Registered No. 68 of 1872.

THE

# Bombay Government Gazette.

Published by Authority.

SATURDAY, 4TH JANUARY 1873.

☞ *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 Púna, on Thursday, the 17th October 1872, at noon.

*PRESENT:*

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding.*
His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable Colonel M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

Amendments proposed by members considered.

The Council proceeded with the consideration of the proposed amendments in the Bombay Municipal Bill of which the honourable members had given notice.

The Honourable Mr. ROGERS proposed that the following words be inserted after the word "health" in line 9 of Section 249 :—"By reason of the state of the vaults or graves within the walls of or underneath the same, or in any churchyard or burial ground adjacent thereto." Also that the words "in the event of any places for the disposal of the

dead being closed" in line 43 be omitted, and the words "before any such places are closed" substituted. The reason for this section being introduced was that vaults were made and interments allowed in churches to an extent that became dangerous to health. Therefore to show the meaning of the section more clearly, the honourable member moved the insertion of the above words.

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

In Section 299, the words "of this Act" were inserted between "144" and "committed."

The Honourable Mr. TUCKER moved that the following words be inserted after the words "to do so" in line 51 of Section 306—"and provided also that all contracts lawfully made by the Municipal Commissioner in pursuance of the Budget fixed by the Bench of Justices for the year 1873 as aforesaid shall be valid and binding upon the Corporation in the same way as if this Act had not come into operation." This addition is necessary to protect the contractors with whom the Acting Municipal Commissioner may enter into contracts for the year 1873 under the Budget which is now about to be submitted to the Bench of Justices. This protection will only extend to contracts lawfully made.

The addition was agreed to.

Mr. Tucker's observations made while moving that the Bill be read a third time.

The Honourable Mr. TUCKER—We have thus far concluded the reconsideration of the Bill in detail, and have now to pass a resolution on the motion which I made on the 15th instant, that "this Bill be read a third time," and as we approach the crowning act which will terminate the prolonged discussions which we have had upon this necessarily voluminous Bill, I trust that I shall not be considered out of order in making some additions to the prefatory remarks which I addressed to the Council the day before yesterday. My object in doing so is to explain, so far as I may be able, the views and objects which Government have had in bringing forward this measure, and to remove some misapprehensions which appear to me still to exist with respect to the action which we have taken in this matter. I would, in the first place, disclaim for myself, and for the entire Government collectively, any desire to force upon the city of Bombay a municipal constitution or system of administration which would be disagreeable to, or disliked by, the bulk of the inhabitants of the city. From the beginning there has been no such idea. It was supposed, and I believe correctly, that a desire for a trial of self-government existed on the part of a considerable and influential section of the community, and it was to meet this desire that the difficult and laborious task of preparing this Bill was undertaken. At first the principle of representation was only recognized to a limited extent, but as this did not satisfy the wishes of those who had been most prominent in crying out for change, it was resolved to give a far wider scope to the system of election by the rate-payers than had been at first intended. Since this was determined upon, several other concessions have been made with the view of giving to the people of Bombay a real and substantial share in the management of their municipal affairs, and we have only refused to yield those points on which we felt that any giving way would imperil the future welfare of the city and the state. It is therefore altogether a mistake to suppose that we have attempted to compel the city to submit to a change of administration which it did not ask for. We have done all we could to give effect to the public wishes so far as they have been made known to us, and although we have not felt ourselves at liberty to go the extreme lengths to which some of those who have been most clamorous for reform have wished to draw us, yet it is unfair to charge us with indifference or insensibility to the popular sentiments, when every step we have taken has given evidence of our desire to go as far as we safely could in the direction which the voice of public opinion, so far as it has been expressed, has pronounced in favour of. It may not be out of place if I remind the Council that Act II. of 1865 introduced a system of municipal government which was considerably in advance of the system which preceded it, and that under this Act much good has been effected and considerable progress made in the improvement of the city. On the first passing of that Act it apparently met with the approbation of the citizens, but reckless expenditure on the part of the Municipal Commissioner and the inability of the Bench of Justices to exercise effective control in financial matters, rendered some amendment of that Act necessary, and it was loudly called for. In response to this demand the present Bill was framed, and it is the result of an honest and loyal attempt on the part of the Government of this Presidency to meet the popular desire for self-government, and to cure those defects in the existing law which have been disclosed by the light of past experience. I must repeat that it was never

contemplated to re-arrange the entire fiscal system, nor, until recently, were there any signs that such a change was desired. Nor can I admit that the necessity for an alteration of this sweeping character has been made out, and if it really exist, as is now alleged, it appears to me that it will certainly be wiser to leave the initiation of so difficult a task to the new Corporation, who will have better means of ascertaining the real working of the present system of taxation than we now possess. Our refusal, then, to accede to this new demand which has been now suddenly made does not proceed from any want of consideration of the wishes of the community, but from a conviction that it will be better to leave this important subject to be ventilated by the new assembly in which the rate-payers will be directly represented. The non-settlement of this question is therefore no just reason for the rejection of this Bill, inasmuch as the Bill itself will bring into existence the best agency for the ultimate satisfactory determination of a matter of such serious consequence to the inhabitants of the city. The disinclination which appears to exist in the minds of some members of this Council to leave the adjustment of this matter to the new Corporation and the Government, is to me very extraordinary after all that has been said of the effects likely to be produced by the introduction of the principle of representation and of the superior fitness of the elect of the rate-payers to the nominees of Government for the administration of municipal affairs. I would ask the honourable gentlemen who still express themselves as dissatisfied with some portions of this Bill, to consider what will be the consequence of the rejection of this measure. The existing law (Act II. of 1865), which many of them have so strongly denounced, will remain in force, and Government, after appointing an efficient Controller and a new Commissioner, must attempt to work the present system in such a manner as to avoid, if possible, the more conspicuous errors of the past. It cannot be supposed, after all the time and labour which have been expended in maturing the present Bill, that Government, if this Bill should not pass, will recommence the consideration of a new measure. I personally shall be strongly opposed to such a course, and I can hardly believe that any honourable member can seriously suppose that if this Bill do not pass, another will be brought forward for a considerable interval of time. The question, then, which the opponents of this Bill have to consider is, whether they will remain under the present law which they have so vehemently condemned, or will accept the measure of reform in the direction indicated by themselves which we have tendered to them. This is the issue now to be decided, and unless the opponents of this measure are prepared to assert that the enactment of this new law will leave the administration of the town in a more unsatisfactory condition than they have declared it now to be, it would be wise in them to accept the concessions now made and to look to the extension of these concessions hereafter, should the correctness of their views be established in the course of time. In the ordinary affairs of life, if a man has no means of enforcing his entire demand, he would be considered foolish if he did not accept a substantive instalment with the possibility of obtaining more; and to the objectors who urge that we have not gone far enough in the way of liberal reform, I would say that half a loaf is better than no bread, and that it will be wiser to accept what is offered now than to risk entire failure by sticking out for what is unattainable at present. I feel assured that the party represented by the Honourable Mr. Forbes, if they lose the present opportunity, will not for a long time have the chance of securing so large a portion of the things they profess to desire. The trading classes, who have found so staunch an advocate in the Honourable Mr. Bythell, have obtained nearly all they wanted, and I would submit that the doubts entertained by the honourable gentleman of the sufficiency of the power given to the Town Council or of the working of the machinery designed for the government of the city, are scarcely a sufficient reason for the rejection of the measure. If the new law will not work as is asserted, it will speedily come to an end, and they who are convinced of its impracticability might safely leave the experiment to be tried in the confident assurance that their predictions will be realized. This will be the real test of the truth of the conflicting opinions entertained on this point, and if we do not fear its application, why should there be any hesitation on the part of those who consider themselves so certain as to the result? I regret very much to find that the Honourable Mr. Munguldass Nuthoobhoy and the Honourable Mr. Narayan Vasudevjee, who have taken so active a part in these debates, are not in their places at this Council table to-day, when the fate of this Bill is to be decided, and I trust we may not be accused of having spirited these honourable gentlemen away so as to give us a certain majority in favour of the Bill. I consider it most unfortunate that they should be absent at this critical moment, as I had hoped that the arguments which I have advanced in favour of the adoption of the Bill might have had some weight and induced them not to reject the substance within their grasp for the shadow which they aim at, but which will mock their efforts. The section of the community upon whom, in accordance with the

opinions of these Honourable Councillors, the burden of taxation now falls so heavily, will gain many advantages by this Bill. Not only has the house-rate been reduced one per cent., but it will be competent to the Corporation and Government to reduce it another one per cent., if the correctness of their assertions can be established hereafter. A power of exemption has been given to meet the cases of alleged distress which have been brought forward, which will enable the Commissioner to grant remissions in cases of established poverty, and there has been a reduction of the rates on lodging-houses and ranges of godowns to cover the risk of rooms remaining vacant. The supplemental tax will now not necessarily involve an increase of rates, but will be raised from any source of revenue which the Corporation has the power to increase. All these are substantial gains to the class of house-owners, and when it is considered that there is at present great divergency and contradiction in the opinions held by different classes of the community on the subject of the distribution of taxation, it will be singular if the representatives of that particular class are not content with the position to which they have attained, and should declare their preference to remain under the existing system of taxation, of the evils of which they so loudly complain. I have thus endeavoured to show not only that Government has tried to meet the aspirations after self-government on the part of the citizens of Bombay, but that it has made considerable concessions to each of the leading divisions into which the community has split up with reference to these particular questions, and I would ask the honourable members who represent the views of the different sections earnestly to consider whether the interests which they support will be best promoted by the continuance of the *status quo* or by the acceptance of what they cannot deny to be a step in the direction which they desire us to go, though it may not be as long a leap as they looked for. If there were any prospect that the refusal of this Bill would lead to the introduction of a new measure more in accordance with the views of the members who may unite to vote against the present one, there would be some reason in this persistent opposition; but as the choice lies simply between the Bill as it stands and the existing law, it will be for honourable members to ponder well before they incur the responsibility of postponing indefinitively the improvement of municipal administration because they cannot obtain at once all they think fit to ask for. Under free institutions, unless there be absolute unanimity in opinion, no person or class of persons can obtain at once all that appears desirable to that person or class without much patient endurance and some intermediate compromise; it is a proof of the fitness of a people for such institutions that they are able to carry on their contentions in a conciliatory spirit and are prepared to make such compromises. Moderation at this moment and the abandonment of extreme views on the part of the advocates of reform, will be the most satisfactory indication which can now be given that the conditions upon which self-government is alone practicable are understood and appreciated by those who may be considered the representatives of certain portions of the population on this occasion, and I trust that there will be some who are not with us upon all points who will find upon reflection that it is not necessary to vote against the Bill in its integrity.

Mr. Forbes' reasons in support of his opposition to the Bill.

The Honourable Mr. FORBES—I have listened with some interest to the remarks with which the Honourable Mr. Tucker has proposed the third reading of this Bill, and I was particularly glad to hear him state that neither he nor any member of Government was anxious to impose upon the people of Bombay a Bill which would be obnoxious or disagreeable to them. I think that the expression of public opinion, which has been very strong and very ample of late, must fully convince the honourable gentleman that this Bill would be obnoxious and disagreeable to the majority of the citizens of Bombay. I think that one of the chief features in this Bill which renders it open to be described in these words, is the probability which exists that the taxation of the people will be very greatly increased instead of relieved, and if we could have some assurance that Government would not, under the powers which they reserve to themselves in the sections mentioned in the well-named bludgeon clause, undertake any of those great and expensive works which have been for some time looming in the distance, and which will no doubt before long have to be very seriously considered by those in charge of the Municipality, without in the first place fully consulting the wishes of the rate-payers of Bombay upon the subject, I think that one of the main objections to the Bill would be removed. So far as I am concerned I wish I could say that it is with a feeling of satisfaction we approach the conclusion of our long and arduous endeavours to devise a better Municipal Bill for the city than that which has been in force for the past seven years, and I wish more especially that we could have secured a prospect of our labours resulting in Bombay being relieved to some extent of the burden

