the ordinary relations between house-owners and house-occupiers. In England it is asserted that all rates on house property eventually come out of the pockets of the occupier, and this would appear to be the natural order of things except when long tenancies have been created prior to the imposition of the rate, the terms of which cannot be altered by the house-owner in consequence of the imposition of the rate. It is not to be supposed that house-owners are not subject to the same influences as other persons who deal in other commodities, or that they will not do their utmost to recover from the consumer of the commodity in which they deal, i.e., the occupier, the tax placed on their houses; and if their hands are not tied by permanent arrangements, or unless the supply of houses should far exceed

the demand, they are pretty certain to be successful in their attempt, as under ordinary circumstances they will demand and obtain an increase of rent that will cover the amount of the tax. Now although in the present condition of Bombay I am ready to admit that the supply of the better class of houses, viz., those occupied by Europeans and the more wealthy classes of the native community, is in excess of the demand, and that consequently the rents of such houses have fallen, and the owners thereof may not be in a position to recover from their tenants the whole of the house-rate; yet, I apprehend that this is only a temporary state of affairs, and that it is limited only to the best class of residences and offices. There is no reason to suppose that the same abnormal state of affairs exists with reference to the dwelling places of the middle and poorer classes of citizens, and I confess that I am unable to credit that the house-owners do not recover a great portion, if not the whole, of the occupiers' rates from their tenants. I observe that the members of this Council who represent the house-owning interest only state that the house-owners pay the occupiers' rates to the Municipality. This they may possibly do, but I cannot and do not believe that they do not recover the great bulk of these payments from their tenants. The best refutation of the house-owners' arguments is the one mentioned by the Honourable Mr. Rogers, viz., that building operations have been going on actively in Bombay ever since Act II. of 1865 became law, and that even during the last year, houses, large and small, have been springing up in all quarters of the island. Every one who can use his eyes may convince himself of this fact, and I should like to know how this state of things can be accounted for, if the effect of the present system of municipal taxation has been to make investments in house property such bad speculations as they are now represented to be. Persons who bought houses at the exaggerated prices current in the Share-Mania times have undoubtedly suffered losses, but these are not to be ascribed to municipal rates. The rate levied upon occupiers under the existing law, and which will be continued under the Bill, is precisely the English house-tax, which has been praised by Mr. Stuart Mill as one of the best and fairest methods of imposing an income-tax. In Section 6, Chap. III., Book V. of Mill's Political Economy, (Third Edition,) I find that that eminent writer says :—

“In so far as it falls on the occupier, if justly proportioned to the value of the house, it is one of the fairest and most unobjectionable of all taxes. No part of a person's expenditure is a better criterion of his means, or bears, on the whole, more nearly the same proportion to them. A house-tax is a nearer approach to a fair income-tax, than a direct assessment on income can easily be; having the great advantage, that it makes spontaneously all the allowances which it is so difficult to make, and so impracticable to make exactly, in assessing an income-tax: for if what a person pays in house-rent is a test of anything, it is a test not of what he possesses, but of what he thinks he can afford to spend. The equality of this tax can only be seriously questioned on two grounds. The first is, that a miser may escape it. This objection applies to all taxes on expenditure; nothing but a direct tax on income can reach a miser. But as misers do not now hoard their treasure, but invest it in productive employments, it not only adds to the national wealth, and, consequently, to the general means of paying taxes, but the payment claimable from itself is only transferred from the principal sum to the income afterwards derived from it, which pays taxes as soon as it comes to be expended. The second objection is that a person may require a larger and more expensive house, not from having greater means, but from having a larger family. Of this, however, he is not entitled to complain; since having a large family is at a person's own choice: and, so far as concerns the public interest, is a thing rather to be discouraged than promoted.”

I am therefore unable to acknowledge that the occupiers-rate is a bad form of taxation as asserted by the Honourable Mr. Narayan. It is a rate assessed on the rent which each person pays for the tenement which he occupies, which is, as Mr. Mill states, a very fair criterion of his income or means of living, reaches nearly every one, and can only be evaded by misers and a few others. I can see no reason whatever for the total abolition of this rate, and I must say that I regard with great suspicion the offer of the house-owners to bear a 6 per cent. house-rate, if the police and lighting-rates are abolished. It is not usual for any class of persons to solicit the imposition of additional burdens on themselves to relieve another class, and I am unable to give the house-owners of Bombay credit for so much generosity and self-abnegation. I imagine that these shrewd persons, who are wise in their generation, see that they will ultimately be able to throw the greater part of the house-rate on the occupiers, and hence this present proposal which is more liberal in appearance than in reality. It is just that occupiers should contribute to the rates, and it seems to be the generally accepted opinion in England that the rates

on real property should be equally divided between owners and occupiers. This will be roughly done, if we assent to a reduction of the minimum house-rate to 4 per cent., which I have already expressed my willingness to do, and also to fix the maximum rate at 7 instead of 8 per cent. To this extent I am prepared to go, but no further, and before this concession is made, it is necessary that we must come to some understanding as to how the loss which will be occasioned to the Municipal treasury can be supplied. A diminution of 1 per cent. in the house-rate is equivalent to one lakh and thirty thousand rupees. This would have been covered by the town duty on cotton, but that has been abandoned. It has been estimated that by the increases already made in other town duties Rs. 1,14,000 additional revenue will be raised, and this sum, with Rs. 12,000, the

Mr. Tucker suggests, however, to make certain reductions in favour of house-owners, and that the deficiency thus created should be made up from other sources.

estimated realization from the tax on Fire Insurance Companies, will nearly cover the deficiency which will be occasioned by a reduction of 1 per cent. on the house-rate. This would make an apparent equilibrium, but it must be remembered that we have been informed by the Municipal

Commissioner that some additional income is imperatively called for to meet requisite expenditure, and also that in the Budget which is about to be submitted to the Justices for the present year, a 6 per cent. house-rate has been calculated. If the new Corporation is to make a fair start, it is absolutely necessary that some additional income should be placed at their disposal. As it is too late now to bring forward any new tax, the only means of doing what is required will be to increase some of the town duties, and I mentioned before that the only items which we could well increase were wines and spirits and ghee, both of which are in a certain sense luxuries.