of taxation which presses so heavily upon the people. I also fail to see wherein this Bill encourages to any considerable extent that feeling of public spirit which, I think, it is most desirable to encourage in the citizens, and I should like to have seen a Bill introduced which, by the liberal and conciliatory tone of its provisions, would have tended more than this Bill can to increase the feeling of confidence which I think ought to exist between the people of Bombay and the Government. I regret to say that the results of our labours fail to satisfy me as regards any of the points which I have mentioned. Indeed, Sir, when I glance over this bulky volume, covering 180 pages, and containing 308 sections, and when I endeavour to pick out those particular clauses which I can regard as improvements on the former legislation on the subject, I really am constrained to exclaim in the words used regarding the items of a Bill of a character very different from this, "O monstrous! But one halfpenny worth of bread to such an intolerable deal of sack!" I think if I remind the Council that we have spent many hours in discussing the sections in this Bill relating to such matters as the width of new streets in Bombay, whether houses are to be set forward or backward to improve a line of street, how gas and water-pipes are to be laid down and what distance shall be maintained between them, and that they should be altered at the expense of the Corporation, provisions to secure ventilation of public and private sewers, that doors on groundfloors are not to open outwards, verandahs to be permitted to project over streets in certain cases, that names of streets and numbers of houses may be put up, the providing of moveable or fixed dust boxes, the removal of dead animals, and so forth—when we look at all this, I think we must admit that this Bill contains a great many matters with which it was quite unnecessary to occupy the time of the Bombay Legislative Council, and that these were matters which could fairly have been left to the discretion of the Corporation or the Town Council. The Honourable Mr. Tucker has reminded us of the circumstances which led to the introduction of this Bill. I agree with him to a considerable extent in his remarks upon this subject, but I certainly think that the fact that the people of Bombay were groaning under a very oppressive amount of taxation, and that this was one of the principal objects for which the people of Bombay sought for relief from Government, ought to have been kept more prominently in view when this Bill was framed. I shall not enter upon any lengthened recapitulation of the history of the mismanagement which led to the necessity of a new Bill being introduced, but I think I may refer to one or two facts which will still be in the memory of this Council. During the past four years the debt of the town has been increased to the extent of £300,000 through the unauthorised expenditure of the late executive officers. The citizens of Bombay have also felt for some time past that there were some great and heavy outstanding accounts between them and the Government which had been long unadjusted and which called for examination and final settlement upon a just and liberal basis. The matters to which I refer are the Vehar water works debt, the amount contributed by the Municipality for the railway overbridges, the claim which the Municipality have put in for a share of the one per cent. income tax which was intended to be devoted to local public works, and further, the Municipality's claim to a share of the three-quarters of a million sterling which was obtained by the Bombay Government by the sale of the ramparts and plots of ground round the city, which money was actually paid by the citizens themselves in a time of extreme excitement, and which they very naturally think ought to have been returned to Bombay by being spent in the island on works which would benefit the people. It is not for me to say whether these claims are altogether justified or to what extent they are justified, but there is no doubt that they have frequently been brought to the notice of the Bombay Government by the public for some years past, and I should have thought that the opportunity afforded by the framing of a new Municipal Bill would have been the very best for Government once and for ever to settle these claims in a satisfactory manner. I have shown that during the past four years the debt of the town has been enormously increased, but this is not the only alarming consideration for the rate-payers and townspeople of Bombay. They have also to consider the fact that the population of the town is decreasing, that the value of property is diminishing to a very alarming extent, and that the trade of the town is very far from being in a satisfactory condition—so that not only are their burdens likely to increase, but their means of meeting them are becoming less. I think therefore that I am justified in saying that the question of municipal taxation ought certainly to have obtained a larger share of attention than it has had during these discussions. I was astonished when, on the question of the Vehar debt coming up in Select Committee, we were told that such matters as these could not be considered, because the Bombay Government was unable to interfere in the matter. I do not know whether members of Government will agree with me—I believe that they will not—but it certainly appears to me that knowing that such a claim as this

existed, and knowing the hampered and difficult position into which the finances of the town have fallen, it would have been only right if this question of Vehar debt had been thoroughly considered, and the Justices or Corporation of Bombay assisted in bringing the matter before the Government of India at the same time that this Bill will be under the consideration of that Government. I would remind the Council that the great increase of expenditure was one of the principal causes which led to the introduction of this Bill, but there was also the question of increasing the income of the Municipality. Hitherto, the word "extravagant" fitly characterised that expenditure, but I confess that under the new Bill the tendency to extravagance will, I fear, be increased. There are all these great public works in prospect—the increase of the water supply, the sewage and drainage question as distinguished from surface drainage, and besides these there is the question of the payment of the police—and Government may force the Corporation to commence on these undertakings when, and to whatever extent, Government may consider necessary. I know that I shall be asked whether I am justified in expressing a feeling of distrust in Government, which will decide the amount to be spent on all or any of those works, but I can only reply that the people of Bombay will be probably guided by their former experience. They have seen themselves saddled with the excessive cost of the Vehar works, and more recently they have seen themselves saddled with the total cost of the police expenditure in contradiction to the practice of the other Presidency towns and in spite of the utmost opposition and protests by the citizens, and coming down to a more recent date, we find a not very encouraging instance of the tone in which Government is sometimes disposed to deal with the people of Bombay. It was only last week that at a meeting of the Bench of Justices the question came up as to whether the Municipal Commissioner should have full power to pay the increased rent demanded by Government for two small pieces of land; one of which was to be used as a market place in Mazagon, and the other as the site for a milch cattle stable in Falkland Road. Both of these places were urgently needed, although the Bench had not sufficient money to carry the works out at once. However, they had spent a considerable sum in preparing the land for the reception of the works—on one of the pieces of ground, at all events, Rs. 11,000 had been expended. This having been done, Government came down upon the Municipality, and in a most summary manner demanded increased rent for the properties. This of course may be a small matter in itself, but it shows that the Municipality of Bombay have, from actual experience, no reason to expect great consideration either for the pockets of the rate-payers or the wishes of the citizens. One of the speakers at the Bench meeting remarked strongly on the matter of these two bits of land, and I think his remarks were perfectly justified. The speaker said he "thought this demand of Go-"vernment for increased rent was a most remarkable instance of the way in which the Bench "were treated in all these matters, the utmost being screwed out of them. Two years ago "Government said the Municipality should have this ground at Rs. 500 per annum, but "now, after a large sum of money had been spent by the Justices in improving the land, "Government insisted on an advance of 50 per cent. in the rent, thus tending to increase "the difficulties of the Corporation—difficulties which had certainly not been brought about "by the rate-payers, whatever the Justices might have had to do with them. Government "ought to consider the rate-payer in all these matters and look beyond the Justices." The speaker contended that for Government, after having agreed to let them have this ground for Rs. 500, on the strength of which understanding the Municipality had expended some Rs. 11,000, to now turn round like an exacting landlord and say—"No you shall not have the ground which you have improved for less than an advance of 50 per cent." was most improper, and a sort of conduct that one could hardly understand.

The Honourable Mr. RAVENSCROFT—Perhaps the honourable member will state whether the Municipality carried out the terms of the contract upon which the lands were let to the Municipality.

The Honourable Mr. FORBES—I am not fully informed upon this question, but I suppose this is the point which is referred to by the same Justice in his subsequent remarks. He says—"If the agreement had not been completed within the stipulated time, whose fault was it? Not that of the rate-payers. The course adopted here by Government was most unusual and improper, and he hoped the Bench would not hesitate to express their disapprobation of this exacting and usurious conduct on the part of Government."

His Excellency the PRESIDENT—We ought to have the name of the party who made these remarks.

The Honourable Mr. FORBES—I find them in the reported speech of Dr. Dallas.

The Honourable Mr. TUCKER—I do not think that any member of this Council has a right to make reflections upon Government through a third party; and as to "exacting and usurious conduct," I think these are unparliamentary expressions, although the charges are doubtless ridiculous.

His Excellency the PRESIDENT—I think we can bear them.

The Honourable Mr. FORBES—My only object in quoting these expressions was to show the feelings which such matters are calculated to arouse in the breasts of the citizens of Bombay. On a former occasion I mentioned that one characteristic of the present Bill is the distrust of the people, which is evident in many of its sections. I think that the manner in which the people of Bombay have for some years past most quietly and patiently endured the amount of taxation which has been imposed upon them, and which has been admitted by the late head of the Government to be of crushing severity, should entitle them to an exemption from the suspicion and distrust which this Bill plainly displays towards them. I think that if the people of Bombay have, after all these unsettled claims against Government, endured the load of taxation which has been hitherto imposed upon them, there is no reason whatever to doubt that they will, if allowed to manage their own affairs, be quite willing to contribute a sufficient sum to carry out the really necessary objects required by the Municipality. I think, further, that there is no community whatever, of the same numbers and with the same amount of means at their disposal, who have given more proofs of a desire to contribute liberally towards objects of public benefit. After the many instances which have been shown in Bombay of liberality in that respect, Government might fairly have believed that there would be always found in the town a sufficient number of citizens who would take care that the necessary requirements of the city should not be neglected. Surely when members of Council are reminded of these things, they will hesitate before they hand over the rate-payers bound hand and foot, as it were, to Government, and liable to be made to bear any amount of taxation which may be required to carry out the great public works which are embraced in Sections 40 and 41 of this Bill. As to the amount of concessions and control in municipal affairs which has been referred to by the Honourable Mr. Tucker just now, and which has also been laid before the Council in tabular form, I must say that most of these so-called concessions hardly deserve the name of "concessions." They simply consist of what I may call the rights of every civilised community with regard to the expenditure of its own money. As to the control over expenditure which has been placed in the hands of the Town Council and Corporation, I think it must be borne in mind that though a certain amount of control may have been given, that in itself is not of so much importance as is the question whether they have got a *sufficient* amount of control, because to place only a certain limited amount of power in the hands of the controlling body may prove to be really of very little use indeed. If we read over Section 42, which specifies the powers of the Municipal Commissioner, and by which it appears that he is to have "the entire executive power and responsibility for the purposes of this Act," I think we shall see that his large powers will undoubtedly lead him on many points into direct antagonism with the Town Council and the Corporation, and if this be the case, one of the greatest defects of the old Municipal Act will be still unremedied. Recent experience has shown that divided responsibility is objectionable, but in this Bill it is even worse than it was under the former Act, where there were two responsible bodies—the Municipal Commissioner and the Bench of Justices. In this Bill, we have not only these, but we have also Government directly interfering with Municipal affairs under clauses 40 and 41. Under these circumstances, I confess that I find myself unable to vote in favour of the Bill as it at present stands. But, as I have said before, if some guarantee could be given that the great and expensive works with which the town is more immediately threatened by the bludgeon clause, shall not be undertaken without the concurrence of the townspeople themselves through their representatives, I think one of the great objections to the Bill as an experiment for three years would be removed.

Mr. Ravenscroft replies to statements made by Mr. Forbes, in respect of certain lands rented to the Municipality and the debt upon the Vehar Water Works.

The Honourable Mr. RAVENSCROFT—The Honourable Mr. Forbes has not only repeated the objections which he has so often urged against the Bill, but he has also pressed into his arguments certain statements of facts regarding which I consider him to be mistaken, and about which I should like to say a few words. I refer to his assertions regarding the Vehar debt, and to his account of a particular transaction between Government and the Municipality, with respect to which he alleges that the Corporation have been badly treated. This last charge refers to a matter which was recently before the Bench of Justices and is the repetition of an accusation made by Dr. Dallas. The real state of things is this. Some years ago the Govern-

ment assigned certain lands to the Municipality at Mazagon and near Falkland Road for the construction of stables and for other purposes. The conditions were that certain buildings and other works were to be completed within a specified time and the lands were granted at a ridiculously low rent. The Municipality failed to fulfil the conditions on which the land had been granted to them, and the Government, instead of claiming the forfeiture, expressed their willingness to continue the grant on the payment of a slightly enhanced rent. This rent, though in excess of what was at first demanded, was nothing more than a fair and reasonable return for the use of the property out of which the Municipality designed to make profit. It will be for the Council therefore to judge whether there was anything harsh or inconsiderate in this transaction. The next point on which the honourable gentleman founded an accusation against Government was the old and often exploded story of the debt upon the Vehar Water Works, and it appears to me that the honourable gentleman should have made himself better acquainted with the figures and facts of this case before making it a subject of attack. If the Council will be good enough to hear me for a few moments, I think I shall be able to explain once for all, that instead of Government treating the Municipality harshly with respect to the Vehar Water Works, they have been giving the Municipality a distinct annual grant of 1½ lakhs of rupees. Doubtless the honourable gentleman will look rather astonished when he hears this, but I can produce the figures, which cannot be very easily disproved. The Government of Bombay gave over the Vehar water works to the Municipality. The water works were then burdened with a debt of 37½ lakhs of rupees, and were bound to pay to the Government an annual sum of 1½ lakhs of rupees in consideration of their being made tenants for 99 years. The annual revenue from the Vehar water works amounts to 3¾ lakhs, and the expenditure on repairs comes to ahout half a lakh. If this half lakh is added to the sum which has to be paid annually to Government, there will be found 2¼ lakhs, and deducting this from the revenue, leaves a balance of 1½ lakhs annually in favour of the Corporation. If any gentleman thinks he can impugn the accuracy of these figures, I should like to hear him do so; but unless he is able to disprove their accuracy, I do not think he can be justified in saying that Government have treated the Municipality inequitably with respect to the Vehar works. The other parts of the Honourable Mr. Forbes's speech are merely repetitions of his former remarks, and I shall not trouble the Council with any further comments on them.

The Honourable Mr. Forbes—I should like to remark, with regard to this present which Government appear to have given to the citizens of Bombay in the shape of revenue from the Vehar water works, that it must be borne in mind that this so-called present is taken from the pockets of the people of Bombay.

The Honourable Mr. Ravenscroft—The people of Bombay simply pay for value received.

The Honourable Mr. Forbes—It must not be forgotten that formerly the people of Bombay got water without payment, and the city's tanks have not been filled merely since Vehar water was introduced. I readily admit that there may be a better supply now, but that Government in any way contributes to this result I entirely deny. The people of Bombay have to pay very heavily for the water they get, and are therefore indebted to no one.