The Honourable Mr. MUNGULDASS—I deny that ghee is a luxury. It is a necessary of life.

His Excellency the PRESIDENT—We all get to consider certain articles necessary after we have consumed them for some time.

The Honourable Mr. TUCKER continued—If the honourable members of this Council are prepared to impose additional duties on the articles I have named, we may then relieve the house-owning class in the manner I have suggested; but it will be necessary, as a preliminary step, to negative the substantive amendment of the Honourable Mr. Narayan, and to throw out of consideration the wider proposals which he has indicated rather than brought forward, and which have been supported by the Honourable Baronet Sir Jamsetjee Jejeebhoy. I stated before that it was now too late to enter upon the discussion of any radical change of our fiscal system, which had never been contemplated.

The Honourable Mr. FORBES—I am disposed to support the amendment of the Honourable Mr. Narayan, but I do so upon the ground that it is calculated to reduce taxation, and not on the ground that I think this taxation should be taken off the shoulders of this particular class of the community who now bear it and placed upon another class, or that some branch of

Mr. Forbes supports Mr. Narayan's amendment, and is in favour of Sir Jamsetjee's suggestion to delay the Bill.

trade should be saddled with a tax to make up for the deficiency. I think that there can be no doubt that the 8 per cent. maximum limit which has now been fixed for the house-rate is a standing menace to all persons intending to invest in house property, which therefore must be injuriously affected in its value. If there is no early prospect of this maximum being put in force, I do not see that it is desirable to retain so large a margin between what is actually now in force and what purchasers of house property may be liable to hereafter. I quite agree with what the honourable member Sir Jamsetjee has suggested, that it would be desirable even at this late stage of these proceedings, to have further inquiry into the incidence of taxation in Bombay: but I may say that I am, in this matter also, influenced by different motives from the honourable member, and I agree with his suggestion, because I think that for some time past the taxation in Bombay has been most oppressive. Nothing has astonished me more during this meeting of Council than hearing it twice asserted by the Honourable Mr. Tucker that this pressure of taxation has not been previously urged upon the attention of Government. I believe that the main cause of the excitement which has prevailed of late years in Bombay has been caused by the extreme oppressiveness of taxation. Rents and furniture have been frequently distrained, and I am sorry to hear that this is still necessary in order to wring from the citizens the amount necessary for the Municipality, and that thousands of distress warrants have to be issued every year. Nothing can be more oppressive than this, and if the Honourable Mr. Tucker looks into all the petitions which have been sent to Government he will find that in each of them the severity of taxation is prominently mentioned.

The Honourable Mr. TUCKER—Does the honourable gentleman mean the present petitions or previous ones?

The Honourable Mr. FORBES—I mean all the petitions during the last regime. The earliest memorial on the subject that I recollect was one brought forward in 1870 at a large meeting of the Bench of Justices, praying against the continuance of this severe taxation, and Dr. Dallas then brought the subject of this memorial prominently forward. Certainly, I think this was the beginning of the movement which has resulted in the bringing of this very Bill before the Council. Ever since this memorial, the ratepayers have unceasingly agitated the subject, and I do not think that among all their representations there is one in which the severity of taxation has not been referred to and complained of. No doubt it was also mentioned that the power of controlling the Municipal Commissioner was defective, but the great reason for complaining of that was because it resulted in extravagant expenditure. I look upon the present as a favourable opportunity for limiting this serious evil of heavy taxation. The best course would be for Government to consider the just and reasonable claims which the Municipality have upon Government, claims which amount to a very large sum, and to meet the interest on which the Municipality will, I believe, have to find funds next year to the extent of $7\frac{1}{2}$ lakhs of rupees. With regard to the quotation which the Honourable Mr. Tucker made from an English author—

The Honourable Mr. TUCKER said that it was Mr. Stuart Mill.

The Honourable Mr. FORBES continued—Well, the remark which Mr. Mill makes about a man's house being the best measure of his means to pay taxes is not so applicable to this country as it is to England. Many men who have plenty of money in Bombay live in very wretched habitations in the native town, and the remarks about misers are certainly more applicable to the Marwaree community in Bombay than to any community which can be found in an English town. I think, therefore, that the idea of devising some means which would lead to the taxing of this class of persons more fairly than the present house-tax, would be most desirable and would lead to the very best results.

His Excellency the PRESIDENT—Before this discussion goes any further, I would point out that we appear to be wandering from the Honourable Mr. Narayan's specific amendment, which is to reduce the minimum and maximum house rate 2 per cent.; but we have been discussing a proposal to postpone the further consideration of the Bill and to remand it back to the Select Committee or refer it somewhere else (I do not know which is desired), for reconsideration of the incidence of the existing system of taxation. As there is no definitive proposal on this head before the Council, I consider that we are somewhat out of order in discussing such a suggestion.

The Honourable Mr. TUCKER—With your Excellency's permission, I would like to make one word of explanation with reference to the remarks of the Honourable Mr. Forbes. I never meant to imply that there had not been a general impatience of taxation. There is no doubt that there has been a desire to escape taxation altogether by all descriptions of persons, but I never understood that the present fiscal system was objected to by any but the house-owners, and I had supposed that this class of proprietors and the trading classes were at direct issue as to the advisability of having recourse to direct or indirect taxation to supply the Municipality with funds. I am unable to call to mind at the present moment all that has been written or said since the agitation regarding Municipal affairs was going on, but I have always supposed that it was economical management and representation that the so-called reformers clamoured for, and not for a revision of the fiscal system. The desire now exhibited by the honourable gentleman for delay and further enquiry is in marked contrast to the state of his feelings at the time of the second reading of this Bill, when he spoke so feelingly of the injury done to the citizens by the unavoidable delay which had taken place in the preparation of the Bill, and when he wished this Council to substitute for the present measure a short Act altering the Municipal constitution, and leaving Act II. of 1865 otherwise untouched. He was then as anxious for speedy legislation as he is now for retardation, and he never hinted at a revision of taxation, but was willing to accept the system inaugurated in 1865. I would put it to the honourable gentleman and to the Council whether his present line of action is consistent with his previous policy.

The Honourable the ACTING ADVOCATE-GENERAL—The remarks which your Excellency has made as to the erratic character of the present discussion were certainly much needed. I find it difficult to know whether I should address myself to the observations of the Honourable Mr. Narayan, or to the proposition which has been put forward in the shape of a serious suggestion by the Honourable Sir Jamsetjee, and which has been spoken to and supported by the Honourable Mr. Forbes. Before we go into the matter of the

Honourable Mr. Narayan's motion, I should like to know whether there is any earnest desire on the part of this honourable Council that the Bill should be remitted to a committee. It would be futile to discuss this Section 69 from the Honourable Mr. Narayan's point of view if the views expressed by the Honourable Baronet are to take a substantive shape, because of course Section 69 would be remitted back along with the other sections. I feel some hesitation as to whether I should answer the Honourable Mr. Narayan or the Honourable Sir Jamsetjee first, because both of their propositions have, so to speak, been made at the same time.

The Honourable Mr. ROGERS—I understand that His Excellency has already ruled that the only motion before the Council is the one moved by the Honourable Mr. Narayan for the reduction of the rate.

His Excellency the PRESIDENT—Certainly I think that this ought to be disposed of first.

The Honourable the ACTING ADVOCATE-GENERAL—I think it would be very desirable to know whether there is any intention to press an independent motion of the kind indicated by the Honourable Sir Jamsetjee, because I think that in the order of things the larger motion, which must include the lesser one of the Honourable Mr. Narayan, should come up for consideration first.

The Honourable Colonel KENNEDY—It seems to me that the Honourable Sir Jamsetjee was simply speaking to the third reading.

The Honourable Mr. NARAYAN—Sir Jamsetjee simply says that his vote on the third reading of the Bill will be influenced by the result of this discussion, and I think that His Excellency has already laid it down that it would be better for the Council to consider all the amendments before the motion for the third reading should be proceeded with.

The Honourable the ACTING ADVOCATE-GENERAL—Taking it upon this basis, I shall now make a few remarks regarding the motion of the Honourable Mr. Narayan. The Honourable Mr. Forbes, in supporting the Honourable Mr. Narayan, has referred to what has been a very common topic of remark in this Council since the second reading, but which was very little indeed referred to in Select Committee. I refer to the matter of the numerous distress warrants. Now up to the present time I have always been under the impression that these distress warrants represented the actual amount of distress simply and literally, and not merely so many signatures on so many pieces of paper issued, not for the purpose of distraint, but put forth in the same way, and sent contemporaneously with the notice of demand—issued, that is, not for the purpose of being put in force, but simply that the people might know there was a power of distraint.

The Honourable Mr. NARAYAN—I beg the honourable gentleman's pardon—

The Honourable ACTING ADVOCATE-GENERAL—I would represent to the honourable member that such sudden interruptions are annoying, and that they disturb the current of thought in a speaker's mind and prevent the clear conveyance of his ideas. Regarding these distress warrants, I would repeat that this is a matter in which I think there has been great misunderstanding, because several honourable members have been misled by incorrect information supplied to them. I have learned to my surprise from the Municipal Commissioner that the nine thousand distress warrants of which we have heard so much, do not represent actual distraints levied, but were merely a means adopted by the Municipal authorities to expedite the collection of the Municipal rates, and that the number of cases in which any goods were attached or sold amounted only to sixty-nine. The Council will

Exaggerated statements of the number of distress processes. therefore see that there has been a great deal of exaggeration in the tales we have heard of the distress suffered by the unfortunate rate-payers. Instead of 9,000 persons whose goods have been seized or sold by the Municipal Executive, there were only 69. It is notorious that there are many inhabitants of Bombay who are reluctant to comply with pecuniary demands till they are absolutely compelled. This has been exemplified by the conduct of the shareholders of companies, upon whom calls are made, who invariably plead inability to pay till the final orders are issued by the Courts, and then immediately produce the money; and the fact that many rate-payers were reluctant to pay till threatened with warrants is an indication of the habits of the people rather than a proof that the persons against whom the warrants have issued were incapable of meeting the demand. I think that the honourable gentlemen who have relied so much on this tale of the distress warrants must admit that it is delusive. I therefore cannot support the Honourable Mr. Narayan's amendment. I would however consent to a reduction of one per cent. on the maximum and minimum house-