The Honourable Mr. Ravenscroft—People in Bombay may still get their water for nothing. I myself live in a house on Malabar Hill, and I simply pay a bheestie to bring water from a well 200 or 300 yards off. I pay no water rate whatever; but those who wish Vehar water to be brought to their premises, of course have to pay for the necessary connections, and therefore I maintain that the present water rate is not a tax, but a payment for value received.

The Honourable Mr. Tucker—If a capitalist lends money to another person to be spent on the construction of a reproductive work, and allows the borrower to enjoy a considerable revenue from the work by deferring for a considerable duration of time the repayment of the debt, I do not think that this would be called in ordinary life a harsh or avaricious proceeding. Is this not this the position of the Bombay Government and the Municipality with reference to the Vehar Water Works?

The Honourable Mr. Forbes—Under ordinary circumstances this would be generous, but if this capitalist were himself to undertake the construction of the work for which he lent the money, and were to do it at double the necessary cost, and then charge the moiety upon the man with whom he was dealing, I think the proceeding would not be at all

satisfactory. This is the state of matters relating to Bombay and its Vehar water supply. Government insisted upon doing the work with their own officers, and while the cost was unnecessarily large, they laid the burden of their extravagance upon the citizens.

The Honourable Mr. TUCKER—I have already mentioned on another occasion that I believed that two different Governors of Bombay had desired to remit a portion of this Vehar debt to the city, but the question whether this indulgence should be granted is a matter for negotiation between Government and the Corporation, and not a subject for discussion in a legislative assembly. The Government of India is alone competent to deal with this question, and it is altogether beyond our power to legislate upon it.

The Honourable Mr. FORBES—I would represent that if this is a claim which has been acknowledged to have some justice in it, the sending up of this Bill to the Government of India would have been a most excellent opportunity for asking them to take it into consideration.

The Honourable Mr. TUCKER—It would be out of place to mix up matters of this character with purely legislative business.

His Excellency the PRESIDENT—Is not the honourable member now making an attempt to relieve Bombay at the expense of the people of India? I cannot look upon it in any other light.

The Honourable Mr. FORBES—I believe that these water works originated from the fact that the Government of Bombay found themselves frequently compelled to go to considerable expense by having to relieve distress caused by water famines, and they therefore considered that it would be a saving to the revenue of the Presidency if a proper supply of water were introduced into the city.

The Honourable Colonel KENNEDY—I must say I am surprised at the Honourable Mr. FORBES regarding as a tax what is nothing more than a payment for one of the necessaries of life. It would be as reasonable to consider payment for a loaf of bread a tax. I cannot see that the honourable member should regard the bludgeon clause with such terror. The police is already a fixed rate; making suitable provision for "cleaning and surface draining" cannot involve a large expenditure; and there is nothing said about undertaking large works to increase the water supply, all that is provided for in the stipulation that a "proper and sufficient supply" shall be maintained, being that the present water supply of the city shall be kept up. There is one more reason which I think should satisfy the honourable member—I allude to the position which Government took in regard to the Toolsee scheme. The Bench wished to spend a considerable sum upon that work, but Government actually restrained them from spending so much and showed them the means by which the cost could be diminished. I consider this to be an apt illustration of the course which Government is likely always to pursue with regard to the Municipality. The Honourable Mr. Forbes has alluded to the Municipality's claim for a share of the 1 per cent. income tax. I have not the figures here just now, but I know I am correct in saying that there has been a very large outlay from that source of revenue on public works in Bombay and in the vicinity, a notable example of the improvements made in its neighbourhood being the completion of approaches from the opposite side of the harbour. The honourable gentleman has also alluded to the sale of certain lands in Bombay. These lands became available when the ramparts were removed, and as fortifications are specially imperial property, I do not see that the Municipality has any just claim to any portion of the sums realized by the sale of these lands. Nevertheless the money has been spent for the greater part in the improvement of the city, and every time the honourable member drives from his residence to the Fort, he will see some of the benefits that have been conferred by the city. The roads across the Esplanade were also constructed from the land fund; so were those buildings which are now springing up in every direction in Bombay, tending to render it one of the most beautiful cities in the world. Therefore, to hold that that money has not been applied in any way to the advantage of the citizens of Bombay is, I submit, altogether a mistake.

Colonel Kennedy argues that the "bludgeon clause" cannot be the means of leading the Municipality into great expenditure.

The Honourable Mr. TUCKER—I think the Honourable Colonel Kennedy has omitted to allude to buildings which undoubtedly may be said to be for the benefit of the inhabitants of Bombay. I allude to the Victoria and Albert Museum and Elphinstone College already completed, to the School of Arts, which, although not yet begun, will I hope soon spring into existence; and the University buildings, not to say anything of the proposed New High School and Palace of Justice, all of which are provided for. The idea expressed in the *Indian Statesman* that the city has received no benefit from the one per cent. set

apart from income-tax for local expenditure is a most extraordinary one. As a matter of fact a far larger portion of Imperial and Provincial revenues has been spent on the city of Bombay than it was justly entitled to if the other parts of the Presidency had received their full share. There is no foundation whatever for this complaint.

The Honourable Mr. FORBES—I do not know whether I am now in order, but I should like to ask the Honourable Colonel Kennedy upon what ground he can assure us that there will be no increase on the amount which the Municipality is called upon to pay towards the police expenditure.

His Excellency the PRESIDENT—I think the question is irregular.

The Honourable Mr. FORBES—I merely asked it, because I think the honourable gentleman is assuming something which he is not justified in assuming.

The Honourable Colonel KENNEDY—I merely said that it was fixed within certain limits.

Sir Jamsetjee Jejeebhoy opposes the Bill because it satisfies no section of the community.

The Honourable Sir JAMSETJEE JEJEEBHOY—I regret, Sir, that my vote must be against the motion for the third reading of the Bill. My reason for it is simply this, that the Bill does not satisfy any one section of the community of Bombay. The concession of the quasi-representation which the Bill makes does not satisfy the expectations of those that made the demand for it. The reduction of taxation which, as I I have already informed your Excellency, the people needed more than even the privilege of representation, has not been granted to them ; the lowering of the maximum and the minimum of the house rate is not calculated to afford any perceptible redress to the oppressed classes. It is said that it is too late to enter upon the enquiry into the incidence of taxation. That it would delay the Bill indefinitely, but with all deference to the opinion of the honourable mover, I submit that it is never too late to mend. It would serve no good purpose to allow the Bill to go forth in the face of opposition from all sides and without bestowing any consideration upon the fiscal system which has admittedly been left unnoticed. The people and the Municipality can well afford to wait another six months or even a year, in order to have a satisfying and well-considered Municipal Bill offered for their acceptance. The Bill, again, introduces other changes into the existing law which are most rigorous and undesirable. It makes the building and sanitary clauses much more stringent, exacting and rigorous than is necessary in the present state of the town and its people. Taken as a whole, the Bill does not promise to be any improvement upon the present state of things. Out of deference, therefore, to the voice of the public, as well as from my own conviction that the Bill fails to meet our requirements, I am compelled to vote against it. It would not perhaps be out of place for me, as one of the custodians of the Parsee Punchayet properties, to add, before I conclude, in reference to the burial clauses in the Bill, that although they have been materially altered at the second reading of the Bill, it would have been highly expedient to have exempted the Towers of Silence from the operation of Section 249 of the Bill, which contemplates the closing of the existing places for the disposal of the dead, because there is no likelihood of the Towers of Silence proving injurious to the public health in any way. They have been there nearly for the last one hundred and fifty years. With your Excellency's permission, I will read an extract from a Government resolution dated the 18th September 1855, para. 2 :—"So with respect to existing places of exposure for the Parsee dead. The places of this nature now existing are not supposed to be injurious to the public health, and the prospect of Bombay being so increased that its population will be forced into dangerous proximity to them is of such a remote nature, as not to call for present legislation."

Mr. Bythell opposes the Bill, chiefly on the ground that it would introduce an objectionable system of "divided responsibility."

The Honourable Mr. BYTHELL—Sir,—As the Bill after undergoing twelve days' discussion in committee remains unchanged, in what I consider to be the most essential point, I shall vote against the third reading. I find myself placed in an awkward position. I know that it may be deemed unbecoming in one of the junior members of the Council to express himself very strongly, and yet, Sir, I entertain such a strong opinion on this question, that I cannot give a silent vote. I speak however in no factious spirit. I am sorry to hear that the Honourable Mr. Tucker thinks the mercantile members displayed any class feeling. He spoke of concessions having been made to the party I represent, and seemed to think that I should therefore withdraw my opposition. But, Sir, I do not by any means look upon the withdrawal of the town due on cotton and the change in Section 114 as being concessions to me personally. All that I did in connection with that matter was to exhort the Council to be consistent. I advocat-

ed no new policy. For years past this Council, the Government of Bombay, and the Government of India have emphatically refused to sanction the re-imposition of transit dues in India. I did not speak on behalf of the interests of any special class, but for the good of the whole community. If Bombay had been allowed to impose transit dues, a similar privilege could not have been refused to municipalities in the Mofussil, for in the North-West Provinces and the Punjaub municipalities have been clamouring for years past to be allowed to tax goods in transit. To re-institute a system of taxation, which we know from experience rivals in India all other systems in fostering oppression and official corruption in their worst form, would indeed be a retrograde piece of legislation. I stated, Sir, on the second reading of the Bill, that I could not believe in this divided system of management being successful, and the changes in the sections relating to taxation do not in any way remove this my one great objection. I have gone through the Bill again and again very carefully, I have studied it to the best of my ability in every possible light, and the result of it all is that I am more firmly than ever impressed with the belief that the very best thing that can be done is to throw out the Bill at this stage instead of allowing it to proceed further. I cannot conscientiously vote for the Bill, because it is based on a principle which I believe never can under any circumstances work satisfactorily. If the honourable member who introduced the Bill to the Council had only adopted the principle which, judging from his remarks on the second reading of the Bill, he seemed to think had been his guide, we should have had a simple, workable Bill to discuss instead of the hybrid sort of measure that is now before us. Had he only treated the Corporation as a mercantile man or a Bank would treat his or its agent, we should have had some prospect of the Bombay citizens being allowed a real trial in self-government. Such an agent would have full power to manage the agency subject to certain restrictions laid down by his masters, who would retain full power to suspend him from office at any moment. Now, this is precisely the position—the only position—in which the citizens of Bombay should be placed if they are to be allowed a fair trial. Lay down stringent rules for their guidance, but give them the sole management of the city, subject to these rules, and let Government have the power to take the management out of the hands of the Corporation at any time. I know that self-government in Bombay would be an experiment, and I do not prophecy that it must infallibly be a success. He would be a bold man who did that! Therefore it is that I think Government should have the power (reserved to them under the Port Trust Act with regard to the port trustees) of coming forward in case of necessity and suspending the powers of the Corporation, and, if need be, taking the entire management into their own hands. The plan I propose, if carried out, would really test the capabilities of the citizens and could not possibly lead to any evil result. But with the present half-and-half kind of Bill there cannot possibly be any such test. Should the Act prove a failure—and I cannot see in it any element of success—on whom would the blame fall? All the unpleasant wrangling that has been going on for the past two years as to who is to blame for the shameful extravagance which has overloaded the city with debt, would just be repeated in an intensified form. Government would say—"This comes of allowing the citizens to meddle with their own affairs"—and some Government officials might possibly say "This is just what we predicted." Then, on the other hand, the public would in their turn say "We prophecied this failure; how could such a system of divided management and responsibility ever work? We said the Commissioner and the Town Council would inevitably quarrel, while the interests of the city were neglected." With such a complicated system of check and countercheck stipulating that the Corporation shall do this, the Town Council that, and the Commissioner shall be supreme in the other matter, any one could easily bring forward many reasons for showing that a failure was inevitable. The matter would not in fact be advanced one step beyond its present stage. It would still be an open question as to whether Bombay was or was not ripe for self-government, and Government would probably be driven to launching another tentative measure in order to decide what ought to be decided by the present Bill. The Act begins by providing for the election and nomination, at great trouble, and probably at some expense, of a Corporation composed of sixty-four citizens, and for a Town Council of twelve members being nominated from among the members of that Corporation. Reading thus far the Act would seem to an outsider to be all that could be desired. He could naturally conclude that the citizen representatives were going to have the opportunity of carrying out the provisions of the Act in the manner they found to be most expedient and least likely to cause annoyance to the community. But what would he say when, after turning over a few more leaves, he saw that this elaborately elected Corporation was merely to vote supplies, and that its satellite, the Town Council, was merely to see that the money voted was expended in

the manner specified? And would not he be inclined to laugh and say the whole thing was incongruous, disjointed, and an absurdity, when he found that in place of the elected body of citizens being empowered by the Act to set to work and effectively organise all the Municipal business, Government were to step in and appoint one of their own officials with sole power to carry out all the provisions of the Act? Why, in the name of goodness, he might well exclaim, was such a great fuss made about electing the Corporation and Town Council if this is to be the end of it all? Why did not Government simply at once appoint their official and tell him to do the work, without going to all this useless trouble and expense? I have however heard it argued, that we who object to the Commissioner being placed in a position that must bring him into antagonism with the Town Council, are led away by a figure of speech, that Section 42, which says that the sole power and responsibility shall be vested in one Commissioner, must not be read literally, that the other portions of the Act so bind him down that he virtually cannot move hand or foot without the sanction of the Corporation. Well, then, I answer, if he really will, *and is intended to be* the servant of the Corporation, why annoy the public by deluding them into the belief that Government are so distrustful of the Corporation that is to be, that they take care to render the body to a great extent powerless, by placing all the real power in the hands of their own nominee? I do not however at all believe in the theory that all the real power will rest with the Corporation and Town Council. Certainly the Commissioner's power was to some extent curtailed when the Bill was discussed in Committee, but in order to show what an immense amount of arbitrary power over the citizens—including the members of the Corporation individually—was vested in the Commissioner by the Bill before it was amended, I will, Sir, with your permission, give a statement of the power that he will still be allowed to exercise without any one having the right of appeal against him—either to the Town Council, the Corporation, or any other tribunal.