rate as the Honourable Mr. Tucker has suggested, if the Council consider it desirable to afford some relief to the house-owners and are willing to vote an increase of certain town duties, which will then rendersafe the financial position of the Municipality. With regard to another suggestion of the Honourable Mr. Narayan—that is, the proposal to make a consolidated rate—I think it is altogether untenable. I am one of those who believe that persons about to invest in land or houses always make their calculations in respect to the value of the investment by looking into the nature of the property, its situation, and to the contingent outgoings to which it may be subject. I do not believe that any house-owner who has invested money in houses or lands since 1865 has failed to take into account, in making the purchase, all the burdens that may be imposed upon this description of property under Act II. of 1865. If this be so, how can a person so situated now say that he is worse off than other investors? House-owners who acquired their property prior to the period to which I refer may, no doubt, be sufferers, because they invested their money in property when it was extremely dear, and at a price which it could not now realise. But neither under the existing nor the present Bill is the assessment of house property permanently fixed. It varies from time to time, and is laid upon the yearly or biennial income realized from property. If it is over-assessed one year, it is always open to the house-owner to go to the Commissioner to re-assess it in accordance with the changed circumstances. To refer to the depreciation of prices and of the returns from house property as an argument for the reduction of the house-rate seems to me an entire fallacy. In such a state of circumstances the thing to be done is to obtain a revision of assessment, which the Commissioner is sure to make if the general condition of the place has materially affected the property. In this manner there is always a remedy of some sort at hand to save the house-owner from the consequence of any fall in the value of his property. I think that this desire to weld the house-tax and the occupiers' rate into one, is a mere snare and delusion to induce this Council to abandon a system of taxation that has been in use ever since this Municipality has been established. I shall certainly oppose the Honourable Mr. Narayan's proposition standing as it does, but if he modifies it in the manner I have indicated, I shall be happy to give it my support.

The Honourable Mr. FORBES—Do I understand the honourable gentleman to say that he would support a reduction of one per cent. upon the maximum?

The Honourable the ACTING ADVOCATE-GENERAL—Yes, I will agree to a reduction of one per cent. on maximum and minimum.

The Honourable Mr. ROGERS—With regard to the proposal to reduce the rate, I am disposed to concur in the course suggested by the Honourable Mr. Tucker, viz., to make a one per cent. reduction in the house-rate. When we took up the consideration of this Bill, we never thought that it was intended we should examine and reconstruct the whole fiscal system of Bombay, and I consider that one of the main reasons why we gave way to the popular demand for representation—whether it was got up by a few reformers or not I cannot say—was that the new Corporation, which should consist of a considerable number of the representatives of the people, would form a good body to correct any inequalities that might be found to exist in the distribution of taxation among the different classes of the community, and that after full deliberation they might come to us with definite propositions for an amendment or alteration of the present fiscal system. Certainly it is too late to bring forward now such a proposal as the one mentioned by the Honourable Sir Jamsetjee when the Bill is about to be read a third time.

His Excellency the PRESIDENT—What has fallen from the Honourable Mr. Rogers

His Excellency the President opposes further delay, and states that one of the duties of the new corporation will be to inquire into the incidence of taxation.

coincides with what I feel myself on this point. I confess that I think some honourable gentlemen have really lost sight of what the original intention of this Bill was. When I arrived in the country, I found the Municipal Bill before the public, and from the discussions regarding it, which

were being carried on everywhere, I understood that it was the intention of Government to give the people of Bombay a certain amount of control over the management of their own municipal affairs, and it was my endeavour, from the moment I took an active part in connection with this Bill, to give the citizens as much power as could be fairly and safely given to them. It seems to me that if we are going to create municipal bodies, with extensive powers and authority, that these bodies should take their fair share of the responsibilities of the situation, and this they might well do in the manner indicated by the Honourable Mr. Rogers. The Honourable Sir Jamsetjee has suggested that we should postpone the passing of this Bill and make some inquiry into the incidence of taxation upon the different classes of the community. Now, I think that that is precisely one of the questions which

it will be the duty of the Corporation to consider, and if they find any inequalities or faulty distribution, to make such representations to Government as will enable Government to correct what is found to be faulty. The responsibility of making a change in the distribution of taxation is one of the responsibilities which will attach to a body in which the tax-payers have direct representation, in the meantime, it is our duty to do the best we can to give the citizens a fair amount of real representation; and to assign sufficient revenues to the Corporation to start with, and then allow them to proceed as they think fit within the limits assigned to them. My opinion is, that instead of making any alteration whatever in the distribution of taxes, we should simply decide that an annual rate of 5 per cent. upon the annual value of lands and houses shall be levied from the coming into operation of this Bill, and provide that it shall be lawful for the Government, in compliance with a recommendation from the Corporation, to fix a higher or a lower rate as may be required. Let the Corporation take the responsibility of saying whether this house-rate is too high or too low, and at the same time show, if a reduction is decided upon, how the monies relinquished to house proprietors are to be recovered from other sources. By our merely fixing certain rates and leaving it to the Corporation to alter them, I believe we shall succeed in putting all parties in their proper places.

The Honourable Mr. TUCKER—Do I understand your Excellency to mean that you would have no minimum or maximum rate fixed in the Bill?

His Excellency the PRESIDENT—Not exactly. I would fix no maximum, but start with a minimum of 5 per cent., leaving it to the Corporation to go as high as they may choose without any interference from Government, but giving Government the power to lower the rate on the representation of the Corporation and demonstration that it can be safely done. The whole responsibility will then rest upon the Corporation of saying whether the house-rate is to be high or low. Certainly I do not think we can go back with the Bill now to consider the propriety of making a considerable change in the fiscal system.

The Honourable Mr. TUCKER—I think that the course your Excellency proposes would create alarm. A limit to taxation must be fixed, I think, in the Bill. The course which you propose implies unlimited confidence in the Corporation, but I am not sure that the great body of rate-payers will have sufficient faith in the Corporation to entrust them with unlimited power of increasing the rate.

His Excellency the PRESIDENT—That would not be a sufficient reason for rejecting my proposal, but to make sure the honourable member might say, provided that the rate shall not be higher or lower than a certain figure.

The Honourable Mr. NARAYAN—I have no objection to your Excellency's proposal.

The Honourable Mr. TUCKER—There is only this much to be said, that the house-owners will have great influence in the new Corporation, and if we agree to such a proposition as your Excellency's, we may expect that the interest of the house-owners will receive more than a fair share of consideration at the hands of the Corporation. In a body so constituted, the house-owners will very likely seek to relieve themselves at the expense of the rest of the community.

The Honourable Mr. BYTHELL—I certainly think we should fix a minimum, and we may rest there if the house-owning interest do not object to leaving the maximum open.

His Excellency the PRESIDENT—Of course I would not agree to any reduction in the rates unless the Corporation could show how the deficiency was to be made up.

The Honourable Mr. BYTHELL—I believe that if we fix a minimum one per cent. below the present rate, the house-owners cannot complain. I agree with the Honourable the Acting Advocate-General, that those who have invested in property since 1865 have no right to complain of the present rate, and still less could they complain if the minimum should be fixed at 5 per cent. I shall not go over the question again as to whether owners or occupiers pay all the rates, but I think with the Honourable Mr. Tucker, that the Honourable Mr. Narayan's proposal that the house-owners should pay all the taxes proves that they know very well how to recoup themselves. To show that even at present the house-owners do not pay all these taxes, I may mention that it is a very common thing in Bombay for an owner to say to a tenant, "If you pay all the taxes your rent is so much; if I pay them, then the rent is so much more." With regard to the 14,000 house-owners who, as the Honourable Mr. Narayan says, occupy their own properties and pay all the rates, I think it cannot be denied that in addition to these house-proprietors a great many more people live in the same house

with them, and I think it would require a great deal of argument to make this Council believe that the people to whom these owners sublet their apartments do not in some way or other contribute their share of taxation. Certainly, as regards the community who live in the dearest houses, and the merchants who live in the various houses in the Fort, the rates are paid by the occupier. With regard to the arguments brought forward to prove that rates amounting to 18 per cent. were paid by house-owners, I think they have been shown to be founded on an entirely false basis, because the users of it have confounded payments for services rendered, such as halalcore cess and water rate, with pure taxation. As to the distress warrants, I think that the facts stated by the Honourable the Acting Advocate-General show that too much stress has been laid on that point. It is a well known fact that many persons in the native community delay paying their debts until they really find that their creditor is going to take steps against them, and some people may possibly behave in the same manner with regard to the Municipal claims.

The Honourable Mr. TUCKER—Before we proceed to vote, perhaps I may be permitted to repeat that considering the existing house-rent is six per cent., there will be a very sensible relief to the house-owners if the reduction which I have suggested is made. With regard to the distress warrants, Mr. Peile tells me that the wonderful issue of distress warrants which has excited so much notice was due to the energy and activity of Mr. Hope, who came down upon a number of people who had previously been dilatory in payment or had managed to evade it. Hence the origin of the sensational stories with reference to the great amount of distress caused by selling up the goods of the poor. In only 33 cases have goods been sold out of the whole number of warrants issued.

The Honourable Mr. NARAYAN—After the remarks which have fallen from the honourable members, I think that it would be useless to press my amendment on the attention of the Council; I shall therefore merely reply to a few of the arguments put forward by the Honourable Mr. Tucker and the Honourable the Acting Advocate-General. In the first instance, the Honourable Mr. Tucker read extracts from a valuable work on taxation in England, but I submit that the condition and circumstances of this place are totally different to the condition and circumstances of England. If the Legislature in England tried to pass a Bill in the face of so much clamour as has been raised in Bombay against this measure, the representative Government of England would not be allowed to stand a single day. Regarding the distress warrants, probably the Honourable the Acting Advocate-General is not aware that, whatever opinions he may entertain about the native community, it should be said to their credit that they are always ready to relieve the distress of their neighbours and fellow-countrymen, and I believe that it has often occurred that the late Commissioner himself has paid money out of his own pocket to prevent the goods and chattels of poor people from being sold; and passengers on roads have often paid money in the same way to save some poor wretch his bedding and cooking utensils. It would not be safe to deny the existence of distress in the town simply from the fewness of the actual seizures and sales which have occurred. What shifts have been resorted to to prevent them no one can tell. The Government of India being essentially arbitrary and despotic is peculiarly under the obligation of exercising the functions and duties of a paternal Government. Such facts as these therefore show that it is necessary for this Council to inquire into the pressure of taxation. As regards the question whether Government have had notice of the distress caused in Bombay by the oppressive character of the taxation, I know that in 1868 the then Municipal Commissioner, in a letter which he wrote to Government defending himself from adverse criticism, pointed out that the fiscal system was not suited to the place. With these remarks I shall withdraw my amendment, leaving the question of what is suitable to the place to the consideration of this Council.

The amendment was then withdrawn.

The maximum house-rate reduced to 7 per cent., and the minimum to 4 per cent. After some discussion the Council agreed to fix a minimum of 4 per cent. and a maximum of 7 per cent., and thereupon

His Excellency the PRESIDENT proposed that Section 69, amended as follows, should be agreed to:—LXIX.—An annual rate of five per centum of their annual value shall be levied upon houses, buildings, and lands in the said city, and shall be payable by the owners thereof in advance in half-yearly instalments, that is to say, the first instalment for the year shall be due and leviable on the 1st of January, and the second instal-

ment on the 1st July of each year: Provided that it shall be lawful for the Government, if it shall see fit, in compliance with a resolution passed by the Corporation at a special general meeting, to fix from time to time, in lieu of the said annual rate of five per centum, some higher or lower rate, provided that such rate shall not be less than 4 nor more than 7 per centum. Any rate so fixed shall be published in the *Government Gazette* before the commencement of the year in which such rate is to have effect.

The section amended as above was agreed to.

The Honourable Mr. MUNGULDASS moved that the words "or portion of flat" be added between the words "flat" and "as" in line 5 of Section

The taxation of flats, godowns, and suits of apartments.