"Section 42.—Sole executive power placed in the hands of the Commissioner.

"Section 90.—Commissioner to supply water on such terms as he may deem best.

"Section 151.—To set apart such bathing and washing places as he may think fit.

"Section 152.—Should he suspect that any manufacturer is fouling Vehar water, he has power to open and examine any conduits and pipes belonging to such person.

"Section 148.—Commissioner to fix at his pleasure width, direction, drainage and level of all new streets, and to approve or reject the plans submitted by the parties proposing to make the streets.

"Section 159.—Commissioner's power to order owners to level and drain any street according to his satisfaction within a time specified by him: Penalty—Commissioner will do the work at owner's expense.

"Section 154.—No one shall make roofs of certain materials without the consent of Commissioner.

"Sections 165-166.—Commissioner to approve or reject all plans for building: if any building be erected without his approval, he may pull it down.

"Sections 170-171.—Commissioner has power to raise, sink, or otherwise alter situation of any gas or water-pipe, full expenses and compensation to be borne by Corporation.

"Section 172.—Commissioner has power to remove, alter, or destroy existing huts.

"Sections 174-175.—Commissioner has power to make owners drain houses and cesspools to his satisfaction.

"Sections 176-177.—Also to make owners ventilate all drains and cesspools as he may deem fit.

"Section 180.—To make owners provide any additional privies he may deem requisite.

"Section 182.—To alter as he may choose to direct any drain, cesspool, privy, house-gully, made contrary to his directions.

"Sections 183-84.—To make employers construct any and all privies he may consider necessary.

"Section 186.—To open and examine all drains and privies to see whether they be in accordance with his directions; should they turn out to be so, compensation and expenses to be paid from Municipal funds.

"Section 195.—To cause the removal of any existing projection, obstruction, or encroachment—and if such encroachments have been lawfully made, compensation shall be paid by Municipality to owners.

" Section 196.—To demolish anything he may deem to be an obstruction or a projection constructed after passing of this Act, owners having no right of appeal.

" Section 197.—To give permission, if he choose so to do, to owners to erect verandahs, balconies, sunshades, &c.

" Sections 200-201.—To pull down any house, building or wall he may deem to be in a ruinous state—owners having no appeal against his decision.

" Section 202.—If two neighbours complain that any unoccupied land is a nuisance or resort of idle persons, the Commissioner shall on enquiry give notice to owner to enclose the same.

" Section 212.—Whenever in the opinion of the Commissioner any place is dangerous to passers by, he may give owner notice to enclose the same within 24 hours, and in default the Commissioner may do the necessary work at owner's expense.

" Section 214.—Commissioner shall provide places that he may deem convenient for disposal of night soil and other refuse.

" Section 216.—No person shall remove night soil except in a cart or receptacle, the design of which has been approved by the Commissioner.

" Section 220.—If in the opinion of the Commissioner any house, building, or land is in a filthy or unwholesome state, or is a nuisance to neighbours, the Commissioner may order the same to be put in a proper state within 24 hours, and prohibit any one from inhabiting it until his orders are carried out.

" Section 221.—To order any house owner at any time to limewash his house inside and out, and in default, to do the same at the owner's expense."

Up to this point, Section No. 221, all these sanitary regulations are solely in the hands of, and are to be carried out at the discretion of the Commissioner : thus far the amendments proposing to give right of appeal to the Town Council were all lost; but the continued opposition during the sitting of this Council in committee to these exceptionable powers being placed in the hands of one man, had at length some effect. Beginning with 222, it will be found that many of the sanitary regulations have been subjected to the control of the Town Council. This explains the anomaly of the Town Council being allowed to interfere in one-half of the regulations and being denied all power of control over the Commissioner with regard to the other half of the same branch of the service. Still, however, we do even find some sections subsequent to 221 that give sole power to the Commissioner, though on what principle the privilege of control is granted to the Town Council in the one case and refused in the other, it is impossible to say. I continue to enumerate the sections in which the sole power has been retained for the Commissioner :—

" Section 225.—The Commissioner shall at his option grant, withhold, cancel or revoke any licence to any distillery or manufactory of an offensive and unwholesome nature."

Now here is a wonderful power to be granted to any man. He is not bound to sit and take evidence as a magistrate would be before deciding the case—he may proceed *ex parte* or in any way he may deem most convenient, and he is the sole judge in the matter. There is to be a Corporation and there is to be a Town Council, and neither body is to have any power over the Commissioner in regard to such an important matter as this. Government may appoint a man who has spent most of his Indian life in the Mofussil, and such a man coming to Bombay is to be allowed to fix the localities in which certain trades should be conducted without even consulting the elected and nominated body who are by a great stretch of imagination said to be his masters and controllers. It is indeed difficult to understand on what principle this wonderful Bill has been constructed. To proceed with the analysis however :—

" Section 226.—The Commissioner has a similar power to grant, withhold, or cancel licences to any man keeping horses, buffaloes, or other animals for the purposes of trade."

" Section 227.—Again the Commissioner has power to grant, withhold, or cancel licences for the sale or stowing of firewood, hay, steam coal, &c."

What a wonderful man this coming Commissioner must be ! He is to have a better knowledge of the requirements of the public in regard to what will be convenient places for livery stables, cowhouses, coalyards, firewood and hay stores than all the twelve Town Councillors and the other 52 residents composing the Corporation put together.

"Sections 231-232 give the Commissioner power also to grant, withhold, cancel or revoke at his discretion licences for all slaughter houses."

Here again he is to be the sole judge as to locality and suitability in other respects. What an intimate knowledge of the city and its requirements he will have! or will he be merely guided by his subordinates? The latter is, I fear, the more likely contingency.

"Section 235.—Commissioner to license all butchers."

"Section 261.—In case of a census being taken, the Commissioner may appoint the establishment that may seem to him necessary, the Corporation paying for the same, although they will have no voice as to number of people engaged or salaries paid."

Nevertheless we are told that in all financial matters the Corporation will be supreme! The strangest part of this very strange Bill is, however, the fact that the extraordinary power to be vested in this ubiquitous Commissioner over the largest and most intelligent body of citizens in the country is one that is not granted to any official in the Mofussil. Should any resident in the Mofussil be charged with keeping his house in such a state as to be dangerous or a nuisance, he can demand that before even a magistrate shall make any order in the matter a jury shall be appointed to decide upon the justice or injustice of the charge. But here in Bombay no such power of appeal either to the Corporation, the Town Council, or to a magistrate is allowed. This autocratic Commissioner, bound by no law as to what evidence he shall first take, or what enquiries shall be made, and with power even to act solely on the information of a subordinate (the only stipulation being that in his—the Commissioner's—opinion the step shall be necessary) can order any citizen to pull his house down forthwith, and if the citizen should not comply, the Commissioner may demolish the house and make the owner pay all expenses. It is, Sir, I think unfair to the community to place such power in the hands of any man, no matter how perfect or conscientious he may be. I can confirm the Honourable Mr. Forbes's statement that most of our leading citizens would refuse to take office in a Corporation or Town Council who had a man possessed of such despotic power placed in their midst. Several Justices of the Peace and other gentlemen have said to me that with the Bill framed on this principle they would refuse office, and I do not think that Government would be able to secure the really best men. If the Town Council will not be fit to exercise the functions of a court of appeal in the sanitary matters enumerated in this long list, they will be good for nothing, and it will be a pity to call such a useless body into existence. During the discussion on the Bill in Committee the Honourable Mr. Tucker spoke of there being some probability of the local authorities in England being deprived of control over sanitary matters. The honourable member is reported to have said:—"The Honourable Mr. Bythell asked for a precedent. If he has taken any interest in the debates in Parliament during the last session about matters of local sanitation, he would find a precedent; because he would discover that a strong feeling existed in England to take away from local boards the control they had hitherto exercised in matters affecting the public health and security, and to place it in the hands of the general authority, who would discharge these functions by means of a single but competent executive officer entrusted with large powers. There are many things which are far better left to the discretion of one competent and trustworthy man than to a board of men not possessed of equal skill or influenced by so strong a sense of responsibility. The duties referred to in this section are matters of this description." I said, Sir, at the time, that I had no recollection of such a proposal being made. It will perhaps be remembered that the honourable member's remarks on this point were in answer to a challenge from me to name a precedent for any Corporation in England not being allowed to fix the level, width, and direction of all new streets. The Honourable the Acting Advocate-General had previously challenged me to name an instance of any Corporation having such a power, and I had replied that every Corporation in England had power to decide such matters; that a body of citizens intimately acquainted with the city were more likely to know the wants of the community in that respect than a new man who possibly before his appointment might know no more about the city than a man coming fresh from England. Now, what the Honourable Mr. Tucker said in answer to me would lead one to infer that there was a movement on foot in England in favour of powers similar to those vested in the Commissioner by this Bill being conferred on an executive municipal officer in England. All I can say is, I should like to see the experiment tried there. It would be interesting and curious to hear the outcry that would be raised at the mere proposal to give any man living the power over the citizens of any large English town that will by this Act be given to the Commissioner over the city of Bombay. The honourable

member may be right, but if so, I have strangely misread all English newspapers and periodicals of late, and the tempers of the English people must have changed most wonderfully since I was at home. If the honourable member referred to the Public Health Bill passed this session in England, I think I can show that he was mistaken as to its provisions. I have been unable to get a copy of the Bill, none having yet, I believe, been sent out to this country; but I have here a copy of the *Mail* of the 8th of April last containing a report of the debate on the second reading of the Public Health Bill. From this report, which is very long, a correct idea of the character of the Bill can however be obtained, and I find it to be quite different from what the Honourable Mr. Tucker imagined. Instead of all power being taken from local authorities, their power is to be increased. As the working of this new Health Bill in England is of importance in connection with the topic now under discussion, I hope, Sir, I may be permitted to read an extract or two from the report of the debate, in order that we may know the nature of the new sanitary provisions that are to be enforced in England. I will mention the speakers' names. Dr. Playfair—"Thus the guardians of the poor in country districts became the sanitary authorities; but in towns the ordinary civil authorities assumed the health functions. The Bill provided that both urban and rural boards were to appoint medical officers of health, and it suggested that these were to be the Poor Law medical officers. The urban boards were to appoint, pay, and dismiss these officers at will; but the rural boards were to pay only one-half the salary, the other half being paid out of the consolidated fund, and the appointment and dismissal being made subject to the approval of the central local Government Board." Sir C. Adderley—"He hoped there was nothing in the Bill that would make it less clear than it was, now that the object of the Act of last year was simply to concentrate the central supervision, which up to that time had been scattered through several departments of the State, not to give the State any more power to undertake the local administration of the country, but stimulate local administration where it was stagnant, and to give assistance when assistance was needed. This Bill would simply cover the whole country with local administration, and nearly all the objections raised to it referred to matters to be discussed on the clauses in committee. Of the three parts into which the Bill might be divided, the first and most material made it universally imperative that there should be local government every where; the second enabled the local autorities to combine for larger than merely local purposes; and the third improved and completed the powers of local government which the experience of the last few years had shown to be necessary. The first point—the universal provision of responsible local government—was the principle of the Bill which they were called upon to discuss on the second reading; and no honourable member would hesitate to affirm that we ought not to go on with our present partial provision for local government, leaving it to the opinion of every part of the country whether it would undertake the responsibilities of local government, or that we ought to be content to leave local administration stagnant while health and comfort were sacrificed to such stagnation. The main principle of the Bill was the utilising of existing machinery, the immediate provision of it where none existed, and the consolidation of authority where confusion existed. It was the object of the Bill not only to utilise, but to economize existing machinery; and what economy could be greater and more important than to take an existing body and to use its officers instead of creating a new one? He believed that many of the powers which were proposed to be conferred on local authorities to prevent adulteration and so on were necessary; but they were not essential, and some of them would bear modification." Mr. Hardy—"What was wanted, therefore, was some extraneous authority, some inspector who would go to the local authority and say, 'here is a case in which you must interfere.' The authority inspecting must be an independent authority, having no other object than to secure the public health. If the local authority, who might be the guardians, dealt with the case, there would be an end of it; if not, the local Government Board should be apprised of the fact and step in." Mr. Stansfeld—"He had always professed himself a believer in local government, and had always insisted that the chief duty of the central authority was to lead and not to drive. That section (49th) conferred upon the Secretary of State the power, in case of default by the local authorities in the performance of their duty as guardians of the health of their district, to call upon them to perform it. If they still failed, then the Secretary of State might appoint some other person to carry out the necessary work, and levy a rate upon the district to cover the expense. His honourable friend, the member for Westminster, had drawn the attention of the House to the fact that London was not included in the Bill. The omission was made purposely, for the sufficient reason that he thought it was for the advantage of London that it should be left to do its own