76; and that the proviso of the same section be omitted. The honourable member, in supporting his amendment, said—I don't consider it just and equitable to treat a *whole* flat or storey as a separate property for the levy of house-rate, because it often happens that a whole flat consists of many shops or godowns let separately to different persons, or of several suits of apartments each occupied by separate families or individuals. If only one or two of these are occupied and several others are vacant, Section 64 will make the owner liable for house rate, say at 6 per cent, for the whole flat or storey. I hope the Council will not sanction such gross injustice against which house-owners have good reasons to complain. The Act imposes very heavy taxes on them, and it is neither fair nor expedient to increase their oppressive burden by taxing all unoccupied shops, godowns or suits of apartments in the same way as if they were all used and tenanted. When the subject was discussed in Council, the Honourable Mr. Tucker put an interpretation on this section totally different from the construction which I have put, and which is carried out in practice by the Municipal officers employed to assess buildings. My honourable friend said this was not the case. To remove all doubt or difficulty, I made a reference to the Municipal Commissioner, who says in his reply—"Rates would be levied on the whole of a row of shops or godowns, if they formed the lower storey of a building. The rule is quite simple. A storey is the unit of assessment. If part of any storey whatever is tenanted, rates are charged for the whole. A flat is an entire storey." This important subject has been reserved for further consideration, and for reference to Mr. Peile. I now hope the Council will set the question at rest, and sanction the amendment which I propose, in order that the injustice against which the Bombay Association have justly complained may be remedied.

The Honourable Mr. TUCKER—Sir,—When the Honourable Messrs. Narayan and Munguldass spoke with regard to these sections upon a previous occasion, I mentioned the information which I had received from Mr. Peile. This did not satisfy the Honourable Mr. Munguldass, who said it has been the practice to treat each separate floor of a chawl as a building let in sets of apartments as provided in this. It has turned out on further enquiry, that the honourable gentleman is right, and that the practice of the Municipal Commissioner has been as he described, though apparently under a strict construction of the section it would not include chawls. I find that in England it is considered right that the owners of lodging houses, such as chawls, should pay reduced rates to cover the risk of some of the rooms being unoccupied, and I think we might extend a similar indulgence to the owners of chawls or of ranges of warehouses or godowns. With respect to the house-rate, I think that the introduction of a reduced rate for these buildings in Bombay would have a better effect than the amendment now proposed by the Honourable Mr. Munguldass, and with the assistance of the Advocate-General, I have drawn out a clause to show exactly what is intended. We wish to provide for two sets of things—one for houses let out in separate sets of apartments, and are in effect separate tenements, answering to what are termed "flats" in Scotland, "chambers" in England, and "apartments" in Paris, and for houses which are let in separate rooms for lodgings or for storing goods.

The Honourable the ACTING ADVOCATE-GENERAL read the following section, which was proposed to be substituted for Section 76:—

"In the case of houses or buildings let in flats or sets of apartments constructed so as to form distinct dwelling places, and let as separate tenements, it shall be lawful for the Municipal Commissioner to treat such flats or sets of apartments as a separate property for the purposes of the house-rate: Provided that if any portion of such flats or sets of apartments is occupied, the house-rate shall be leviable upon the valuation of the whole tenement." The next clause runs—"In the case of any chawl or building let out for hire in single rooms either as lodgings or as godowns for the storage of goods, one-fourth part of the house-rate upon the whole chawl or building shall be remitted: Pro-

vided that the owner of such chawl or building shall, within fourteen days after the commencement of the 1st January and 1st July in any year, apply to the Commissioner for such remission, and shall furnish full particulars of the situation of any such chawl or building, the number of the rooms or godowns therein, and the names of the occupants thereof."

The Honourable Mr. MUNGULDASS—That would make things worse instead of better, because the honourable gentleman now proposes to levy the rate upon the whole house even though the greater portion of the same remains unoccupied. If many rooms in the house were vacant, this section would work very unjustly.

The Honourable Mr. TUCKER—It is not easy to suppose that the great portion of these lodging houses remain always vacant. Men do not build houses of that description without taking care that there is a demand for such accommodation as they afford.

The Honourable Mr. MUNGULDASS—I think that honourable members are misled by the state of chawls in the neighbourhood of cotton spinning factories or workshops, where they are readily occupied, but this case is exceptional, and in the greater portion of these buildings more than 10 per cent. of the rooms are vacant in consequence of the population having decreased.

His Excellency the PRESIDENT—Is it impracticable to levy the rate upon each room?

The Honourable Mr. TUCKER—I think it would be. I do not see, however, why we should not place the assessment on every floor instead of on the whole building. As I have said, we intended these clauses to apply to two distinct sets of tenements—one, the sort of tenements into which Albion Place and Grant Buildings are divided, where though one man occupies only three or four rooms, he has virtually a separate domicile; and the other to the buildings called chawls, which in England would be termed lodging-houses.

The Honourable Mr. MUNGULDASS—I prefer my own amendment to this, because I want relief for unfortunate men who will have a large portion of these houses vacant.

The Honourable Mr. TUCKER—The Honourable Mr. Narayan, a house-holder as well as the Honourable Mr. Munguldass, tells me the reduction we propose is sufficiently liberal.

The Honourable Mr. NARAYAN—I do not think it is very liberal, but I think it is fair.

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

Ayes—3.

The Honourable MUNGULDASS NUTHOOBHUY.
The Honourable COLONEL M. K. KENNEDY.
The Honourable J. A. FORBES.

Noes—8.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Sir JAMSETJEE JEJEEBHUY.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The amendment was therefore lost.

The first clause of the Honourable the Acting Advocate-General's section was agreed to, and the second clause was adopted after being amended thus:—"In the case of any chawl or building let out for hire in single rooms, either as lodgings or godowns for the storage of goods, the house-rate shall be levied in respect of the assessment of the rent on each floor, and the owner shall be entitled to a remission of one fourth part of the said annual house-rate: Provided that the owner of such chawl or building shall, within fourteen days after the first day of January or the 1st day of July in any year, apply to the said Commissioner for such remission, and furnish full particulars of the situation of any such chawl or building, the number of the rooms and godowns therein, and the names of the occupiers thereof."