work. He had been asked by an honourable member what contributions the Government proposed to make in aid of the local authorities? That was a very serious question, and he thought it would best be dealt with in Committee." Sir, I need scarcely say that it is evident from these extracts that no proposal has been before the English Parliament to give power to one man to decide all sanitary matters solely on his own responsibility. Englishmen are not the people to stand such legislation. The new Health Bill simply does for English towns what I have all along contended the Bill now before the Council ought to do for Bombay. If there is to be a Corporation or a Town Council, the executive officer must be subordinate, or the thing never can work. That is the very point on which some honourable members appear to entertain somewhat contradictory opinions. At one time they say the Corporation are to be supreme, at another they say we propose to take all power out of the hands of the executive officer. But, I ask, if the Corporation are to be supreme, why appoint a Government official with power to act independently of his nominal masters, the Corporation? And on the other hand, if the Commissioner is to have independent power, why have a Corporation at all? An executive officer must of course have power, but if the scheme is to work, the power ought to be delegated to him by the Corporation, whereas he will be able with regard to many most important matters to defy the Corporation to interfere with him. As we have been discussing English municipal matters, perhaps I may be allowed also to refer to another matter of this nature which has been before Parliament lately. A Select Committee of the House of Commons, of which Mr. Goschen was chairman, reported in 1870 on the incidence of local taxation, and the constitution of local boards. The committee were of opinion that rates were not fairly divided between occupiers and owners, and as regards the constitution of the boards and corporations, the committee's recommendations were as follows :—"That in any reform in the existing system of local taxation, it is expedient to adjust the system of rating in such a manner that both owners and occupiers may be brought to feel an immediate interest in the increase or decrease of local expenditure, and in the administration of local affairs. That in the event of any division of rates between the owner and occupier, it is essential that such alterations should be made in the constitution of the bodies administering the rates as would secure a direct representation of the owners adequate to the immediate interest in local expenditure which they would thus have acquired. That Justices of the Peace should no longer act *ex officio* as members of any local board in which direct representation of owners has been secured." I have referred to this matter as another proof of the fact that the English Parliament does not propose to curtail the powers of local authorities in the management of their own affairs. In fact I think it is rather unfortunate for the arguments of the supporters of the Bill that reference should have been made to what is transpiring in England. The fewer the illustrations they draw from England the better. I have endeavoured, Sir, to lay before the Council some of my reasons for deciding to vote against the third reading of the Bill. I do think that if honourable members would endeavour to realize the true position, and consider well the improbability of this complicated and contradictory scheme of municipal government ever being in any respect a success, they would decide to vote against its being made law. I would ask the Council once more either to give the people a real trial of their capacity of self-government or none at all. The people, seeing what burdens have been imposed on them by the mismanagement of a Government official, asked to be allowed to manage their own affairs in future. This Bill professes to give the citizens what they wished for, but I ask the Council, is it anything more than a mere profession? Is it not throwing into the city a bone of contention instead of giving a remedy for the evil that existed under the old administration? I hope, Sir, I shall be excused for speaking so strongly. If I could have believed that there was the slightest probability of the Bill being of any service to the community, I would not have gone to this length in opposing it. I have all along been anxious to give every possible assistance to the honourable members who have gone to so much trouble in preparing the Bill and who believe that it will meet the requirements of the city, and I regret exceedingly to have to state that I cannot honestly vote for the measure. I have now only to say in conclusion, that I hope the Council will see that I have adopted a fair and open policy throughout the discussion. I said during the debate in the second reading that I never could believe in such a complicated and divided scheme of management proving successful, but that as there was a hope of the Commissioner's powers being curtailed in committee, and as I had not, as I then confessed, given so much time and thought to the Bill as other honourable members, I would not take upon myself to oppose the second reading. The principle of the Bill which I do thoroughly believe, rightly or wrongly, to be very defective, remains however unchanged. I occupied much of the Council's time in committee

by proposing and supporting different amendments. It may be asked why I did so when I intended to oppose the Bill in its final stage. My reason for doing so was this—I saw quite plainly that the Bill would pass through the Council in spite of the opposition, and therefore endeavoured to remedy what I thought to be the minor defects of the Act, although I intended from the very first to oppose the third reading in case no change should be made in the position of the supreme executive officer.

Mr. Rogers remarks in support of the motion.

The Honourable Mr. ROGERS—Sir,—I beg to support the motion of the Honourable Mr. Tucker. A great deal of stress has been laid in the public papers upon the action of the Legislative Council in this matter, and some of the censures have been most uncalled for. Even in the petitions presented to this Council expressions are made use of which are to a considerable extent contrary to fact, and to which I can apply no other word than unjustifiable. One of these petitions professes to explain the purpose of the Executive and Legislative Governments in making alterations upon the Bill, and I will read to the Council an extract from this "humble memorial of the committee of the residents and ratepayers of Bombay." "Your memorialists cannot but re-echo the feeling of disappointment which is generally expressed throughout the island that the Bill, as revised and reported upon by the select committee, fails to meet the most pressing wants of the city in the matter of improved control over its municipal affairs, and of greater economy in the expenditure of municipal funds. Moreover, your memorialists find that the Bill bears evidence throughout, as the Honourable Mr. J. A. Forbes has truly remarked, of 'a marked distrust of the whole system of municipal government which it inaugurates.' They observe that in the amended Bill Government have indeed professed a desire to make more liberal concessions in favour of popular representation than were offered in the original Bill. But the unpleasant fact cannot be concealed, that the so-called concessions are hampered by restrictions and qualifications which make them practically valueless. It would appear as if the concessions had been made with a predetermination to render their results entirely nugatory, with a studied desire throughout that the constitution, as presented by the Bill, shall collapse, as it must necessarily collapse; that the Act shall be unworkable; that its objects shall be frustrated; that the entire blame of the failure shall rest on the representatives of the people; and that the citizens of Bombay, on failure of the first experiment, shall cease to assert their claims to representation for at least a considerable time to come." The memorialists say that this may appear strong language, but I do not think any one could hesitate to characterise these expressions as "incorrect representations," and I for my own part, as well, I may say, as my colleagues, entirely repudiate these charges. The press of Bombay have been pleased to attribute all the supposed shortcomings of the Bill to my honourable friend Mr. Tucker, who has been called "the obstinate senior member of Council," "the father of the Bill," and many other names; but your Excellency must be aware, that with the exception of the constitutional part, the greater portion of the Bill was drafted by a select committee, consisting of General Marriott, the Honourable Mr. Scoble, Mr. Hope, and Mr. Dosabhoy Framjee; all the recommendations of the committee were, however, not followed, and the Bill as introduced into the Council was different in some respects from the committee's draft. After its introduction it has been much altered, and every alteration has been in the direction of liberality, and has been a concession of some point or another which the people of Bombay have been asking for. We have granted a much larger measure of representation than was at first proposed; out of a total of sixty-four members of the Corporation, thirty-two will be elected by the rate-payers. I can say that both by the select committee and the members of the Executive Government every clause has been most conscientiously considered, and so far from desiring that the Bill should collapse we have tried in every possible way to render the representation of the people effective,—that is, to get together a body of men who will express the views of the persons by whom they are chosen. We have been entirely actuated by a desire to meet the wishes of the people in framing the municipal constitution. The great complaints which were made about the working of Act II. of 1865 related not to the management of the executive details by the late Municipal Commissioner, but had more particular reference to the want of control over him in the matter of the expenditure of municipal funds. The main object of the Government has therefore been to remedy the faults in this respect which were found in the present Act and to check any Municipal Commissioner in leading the city into the expenditure which a former Commissioner led the Justices into; and I think that any one who carefully and fairly looks through the details of the measure will agree with me that the Commissioner is most effectually controlled. Though the

Government have reserved to themselves a position by which they will be able to see that the Corporation does not abuse the powers that will be entrusted to it, yet they have invested the Corporation with great powers, it being allowed not only to adjust the local burdens and regulate taxation, but also to say how the money which may be raised shall be spent. The full Corporation would, of course, be too large and unwieldy a body to control the expenditure in its minute details, this being, it will be remembered, one of the chief faults found with the Bench of Justices; and therefore we proposed that inside of this Corporation there should be a board of twelve directors, to be called the Town Council which should look into all details of expenditure and effectually control the Municipal Commissioner in every single matter by signing or not signing cheques as they considered to be necessary. A great deal of what honourable members have advanced about the large executive powers entrusted to the Commissioner may be set aside in one word—that the Commissioner can positively do nothing without money, and that he cannot get a single farthing to carry out any of his ideas without the signature of two members of the Town Council who are to be paid to sign cheques. It would certainly be an extraordinary proceeding if the Bank of Bombay or any other bank were to give the Commissioner money unless his cheques were signed by the requisite number of members of the Town Council. A great deal of the mistrust as to the power of the Municipal Commissioner has, I think, arisen from the wording of Section 42, but the words "entire executive power and responsibility for the purposes of this Act shall be vested in one Commissioner," do not mean to imply that he can do as he likes. He is simply the executive officer of the Corporation with the power to carry out all he is ordered to do by the Corporation, who must provide him with the necessary funds. The Honourable Mr. Forbes has told us that this measure is obnoxious to public opinion, and if this is the case—which I very much doubt, for the press of Bombay have been giving various opinions and have not agreed on any one particular principle—I think it must have arisen partly from the construction put upon the words I have read and partly from the powers reserved to Government under Section 40 of this Act. I shall pass over the remarks which the honourable member made about this measure being incapable of encouraging public spirit—though in what direction he does not say—and the concessions being not sufficient to reconcile the people to the bill. He told us that the details of the measure provided a small quantity of bread to a large amount of sack, but he forgot to tell us which was the sack and which the bread. He then made allusion to a number of sections in which the Municipal Commissioner is to be allowed to act without the sanction of the Town Council or the Corporation, and the Honourable Mr. Bythell, in saying much the same thing, wished that the powers of the Municipal Commissioner should be curtailed and more power given to the Corporation. Now, I would just like these honourable members to think what the result would be if a body of 64 persons were entrusted with executive power in these details. Could these details ever by any possibility be carried out? and what would become of the promptitude of action which would be the result of a single officer having that power? I think it would be absurd if the erection of any privy or urinal had to be decided by the Corporation. A question in which so many interests might be involved would be sure to lead to a party fight. Even though details like these were left to the much smaller board of twelve Town Councillors they could scarcely be carried out with efficiency, because the Town Council board will have plenty to do if it attends to its own business of financial control. Exception has been taken to the power which Government have reserved to themselves by the bludgeon clause, but I think that the Honourable Colonel Kennedy has shown that this section does not confer any very large amount of power upon Government, which is strictly limited to certain objects laid down in Section 138 relating to the provision of funds for the maintenance of the police and the protection of the city from fire, the making of adequate and suitable provision for the cleaning and surface draining of the city, and maintaining a proper and sufficient water supply. It has been objected that, in the matter of the police expenditure, the Corporation are not to be consulted, but there can be no doubt whatever that if the Corporation come to the Executive Government and say that the cost of the police is too great, Government will always be willing to listen to reasonable representations. It is not the object of Government to plunge the Municipality deeper into debt than it is at present, and it is unreasonable to suppose that they would do anything of the kind. As to the provision for cleaning, that simply means that Government must see that the city is always well swept and that dirt is not allowed to accumulate to an extent that would endanger the lives of the people, by the generation of disease. One of the objections which have been made to the powers reserved to Government under Section 40 was that it would expose the Corporation to enormous expenditure by providing for a large system of underground drainage. We put the word "surface" before "drainage," and one would have thought that was sufficient,

but I see that in some quarters it is argued that the insertion of this word will not have the desired effect of restraining Government from forcing the Corporation into large outlay on drainage. I do not see how this can be, because the term "surface drainage" has a definite signification which cannot be extended at the pleasure of Government. I believe I may say that Government have not the slightest intention of forcing the Corporation to carry out any of the vast schemes of sewerage that have been talked about. With regard to maintaining a proper and sufficient water-supply, I apprehend that no one will contend that this should not be done. I would remind members of this Honourable Council that the Corporation that will be created by this Bill will be an entirely new body. Nobody can at present be certain from what classes the principal members of it will be drawn, and we cannot foretell what particular tendencies the electors or the elected may display. Like all untried things, it may turn out very differently from what we expect. We may look upon it as a child, who, hardly able to walk, must be held in leading strings to teach him to run. It would therefore not be well to endow it all at once with larger powers than have been given to it. If at the end of the three years for which this law is to be in force, it be shown by practical experience that the powers of the Corporation are too limited, it will then be easy to enlarge them, but at present it would be extremely rash to do so. As to the town duties we have learned recently from the public prints and from many of the petitions which have been brought before us that it is a reduction and redistribution of taxation that is wanted rather than the introduction of the principle of representation. But it seems to be forgotten that the concession of the representative principle is the necessary preliminary step to the equitable adjustment of taxation. It was intended that the Corporation should have considerable powers in the alteration of rates and the selection of new articles to be entered in the schedule of town duties. Unfortunately the Council by its vote has curtailed the powers of the Corporation in this respect, but this is the fault not of the framers of the Bill, but of the honorable members who yet oppose the Bill generally on the ground of the inadequacy of the powers assigned to the Corporation. The action of the so-called reformers in this matter has been singularly inconsistent. In one direction they seek unlimited powers for the Corporation, while in another they would restrict it within the most narrow limits. I cannot agree with the Honourable Sir Jamsetjee Jejeebhoy that there is any reason for now postponing the passing of the Bill to enable us to make a thorough examination into the incidence of taxation. That duty will be best performed, in the first instance, by the Corporation, which this Bill will bring into existence, the members of which body will be able to bring to the investigation the practical knowledge, founded upon an extensive acquaintance with the wants and peculiarities of their fellow citizens, which will be so valuable in coming to any settlement. Finally, I have only to remark that it appears to me that it will be a grave mistake on the part of those who have expressed themselves so dissatisfied with the Municipal Act now in operation if they assist in the rejection of the present Bill merely because it has not gone to the extent which they want. Very great concessions have been made as the honourable member in charge of this Bill has pointed out, and every disposition has been shown to meet the popular requirements, so far as this could be safely done, with due regard to all the important interests involved in the settlement of this very large question. An opportunity has been given for laying the foundations of self-government in the city of Bombay on a liberal and secure basis, and it will be the fault of the unofficial members of this Council who are supposed more particularly to represent the public interest if the opportunity which may not recur again for a long space of time, be not seized and utilized for the general good.

The Honourable the ACTING ADVOCATE-GENERAL—I consider that after the very able speech which we have just heard from the Honourable Mr. Rogers, there remains very little for me to add. I shall address myself chiefly to the argument of the Honourable Mr. Forbes, who has condemned this Bill, because it entered into minute legislation. I referred the honourable member yesterday to the Police and Improvement Act (Scotland) 1862, and I shall do so again to-day. It is remarkable that, in looking at that Act, we find it containing provisions almost identical with those to which the honourable member has taken exception to-day. Section 144 of it relates to dust boxes which are to be fixed in the streets. It provides for the naming of streets and the numbering of houses almost in the same language as that which is used in this Bill with relation to the same subjects, and the penalty, which is fixed at 40*s.*, may be taken as a fair equivalent for the penalty of Rs. 50 which we have in this Act. It provides for the width of courts as well as for the width of streets. I shall read this provision about the width of courts, because I have no doubt that the honourable member, as a judge of Scotch towns, will be able to say whether the British Parliament acted either unjustly or unwisely in descending

The Acting Advocate-General replies to Mr. Forbes's objection to the Bill legislating upon minute matters.

into such minute legislation. Section 177 enacts that it shall not be lawful to form, lay out, or build any court unless the same shall be of the width of 15 feet measured from the buildings or intended buildings therein. It also provides for entrances being made to courts of the full width of the courts, and for these being left open from the ground upwards. But the so-called arbitrary power of the British Parliament did not stop there, but it actually provides the way in which the houses shall be built in the courts. Would the Honourable Mr. Forbes be surprised to learn that the occupiers of dwelling houses in Scotland with common stairs "shall sweep, wash, and cleanse the landing places in the flats or stories in which their houses are situated, and the steps leading from such landing place to the flats or stories below them?" This must be done at least once in every week. The Act does not stop even there, however. It says that if there be more than one occupier in each flat or story each occupier shall sweep, wash, and cleanse such landing place and stairs, week about by turns. Now, if that is not minute legislation I hardly know what is. After hearing this statement and also that the penalty for not sweeping, washing, or cleansing, &c., is 40s., I think the honourable member will withdraw his objections to this Bill on the score of minute legislation. I find that another section provides for the fixing up of town clocks, the dials of which are to be lighted up at night, and I think if we had a provision in our Act about providing clocks, and how they should be lighted, there would have been considerable indignation. I was glad to hear that the Honourable Mr. Forbes did not lay any stress upon Section 137, upon which, on former occasions, he dwelt at some length. Therefore, I think, I may congratulate him upon adopting different views, and that he really does appreciate the benefit of giving authority to the Corporation to spend money for the useful purposes mentioned in that section. In looking at another Scotch Act, I must once more pay a tribute to his fellow-countrymen, and I am sorry to see that he does not share the enlightened views which are expressed in it, and which are more advanced than those which are now prevalent in India generally. In 1867 Parliament passed an Act to amend and consolidate the Public Libraries Act of Scotland, and the preamble shows that its purposes are to establish public libraries, art galleries, and museums. Now, a remarkable feature of this Act is that all these places are to be paid for out of the police rate. If there were any rate which one could have supposed *primâ facie* not applicable to such purposes, it is the police rate. The words of the clause are these: "The expenses incurred in carrying out the rate shall be paid out of the police rate," and when I first read them, I thought it was a good specimen both of Scotch wit and wisdom. Certainly the wit may be rather deep, but I think the wisdom is very apparent, because the Scotch people must be convinced that the establishment of such useful and elevating places as libraries and museums is the surest way to reduce the expenditure for police purposes. In this view they are undoubtedly right, and I wish that the Honourable Mr. Forbes had been a Scotchman in the same liberal respect. A reference has been made to the one per cent. duty which was levied undr a provision in Act 32 of 1860. I will not detain the Council by reading the section at length, but I think it lays down distinctly that the money shall be spent in roads, canals, or other reproductive works duly sanctioned in various districts. Therefore this money *primâ facie* is to bespent upon the whole of the presidency, and it is very doubtful whether it could be spent in the way the Honourable Mr. Forbes alluded to. I do not think the honourable member's other statements require any further refutation, because they have been already completely answered by the Honourable Mr. Ravenscroft. I must now express my surprise and regret that the Honourable Sir Jamsetjee has spoken against the third reading of this Bill. He occupies a peculiar position in this Council, being the highest representative of the Parsee community, and I believe it was for this reason that he was nominated to the Select Committee, because the Bill was one of the most important that could have come under the consideration of this Council, and required the aid of representatives of all classes of the community. A good deal had been done both in speaking and newspaper writing before this Select Committee sat, and Hindoos and Parsees took a considerable share in agitations and discussions.

The Honourable Mr. TUCKER—I think that my honourable friend is under a mistake in supposing that the Honourable Baronet was a member of the Select Committee.

On a reference to the Secretary, Mr. Nugent stated that it was the Honourable Mr. Byramjee Jeejeebhoy who was on the Committee.

The Honourable the ACTING ADVOCATE-GENERAL—Well, I can only express my regret that the honourable gentleman was not at these meetings, and that, after the clear statement which was distinctly put before the Council by the Honourable Mr. Tucker, he should now prefer to reject this Bill, and remain content with Act II. of 1865. It is hardly

necessary for me to point out the advantages and improvements which this Bill contains as compared with Act II., and it does seem to me strange that any body who has the welfare of the city at heart, who has any faith, however small, that the inhabitants of Bombay are qualified to take upon themselves representative government, should at once seize the chance that is now offered of getting representative government, instead of adopting the course which the Honourable Baronet has taken. Speaking as a lawyer and as an independent member of Council, I do believe that this Act will succeed as a first instalment; taking up the simile of the Honourable Mr. Rogers; I do think that this Bill will operate as the leading strings by which the infant Corporation will eventually learn to walk at ease in the paths of self-government. That it should walk alone at first, as the Honourable Mr. Bythell seems to think it could, cannot be expected, because these men could not suddenly be entrusted with power and rise up as suddenly to the full measure of their responsibiliy, and show themselves wise administrators. If full powers were given to the Corporation, and yet it failed, what a reflection it would be upon the sort-sightedness of Government! The Asiatic community in their dealings with corporate matters and in their manner of holding share company meetings, as reported daily in the newspapers, are shown to be wanting in the capacity to conduct business properly. When the native community is thus showing their inability to manage large matters with the ease and facility of Europeans, it would be monstrous shortsightedness on the part of Government to lay down its power to say suddenly to these people, "Here; you shall have the fullest powers that the British Parliament can entrust to its European subjects." With one stroke of the pen to give a full franchise without any check would, in my opinion, be nothing less than an act of madness on the part of this Government. Looking back to the history of this Bill and to its surrounding circumstances, I cannot conceive how any honourable member of this Council should vote against it, and I do trust that, after members have heard the final remarks of the honourable mover, they will vote unanimously for the third reading. Regarding the observations made by the Honourable Mr. Bytholl, I regret that that gentleman supposes that because there is divided responsibility, therefore the Bill will prove a failure. The arguments he has used with respect to the exceptional powers of the Corporation have, for the most part, been answered by the Honourable Mr. Rogers, and, therefore, I need only say a word or two regarding that part of his address. I must have been misunderstood by him when I said that no Corporation has power in England to interfere with or have the control or rather management of the streets. When I made that remark, I meant it with reference to its action in dealing with the private owner.

The Honourable Mr. BYTHELL—I may save the time of the Council by explaining that I merely said that the Honourable the Advocate-General challenged me to produce an instance, and I gave him it.

The Honourable the ACTING ADVOCATE-GENERAL—What I meant to say was that, in the case of a man being appointed the executive officer of a Corporation, whether as its engineer or its architect, power vested in him to deal with the private owner. That is the way the present corporate bodies are managed in England, so far as I can understand, and this I gather from the various Acts, which, though silent upon these minute matters, yet express them inferentially. In that respect I said that this Bill was justifiable, because it will make private owners go to the Commissioner, whereas I understood that the reformers wanted the private owner to be compelled to go to the Corporation. The Commissioner is likely to know the wishes of the Corporation and to carry them out accordingly. The Honourable Mr. Bythell said that the Bill must fail because of divided responsibility, but he has not cited any instance in which there has been any such failure from this cause. What has been done is to give a system of representation which will give rights and responsibilities to all parties, and I think it is unfair to say now that it will be a failure. I think the honourable member's remarks would have been much more to the purpose three years after this, when the experiment will have run its course, and if he can then show that the Bill has resulted in a wretched state of deadlock, the Commissioner fighting with the Corporation, and the Corporation with the Government his views will have much more weight than they can have now. I do not like to see the way in which this matter of divided responsibility has been magnified. All companies are managed by divided responsibility.

The Honourable Mr. BYTHELL—No; they are not.

The Honourable the ACTING ADVOCATE-GENERAL—Shareholders and managers of banks surely have each separate responsibilities and duties, and the only difference between the Bill and the case of a joint stock or other corporate body is that the managers are appointds

by the shareholders in the one case, while in the other, for reasons which we have given, the Commissioner will be appointed by Government Divided responsibility is not, therefore, so exceptional a circumstance as the honourable member would appear to think it. The Honourable Mr. Bythell also referred to the new Bill brought before Parliament in the present session, the object of which he said was not to give executive powers to small bodies—

The Honourable Mr. BYTHELL—What I said was that the object of the Bill was against giving power to one executive officer without his having to refer to anybody. That is all I said.

The Honourable the ACTING ADVOCATE-GENERAL—In support of his argument the honourable member read from a newspaper. I shall also read an extract from one in justification of the position which this Bill gives to the Commissioner. One of the speakers in the Parliament, when the matter to which the Honourable Mr. Bythell refers, was brought before it, said, "How can it be expected that a country board can bring its power to bear in a small village thirty or forty miles away?" That sentence clearly indicates that, whereas before there were many executive officers, the object of the Bill was to concentrate all power in one central authority.

The Honourable Mr. BYTHELL—But not to give it to one man.

The Honourable the ACTING ADVOCATE-GENERAL—It may be one person or a board of a dozen men, but the whole object of the Bill is, nevertheless, to bring executive authority into a focus. I say, therefore, that the whole tendency of this modern legislation is to centralize executive authority, and this we have done in the Bill now before the Council.

The Honourable Mr. BYTHELL—The tendency may be to put the power in one board, but not in one man.

The Honourable the ACTING ADVOCATE-GENERAL—It may be that our legislation in Bombay is in advance of the home legislation in leaving the executive responsibility to a single person instead of several, and I certainly do not think that we have shown any retrograde legislation whatever as the honourable member has said. I shall certainly vote without hesitation for the third reading of this Bill.

The Honourable Mr. BYTHELL—Sir,—As I have been entirely misrepresented, although no doubt unintentionally, by the Honourable the Advocate-General, I desire to make a word or two of explanation. He said—I made a note of his words at the time—that I asked Government to lay down its power. Now, all I wanted was that Government should give the Corporation power to manage its own executive affairs.

The Honourable Mr. FORBES—The Honourable the Acting Advocate-General in his frequent references to the Scotch Act has failed to point out that the people of Scotland are under a full and comprehensive system of representation. My wish to place these matters of detail under the Corporation was that we should have powers as like to theirs as possible. If the people of Scotland were made subject to this clause I am sure they would soon relieve themselves of it.