This section was substituted for Section 76 and stands part of the Bill.

The Honourable Mr. MUNGULDASS proposed that the words "and buildings and lands owned by Government" in lines 4 and 5, Section 77, be omitted. In support of his amendment the honourable gentleman said—I ask the Council to re-consider the decision arrived at on the last occasion to exempt all lands and buildings owned and occupied

The taxation for Municipal purposes of buildings and lands owned by Government.

by Government from payment of the house rate and occupiers' rates on the ground that this Council had no power to impose rates on Government property. Since the Honourable the Acting Advocate-General expressed his opinion in favour of the proposed exemption, the opinions of two other learned Counsel have been taken by the Rate-payers' Committee. These opinions will, I hope, induce the Council to sanction the claim of the Municipal rates and taxes on Government property. The cases decided by eminent judges in England and referred to in the opinions of Messrs. Anstey and Marriott annexed to the petition of the Rate-payers' Committee, coupled with the fact that no such exemption is sanctioned by the Legislative Councils of Bengal and Madras in favour of lands and buildings owned and occupied by Government in the cities of Calcutta and Madras, and the opinion of General Marriott's Committee, of which the present Advocate-General, Mr. Scoble, was a member, will, I trust, be deemed sufficient to convince the Council of the justice and propriety of removing the exemption, which cannot be justified in law as well as equity. The very fact of introducing an express exemption shows that Government property is *prima facie* liable to assessment. With regard to occupiers' rates the Council will, I trust, no longer entertain any doubt or difficulty, but will at once remove the exemption that has been introduced in Section 103. I know your Excellency has expressed a desire on behalf of the Government to give to the Municipality a contribution equal to the amount of the occupation rates claimable in respect of Government property, but unless the express exemption is removed, the contribution is liable to be withdrawn at any moment, as in the case of the police contribution, or in the event of a change taking place in the views of Government.

The Honourable the ACTING ADVOCATE-GENERAL—The honourable member has spoken of the law of this matter, but I shall just read an extract from a decision of the House of Lords, which possibly may induce him to alter his opinion. I think it will sufficiently set forth the grounds upon which I founded the opinion I before expressed. I refer to the Mersey Dock case, which was decided by the highest Court of Appeal in 1865 :—

“The Crown, not being named in the statute of Elizabeth, is not bound by it, and consequently the overseers cannot impose a rate on the Sovereign in respect of lands occupied by Her Majesty, nor on those occupied by her servants for Her Majesty. The exemption depends entirely on the occupier and not on the title to the property. The tenants of Crown property paying rent for it are rateable like all other occupiers, and it has even been determined that when apartments in Hampton Court, a Royal Palace, were gratuitously assigned to a subject, who occupied them by permission of the Sovereign but for the subject's benefit, the subject was rateable in respect of her occupation of this royal property. On the other hand, where a lease of private property is taken in the name of a subject but the occupation is by the Sovereign or her servants on her behalf, the occupation being that of Her Majesty, no rate can be imposed. So far the ground of exemption is perfectly intelligible, but it has been carried a good deal further and applied to many cases in which it can scarcely be said that the Sovereign or the servants of the Sovereign are in occupation. A long series of cases have established that where property is occupied for the purposes of the Government of the country, including under that head the police and the administration of justice, no one is rateable in respect of such occupation. And this applies not only to property occupied for such purposes by the servants of the great departments of State, such as the Post Office, the Horse Guards, or the Admiralty, in all which cases the occupiers might strictly be called the servants of the Crown; but also to property occupied by local police, to country buildings occupied for the Assizes and the Judges' lodgings, or occupied as a County Court or for a Gaol. In these latter cases it is difficult to maintain that the occupants are, strictly speaking, servants of the Sovereign so as to make the occupation that of Her Majesty; but the purposes are all public purposes of that kind, which by the constitution of this country fall within the province of Government and are committed to the Sovereign, so that the occupiers, though not perhaps strictly servants of the Sovereign, might be considered in *consimili casu*. These decisions are uniform, and it was not disputed at the bar that exemption applies so far.” This was a case in which the whole law of the subject was reviewed, and I think it must be held to be conclusive on the points which it decides.

The Honourable Mr. NARAYAN—But in any case, this extract cannot be held to apply to houses which Government let and draw rent from.

The Honourable Mr. BYTHELL—Do Government not pay taxes on these?

The Honourable Mr. NARAYAN—No, they do not.

The Honourable Mr. BYTHELL—Government have many bungalows at Colaba which are occupied by Government servants. Do Government not pay house-rate on these?

The Honourable Mr. NARAYAN—No, and under this section they will be exempted.

The Honourable Mr. TUCKER—But until the question has been settled, we are willing, as we have said several times, to make an allowance to the Corporation for that class of property.

The Honourable Mr. BYTHELL—If such property is by law exempt from taxation, it seems to me to be a very retrograde kind of legislation to make a special exemption of it in this Act. I observed that the question is exciting attention at home. I have just received the last volume of Hansard, and I see that in the House of Commons on the 14th of last March, the subject of the liability of Government property to local rates was introduced. Major Dickson asked the First Lord of the Treasury, “if it is the intention of this Government to introduce a Bill this session to make Government property assessable to local rates. Mr. Stansfield said he had a Bill drafted which proposed to repeal all exemptions from local rating, including Government property: but he was unable then to state the exact day on which he would ask leave to introduce it.” I consider that it is very backward legislation indeed on our part to agree to this section, specially when it is generally admitted at home that it is unjust to exempt Government property at all.

The Honourable Mr. TUCKER—When the Government at home carry a measure containing the views of the honourable member, we shall have a precedent to guide us, but until that time arrives, any motion such as the Honourable Mr. Munguldass’ is premature. We have already admitted that Government should pay police and lighting-rates on this kind of property, but we hold that we cannot lawfully make this declaration in the Bill.