Mr. Tucker replies on the debate.

The Honourable Mr. TUCKER—The members of this Council who have signified their intention of supporting this Bill have replied to so much of what has fallen from the members who have announced their intention of voting against it, that there is very little left for me to remark upon, and I have already taken up so much of the time of the Council that I shall endeavour to say the little that remains to be said as briefly as possible. The main objections now taken to the measure are first, that it is too complicated, and will not work; 2ndly, that it does not reduce taxation or make any radical alteration in its distribution; and, 3rdly, that it holds out encouragement to extravagance and gives too little power to the Town Council and Corporation, and too much to the Municipal Commissioner. The Honourable Mr. Bythell will vote against the third reading both on the first and third ground. He considers that the division of power between the Municipal Commissioner and the Town Council will make the Act unworkable, and that, in consequence of the extensive authority with which the Commissioner is vested in executive matters, the scheme must be a failure.

He, therefore, would not give the measure a chance of being tried. To this I answer that the simple fact that a thing is complicated is no proof that it will not work. A watch or a steam-engine is a piece of mechanism of a complex character, but the parts are so adjusted that, when properly made, there is no difficulty in setting them to work. In like manner, in the legislative experiments which we desire to make, the functions of the Commissioner and of the Town Council are so distinct and the limits placed upon the action of each are so clearly marked, that I see no reason why they should not work in concert. There will probably be a little friction at first, but if the Commissioner and Chairman of the Town Council be judiciously selected, as I feel assured they will be, I entertain no doubt that they will be able to work harmoniously together. This is a matter of opinion, the truth of which can only be tested by experiment, and to this ordeal would I leave it. The honourable gentleman is of opinion that we have been wholly wrong in allowing any independence of action to the Municipal Commissioner. In this we have followed the example set us in Act II. of 1865, and for the same reasons which granted the powers of that Act. The mischief done under that law was not in consequence of the Commissioner possessing undivided executive authority and responsibility in carrying out the orders of the Bench of Justices, but because he managed to evade control in his expenditure, and became reckless and improvident. We have now taken care to make the control of the Town Council over the Commissioner in financial matters thoroughly effective, and there would appear to be no good ground for depriving him of freedom of action in maintaining the sanitary condition of the city, and in constructing the works that have been duly sanctioned. In matters of this description latitude is necessary, and the public will benefit by an arrangement which leaves acts of this nature to a single man instead of to a board. The honourable gentleman has misapprehended what I said on a former occasion with reference to the views entertained in England regarding local taxation and municipal administration, and the direction of sanitary action. I did not mean to imply that our present proposal was a copy of any similar institution which had been established in England. In England there are innumerable boards and committees scattered all over the country, exercising various powers, and discharging diverse functions for the purpose of carrying out the main objects of civic government. There is a chaos of authorities with intermingled and overlapping jurisdictions, conflicting interests and clashing powers, and it has been proposed to reduce this confusion to order by concentration and amalgamation, and by placing all local assemblies under some central control. I did not mean to say that it was intended to abolish all these boards, and to place them under the control of a single executive officer. This does not appear to be the case, but it would seem that there is to be but one local board in each district or territorial division, which will absorb all the rest, and these local boards will be subordinate to a central board who will send out inspectors who will direct the local boards what works to do. It is probably not possible in England at present to get rid of local boards altogether, but an attempt has been made to overcome the inertness of local boards by giving powers to the inspectors to be sent out by the central board to compel action by the local boards. By a different way we have sought to establish the same division of labour and responsibility, and I consider that by entrusting within circumscribed limits independent executive power to the Municipal Commissioner, we have been following in the direction to which affairs are gravitating in England. The honourable gentleman has sought to contradict my statements by extracts from some of Mr. Stansfeld's recent speeches, but I think that if he will look further into the matter, he will find that I have not made any mistake in saying that there is a strong feeling in England in favour of the delegation of executive authority in matters relating to the public health and safety to one competent person. My honourable friend Sir Jamsetjee cannot give his support to the Bill, because the pressure of taxation has not been sufficiently relieved in his opinion; and because there has been no new distribution of taxation; and also because he disapproves of some portion of the provisions of the Bill regarding places for the disposal of the dead. It is somewhat remarkable that these objections should be produced at the eleventh hour and that holding them, the Honourable Baronet did not think it worth while to attend the meetings of this Council during the eleven days we were considering the Bill in detail. I am aware that the honourable gentleman was prevented by a family bereavement from being present at the second reading, and I pointed out to the Advocate-General that he had not been nominated to the Select Committee, but it appears to me a somewhat unusual course to stay away during the first stages of a measure, and then to come and vote against it at the third reading. I am as unable to comprehend a proceeding of this kind as I am to understand the absence of the two other native members to-day. It should be no slight indisposition which keeps a member from his post when the fate of an important measure like

this is about to be decided. The Honourable Mr. Forbes shares in the objections advanced by Mr. Bythell, but he has also special objections of his own which have been urged repeatedly during the course of these discussions, and have been often replied to. He considers that the Bill goes into unnecessary details, forgetting the precedents afforded in the recent Scotch and English Acts of Parliament *in pari materiâ* which have been pointed out to him by the learned Advocate-General. He also considers that the Bill encourages extravagance, because it permits the Municipality to apply their funds to works of public utility when they shall be rich enough, and shall think fit to do so in the same manner as is done in other countries and in other places. In the opinion of my honourable friend economy is the one thing needed, and there is no such thing as useful and beneficial expenditure. Now there is another class of persons who object to this Bill, and these are the sanitary reformers, and they consider that we have not provided sufficiently for the sanitary wants of the town or given to the Municipal Commissioner sufficient power in the suppression of nuisances, the regulation of buildings, and in other conservancy matters. It would have been impossible for us to comply with the suggestions of all who claim to be authorities in these matters, and we have endeavoured to steer a fair middle course between extreme views, and in doing so, I believe, we have done what is best for the interests of the city, though we have satisfied none of the contending parties. The Honourable Mr. Forbes holds that the Municipality has been hardly treated in some of its pecuniary transactions with Government, but he cannot be said to have made out his case. Some of these are matters which admit of further negotiation, but this is not sufficient for the honourable gentleman, and he assigns, as a reason, for voting against the Bill, the non-settlement of these transactions. Now, these are not matters which can be dealt with by this Council, nor could the arrangement of them in any way affect the form or substance of this Bill, so it seems strange that the honourable gentleman should have brought them forward as a ground for a vote adverse to the Bill. This is not more strange, however, than his entire course of action in rejecting a measure which gives to him and the party he represents so large an instalment of what they asked for, and which places them in a better position for attaining further concessions in the course of time. If the honourable gentleman should succeed in procuring the rejection of the Bill, I do not think that the persons whose cause he advocates will have much reason to congratulate themselves on the policy he has pursued. I do not know whether I understood the honourable gentleman rightly, but I thought that he said that if he should receive an assurance that there was no intention of forcing on the city any new scheme of drainage of vast proportions, one of his chief objections to the Bill as an experiment for three years would be removed. I need scarcely say that we never have had such an intention, and are never likely while the Government is constituted as it is at present to entertain such an idea. Further, as the Bill now stands, we could not force the Corporation to enter upon such a project if we wished to do so. I trust that your Excellency may be able to give the honourable gentleman an assurance on this head, which will put an end to his difficulties. And now, Sir, I will conclude by saying that though I am conscious that the Bill is not free from imperfections, and though I cannot but fear that it may contain errors and ambiguities which have escaped notice, yet that I believe that it will fairly answer the purposes for which it has been framed, and will effect the objects aimed at. Though, with the exception of the constitutional portion it has been based on the report of General Marriott's Committee as is pointed out by my honourable friend Mr. Rogers, yet it has been renewed and considerably altered while in my hands, and I have no wish to escape any of the responsibility which attaches to its preparation. I am quite willing to risk my reputation as a member of this assembly upon it, and to accept the consequences of failure or of success, in accordance with the ultimate event, if it be tried. In bringing it forward I have been influenced by no other considerations than a desire to promote the general good and to do justice to all, and if I shall have failed it will not be from want of labour, but from causes which have been beyond my control. If by the decision of this Council and with the approval of higher authority, it shall become law, I trust that it may some day be found to possess a higher degree of merit than its opponents have hitherto been able to recognize in it, and that it will prove beneficial to the large body of persons who will come under its operation and whose interests will be affected by its provisions.

His Excellency the PRESIDENT: Considering the peculiar position in which Government seems likely to be placed as regards this Bill, I shall say one or two words upon the points raised in the discussions that have taken place upon it. But in the first place, I must express my regret along with the Honourable Mr. Tucker that the Honourable Mr. Munguldass and the Honourable Mr. Narayan have been unfortunately prevented by sickness

from being present to-day to give their vote either for or against the Bill. But this is a matter beyond our control, and however we might have desired their presence we cannot help ourselves. The Honourable Mr. Tucker has alluded to the remarks made by the Honourable Mr. Forbes, and I may say that I also certainly understood the Honourable Mr. Forbes to say that if he could get a certain assurance from Government with reference to the bludgeon clause, he would vote for the third reading of the Bill. I have always taken a great interest in this bludgeon clause, and I should like the honourable member to consider the alterations which I have endeavoured to effect in its terms. In the first place, I objected to the power being given to Government to step in and interfere regarding every clause, and the result is that the sections to which the bludgeon power is to apply are now specified in Section 40. By Section 137, as it stood formerly, the municipal property and funds were to be rigidly applied to certain objects, but now we have decided that the words of the section shall express that these funds may or may not be applied to these objects. Each section to which the bludgeon clause is to apply has been most carefully considered in the full committee of this Council, and now there are but nine sections to which it will be applicable. The matter of Government enforcing a large drainage scheme has been a source of inquietude to honourable members, but the bludgeon clause is only applicable to surface draining, and I maintain that, under this Act, we have no power to enforce anything but this as regards draining. If ever it be thought expedient to do anything beyond this, the honourable gentleman may receive my most positive assurance, not as a private individual, but as Governor, that we shall do nothing without first consulting with the municipal authorities. I hope this assurance will guide him to accept the Bill, and give his vote in favour of it. Another objection which has been made to the Bill is that it divides authority; but, in maintaining some system of divided authority, we are only acting in consistency with the whole spirit of the Government of India in its relations to the natives of the country, and we have no right, even in legislating for a great city like Bombay to cast aside the principle upon which our existence in India depends at present, and upon which we must rely for many generations to come. The Honourable Mr. Forbes has been placed in the position of head of the reform movement in Bombay, and has been sailing before the breeze of public admiration, but I am not sure that the honourable gentleman is exactly sure of the port to which he is steering. Give the honourable gentleman all that he and his friends want, and the city of Bombay will be withdrawn altogether from British control. In the constituency created by this Bill the votes of those of European descent can only be as 150 to 4,000. And will not such an enormous preponderance of the native element seek to elect its own representatives, and get the management of the city into its own hands? I speak in no spirit of captiousness, but I say that this is what we must look to. The Bill has been greatly blamed and censured by the public for its elaborateness in respect of details, but it has simply endeavoured to restrain the heat of parties and preserve the proper equilibrium between the several classes of the community. There is only one other point to be considered, and that is, the action which shall be taken supposing this Bill is rejected. I have seen nothing in these discussions to guide me to the conclusion that an entirely new Municipal Bill is necessary, and therefore I do not think that it would be right, on the part of Government, to hold out any hope that if this Bill is not accepted we shall institute any fresh legislation on the subject. We have already spared no pains to make the Bill acceptable, and I think this Council will do well to accept it as it stands.

The Honourable Mr. FORBES—With regard to the assurance which I referred to, I am extremely glad to hear it mentioned not only by yourself but by the Honourable Mr. Tucker that the Government have no intention whatever of imposing expensive works upon the town without first having due consultation with its representatives; but I am sorry to say that I hardly think any mere general assurances, however valuable they may be, should influence my vote upon this occasion. Changes in this country are very frequent, and a few months' hence may see many alterations in the present government, and the assurances would be gone.

His Excellency the PRESIDENT—The honourable member certainly held out the hope to us that if he could get an assurance respecting the bludgeon clause he would withdraw his opposition.

The Honourable Mr. FORBES—I have more objections to the Bill than that, and I therefore must give my vote against the third reading of this Bill.

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

*Ayes*—8.

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ACTING ADVOCATE-GENERAL.
The Honourable COLONEL M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

*Noes*—3.

The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.
The Honourable J. A. FORBES.
The Honourable J. K. BYTHELL.

The motion was therefore carried.

The Bill read a third time and passed.

The Honourable Mr. TUCKER—I move that this Bill be passed.

The motion was agreed to, and the Bill was passed.

Colonel Kennedy moves that the Bombay Port Trust Bill, No. 5 of 1872, be read a first time.

In moving the first reading of the "Bombay Port Trust Bill" (No. 5 of 1872) the Honourable Colonel KENNEDY said—When in 1870 I introduced into the Council Act V. of that year, the Bunder Fees Act, I stated that the measure was preliminary to one of greater scope, which had for its object the establishment of a Trust for the management of all the Government wharves and bunders on the foreshore of the harbour of Bombay.