The Honourable Mr. BYTHELL—I wish to point out that though the present Executive Government have promised to make a contribution to the Municipality, it is possible that a future Executive Government might refuse to make the grant, on the ground that in doing so they would be going against the Act, which specially stipulates that the house-rate shall not be paid on Government buildings.

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

Ayes—5

The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable SIR JAMSETJEE JEEJEEBHOY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Noes—9

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable H. P. St. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The amendment was therefore lost.

The Honourable Mr. TUCKER moved that the words “shall be permitted” be inserted in line 22 of Section 78 after the word “occupier.”

The amendment was agreed to.

The Honourable Mr. MUNGULDASS moved that the words “Municipal Fund” in lines 16 and 17 of Section 86 be omitted, and the words “Provincial Revenue” substituted. In supporting his amendment the honourable gentleman said—I consider it my duty to remonstrate against the retention of Section 84 in its present form, because while it professes to devolve the entire cost of the maintenance of the city police on the Municipality of

The maintenance of the police by the Municipality.

Bombay, it gives the Corporation no control whatever over the expenses of the police force which it authorizes the Government to fix and determine from time to time. There ought to be a limit to the demands of Government in this matter. Before the enactment of the present law the Municipality was required to make an annual contribution of Rs. 81,600 only. When Act II. of 1865 came into operation, the police expenses amounted to Rs. 2½ lacs a year, and subsequently they were enhanced from time to time by Government, and whilst the Corporation has been compelled to pay about 4 lacs a year during the last six years, the Government contribution of one lac has been totally withdrawn since last year. The result is the deficit in the Municipal Fund has been enhanced each year, and the debt of the Corporation has increased by several lacs. If the Government decline to give to the Corporation of Bombay such powers of controlling and checking the police expenditure as are given to the sister Municipality of Calcutta by Sections 5, 6, and 7 of Act XI. of 1867, Government should be satisfied with the proceeds of the police tax levied at the highest rate, viz., 3 per cent., which amount, I believe, will be more than sufficient, and Government should regulate the police expenditure in such a manner that it shall be covered by the income of the police tax; but if the Government choose to increase the expenditure so as to cause a deficit, it is fair and reasonable that Government should contribute the amount of such excess of expenditure out of the provincial revenues. The Council will be good enough to bear in mind the important fact that the Calcutta Municipality pays Rs. 2,71,000 a year, being three fourths of the amount of police expenditure, and the remaining one-fourth is contributed by Government out of the Provincial revenue. The Council is perhaps aware that Lord Napier, late Governor of Madras, publicly declared before the Legislative Council of Madras on the 18th February 1870, as follows:—“There is no duty more plainly incumbent on the State than the protection of the lives and property of the citizens.” This view was fully carried out by the Madras Government in the following year, when the Municipality of Madras was by Act V. of 1871, Section 2, totally relieved from contributing towards the maintenance of the city police. The Honourable Mr. Arbuthnot executive member of the Madras Government, made the following declaration on behalf of Government at the meeting of the Legislative Council held on the 17th February 1871:—“It is in conformity with the views entertained by the large majority, if not by all the members of the Council, that the police ought to be one of the first charges on the general revenues, and it tends to simplify the accounts and estimates of the Municipalities. It also substitutes a fixed charge on the general grant for what might be, and probably would be, an increasing charge, and it is the arrangement which, we believe, will be most generally acceptable to the rate-payers.” I don't go so far as the Madras Government in this matter. I don't ask the Bombay Government totally to relieve the Corporation of the liability to defray the cost of the police. I simply ask the Council to put a limit to the demand of Government, and not to impose an unlimited liability on the Corporation, which it is not able to bear. The duty of contributing to the police expenditure has been recognized by this Government as well as the Supreme Government, as was recently shown by the Honourable Mr. Narayan. No argument derived from any deficit that might exist in the Provincial Budget can, in my humble opinion, justify Government in declining to perform their duty. But irrespective of this contention, I am in a position to show that if my amendment be adopted, it will not be necessary for Government to contribute a single rupee towards the expenses of the City Police. The income of the police-rate at 3 per cent. will, according to the Budget Estimate for this year, amount to Rs. 3,92,000, to which I add Rs. 12,000 as the amount expected to be realized from the tax to be imposed on Fire Insurance Companies. If from this amount the cost of collection, Rs. 12,000, be deducted, the net income will amount to Rs. 3,92,000. As the Police Budget of this year amounts to Rs. 3,77,000, there will be surplus of Rs. 27,000 instead of any deficit. Consequently if the Government do not make a very large increase in the amount of the police expenditure, there will be no deficiency for Government to supply from the Provincial revenues. But if Government choose to make a very large increase, it is but fair that they should be made to supply the deficit which they themselves create. It cannot be contended for a moment that the inhabitants of Bombay are disloyal, or that they are disorderly and riotous, and that it will therefore be necessary to increase the Police Force in order to preserve the peace. The people of Bombay are so well behaved and celebrated for their allegiance to the British Crown and for their peaceful conduct as to render an augmentation of the police on that ground unnecessary.

The Honourable Mr. ROGERS—The Honourable Mr. Munguldass seems to think that Government are going to increase the cost of the police, but I do not think that he has any reason for thinking so.

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

Ayes—5.

The Honourable MUNGULDASS NUTHOOBHOY.
 The Honourable SIR JAMSETJEE JEJEEBHOY.
 The Honourable J. A. Forbes.
 The Honourable NARAYAN VASUDEVJEE.
 The Honourable J. K. BYTHELL.

Noes—7.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
 The Honourable H. P. ST. G. TUCKER.
 The Honourable A. ROGERS.
 The Honourable the ACTING ADVOCATE-GENERAL.
 The Honourable Colonel M. K. KENNEDY.
 The Honourable E. W. RAVENSCROFT.
 The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The motion was lost.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

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