It is this measure that I now beg leave to introduce, and though a greater time has elapsed in maturing it than I thought would be required in 1870, I think it will be allowed that the time has not been wasted, since it has given opportunity for negotiations which have resulted in reducing the liabilities that the Trust will be required to assume to the extent of about £800,000 of capital, £20,000 per annum of revenue, as I will shortly proceed to show in detail. I need not enter into a history of the acquisition of the Elphinstone property, which forms the basis of what will constitute the Trust property; that is well known to your Excellency's Council and to the public, and the arrangement has been the cause of considerable discussion elsewhere. Objections have been raised, which it would serve no practical purposes now to endeavour to answer. It may suffice to say, generally, that the Governments here, in Calcutta and in England, were satisfied that it was not for the interests of the trade of this port to permit a private company to retain a monopoly of an extensive part of the foreshore of the harbour, and that in their interests it was advisable to retrace a step that had been some years previously taken, and to resume a concession that had been given before its value had attained such proportions as would have rendered its resumption impracticable.

The correspondence that has passed between this Government and the Government of India on the subject of the arrangement of the Trust has been put before the public in a printed form, and has been published in extenso in the public prints, and, among the rest, the conditions under which the Government of India at first proposed that a Trust should undertake the management of the Government properties on the foreshore, are specified. I will not follow these conditions one by one, but will only state that had these conditions been strictly adhered to, the Trust would have had to commence with a capital debt bearing interest at 4½ per cent. of Rs. 3,00,97,419, and would have been under the further liability of having to pay off that capital debt within a period of 30 years. It is quite clear that, without increasing the burdens on trade to an extent that could have been borne with great difficulty, these arrangements could not have been carried out, and the whole efforts of this Government were, therefore, directed to start the Trust with such reasonable liabilities as could be dealt with without making further material demands upon the trade. The negotiations I have referred to have effected this, and have resulted in reducing the capital debt to Rs. 2,62,52,955, of which Rs. 53,69,852 does not bear interest, and Rs. 41,89,079 is not to be repaid at all. There is now, moreover, no obligation to pay off the capital debt within any fixed period, the Government of India having abandoned this condition, leaving the future Trust to reduce its debt when it is in a position to do so, and a further concession has been made in the amount of interest which, for the next 10 years, is fixed at 4 per cent. on that portion of the capital which does bear interest, the original

rate being reverted to on the expiration of this period. The items under which relief has been afforded are as follow :—

Government have retained in their hands and have not required the Trust to take over the Moody Bay property, west of the Frere road, the value of which is Rs. 21,67,695

The Trust are not required to assume any liability in regard to the Prongs Light-house, and the capital account is relieved of ..... ,, 4,76,770

The Moody Bay property east of the proposed New Frere road has been granted as a free gift to the Trust. Its estimated value is ..... ,, 24,48,337

The Apollo Bay and Wellington reclamations have also been granted as gifts, their value being ..... ,, 17,40,742

The total value of these gifts represented by the last two items amounts to Rs. 41,89,079, and may be taken as an equivalent for the value of the land reclaimed by the late Elphinstone Company, and handed over free to the Government for the railway company's station at Warree Bunder. This amount, though representing a free gift, is retained in the capital schedule as capital not bearing interest, and not to be repaid in order to preserve a complete record of the real value of the Trust property.

As regards the Warree Bunder land a great deal of discussion has passed. On behalf of the Trust it was argued that it was not fair to make them pay for what they were not to receive, and virtually to throw on the local trade of this port, the cost of an Imperial Railway Station. On the other hand, it was urged, and not without reason, that this arrangement was part of the bargain, and that the Elphinstone property was acquired with its advantages and its liabilities. It is needless now to resume the discussion; but though the Government of India have been firm on the point of principle, and have declined to credit the Trust with the value of the Warree Bunder land, estimated by this Government at 40 lakhs of rupees, they have practically conceded the matter by granting, as near an equivalent as possible, in the properties just mentioned. For purposes of trade these properties are of more value than the Warree Bunder land would be, the Apollo Bay in the present, and the Moody Bay in the prospective.

It was originally contemplated to hand over to the Trust certain properties already producing revenue at the capitalized value of the net receipts, the concession of this revenue has now, however, been made without a capital debit, the value being ..... Rs. 10,00,000

A debt due by the Harbour Board of the Imperial Revenue has been altogether remitted, the amount as far as can be at present ascertained is ,, 2,00,000

If these items be added up, it will be found that the Trust is not to be debited with an actual capital sum of Rs. 8,33,544 which it would have had to bear, had the conditions originally imposed by the Government of India been adhered to.

But it gets further relief in the following particulars as regards annual payments :—

The interest on the capital bearing interest has been reduced for the next ten years from 4½ to 4 per cent., the annual liabilities are thus reduced by a sum of ..... ,, 1,04,415

The interest on the capital expended up to the 31st March 1870 on certain Government properties made over to the Trust has been remitted, the value of their property is Rs. 11,80,773, and the interest on that sum at 4½ cent. which the Trust is not now called on to pay is, therefore, per per annum ... ,, 53,135

Concessions of another class have also been made. Formerly the Elphinstone Company bore the whole cost of the Government Preventive Establishment employed on its Bunders, and this, in due course, became a liability of the Trust; but the Government of India have now agreed to bear these charges themselves, and to relieve the Trust of this—that amount is per annum..... ,, 14,000

By the agreement with the Elphinstone Company, Railway and Government Stores were free of Wharfage Dues, and the former will still continue to be so under the agreement, but the Government of India have agreed, subject to the approval of the Military Department, which no doubt will not be withheld, to pay for the landing of troops and some stores, and this item has been estimated at per annum ..... ,, 23,424

The last item is that which relates to the use of the Moody Bay property, west of Frere road, retained by Government, and of which the Trust will have the use for 10 years, the value of this concession is estimated at per annum... ,, 5,000

Total ..... Rs. 1,99,974

It will thus be seen that in demands forgone and in additional sources of revenue conceded, the Trust obtains an advantage which amounts to nearly £20,000 per annum.

The capital debt as ascertained to 31st March 1872 we have to deal with is Rs. 2,08,83,103 and it bears interest at 4 per cent. for 10 years and thereafter at 4½ per cent. I do not notice the capital not bearing interest that carries no present burden and may be paid off as opportunity arises, either by the sale of land or by surplus revenue when the Trust becomes prosperous, as no doubt it will do in course of time; neither need we at present regard with any anxiety what may happen ten years hence. It is to present liability only that it is incumbent now to look to. The interest on this capital debt at 4 per cent. is ..... Rs. 8,35,324

The existing net revenue that the Trust may reckon on to meet this liability is as follows, according to the best estimate that can be made and in the majority of instances from actual net results:—

| | | |
|---|---|---|
| Elphinstone Property ..... | Rs. 4,73,164 | |
| Other Government Bunders ..... | „ 2,73,405 | |
| | Rs. 7,43,569 | |
| Apollo Bunder Warehouse ..... | Rs. 21,170 | |
| Increased Wharfage charge on Troops ..... / Wharfage Fee on Commissariat Stores ... ..... | „ 23,424 | |
| Rents as per Schedule E ..... | „ 15,262 | |
| Estimated Surplus Harbour Board ..... | „ 70,000 | |
| | | 8,73,428 |

Apparent Surplus.....Rs. 38,104

It will thus be seen that the Trust will be started with a revenue sufficient to enable it to meet the demands upon it and with a small surplus; but without, at present, any means of reducing the capital debt, or of undertaking any extensive new works. It will in fact be in a position to pay its way and to maintain the *status quo*, but no more.

I will now turn to the Bill itself, I may briefly observe that in its form and provisions it very closely follows the Calcutta Port Trust Act, a majority of its clauses being nearly identical with the corresponding clauses of that Act.

The principle of the Bill is to place in the hands of a corporate body the wharves and bunders of the harbour and the harbour itself to be held in trust and managed for the benefit of the trade, subject to such control as Government, who will make over to the Trust much valuable public property free of charge, and who are the sole creditors as regards the whole of the property not made over as a gift, are entitled and required, in the interest of the general public, to retain in their own hands. It is possible on this point that before the Bill passed through its various stages, some remarks may be made and some opposition will have to be met; but it may save some needless discussion if I at the outset state that the solution which has been arrived at, and now exhibited in this Bill, has not been come to without some difficulty, and that I do not think the Government, as donors of some of the properties and sole creditors in regard to others, will be disposed to recede in any material point from the provisions of precaution that have been incorporated in the Bill, and I should fear that any alteration the Bill might undergo which would tend to any material extent to relax the hold on the Trust which Government will probably think it right or not incumbent on them to maintain, would, perhaps, altogether lead to the abandonment of the measure in favour of an arrangement by which the Government would themselves manage the property. Whether the public would desire this, I very much doubt. I hardly think they would, but it is not reasonable to suppose that the Government in the interests of the general public could allow this valuable property to pass out of their own hands entirely without retaining such powers as will enable them to exercise a full and legitimate influence over matters which, though they are of great local importance, are also closely bound up with imperial interests. It has been said, I believe, that like the Municipal Bill, this Bill provides everywhere for Government interference and control, but I would observe that in this case we have to deal with public property and a large amount of public debt for which Government is liable. It is, therefore, imperative that an effective Government control should be retained, and if such control is held to be needed in Municipal matters it is, *a fortiori*, necessary in this case.

These remarks will for the present cover in a general way a good deal of the Bill, but I may observe that nearly all the restrictions placed on the Trust, and all the power that it is proposed to give to the Government, are to be found in the Calcutta Act, which is understood to have worked very well, and which does not deal with a case in which the State is so heavily interested as it will be in the Bombay Port Trust.

As it is now getting very late I will only trouble the Council with a few brief remarks as regards the constitution of the Trust body. I believe it has been objected that the mercantile interest is not sufficiently largely represented; but the Bill provides that at least one-third of the Trustees shall be "persons connected with the trade of Bombay and not holding any situation under Government." In the Calcutta Act there is no such limitation, and so far there is a concession in this Bill. But it by no means follows that this minimum will be adhered to, or that Government will not appoint a greater number of mercantile gentlemen if they find it advantageous to do so.

Neither does it follow, and it certainly will not, I think, follow that the remaining two-thirds will be composed of Government officials. There are gentlemen who are not servants of Government and who are not directly engaged in commercial pursuits whom Government would no doubt desire to place upon the Trust.

The class I allude to is represented by my Honourable friends Mr. Munguldass Nuthoobhoy and Mr. Narayan Vasudevjee, holders of real property in this City, who are as much, though not so directly, interested in the trade of the Port as the merchants themselves, inasmuch as the value of their property greatly if not wholly depends upon the commercial prosperity of the place. As the trade increases or declines so will the value of lands and houses in Bombay increase or decline, and if the trade were to be extinguished altogether, Bombay would, perhaps, revert to its original condition of a fishing village. If allowances be made for the admission on the Trust of these interests and of a fair proportion of the representatives of the sole creditor, the Government, it will, I think, be admitted that a minimum of one-third of mercantile members is a very reasonable limit to enact by law.

Mr. Bythell's remarks on the Bill.

The Honourable Mr. BYTHELL said that he was sure the mercantile community were glad to see the long-promised Port Trust Bill brought forward, and that, although very large power of interference was given to Government, he did not object to the Bill on that account. On the contrary, he thought that while very full power of action should be given to the Trust in all that pertained to the management of the harbour, Government ought to be able to step in at any time if they considered it necessary to do so. The Trustees would not, as in the case of the Municipal Corporation, be managing their own property, but an estate belonging to the country and costing between two and three millions sterling. Consequently it was only right and proper that the Trustees should be subject to Government control. He would not occupy the time of the Council at that late hour by going into details, but he wished to state that in some matters a little more power might, he thought, be given to the Trustees without any risk to Government. The Honourable Colonel Kennedy had said that the Elphinstone property had been purchased because the Secretary of State for India, the Government of India, and the Government of Bombay were of opinion that such a large portion of the foreshore of the harbour should not be allowed to remain in the hands of a private company. With all deference to such high authority, he (Mr. Bythell) however thought the purchase was a most unfortunate occurrence both for the country and the trade of Bombay. When the property was in the possession of the company, any merchant could land or ship goods at the Elphinstone Company's Bunders on payment of fixed rates which were approved by Government, and if it suited his, the merchant's, convenience better he could land his goods at Bunders that were free; but now even the merchants who land goods at the Bunders which formerly were free, have to pay heavy Bunder Fees in order that revenue may be raised to pay the interest on the cost of the Elphinstone property. Formerly only those who made use of the property contributed to its revenue, but now traders who never use it help to pay for its cost and maintenance. There was also one other important matter to which he must refer. The Bill provided that all money advanced by Government to be expended on harbour works should from the day it was paid over to the Trustees bear interest at $4\frac{1}{2}$ per cent. per annum. Now it was only because the mercantile community believed the million sterling needed to complete the deep water basins on the Elphinstone property would be advanced free of all charge for interest while the works were in progress, that the financial position as laid down by the correspondence published early in the year was accepted without a great effort being made to induce the Government of India to take the land estate off the hands of the Port Trustees. He (Mr. Bythell)

hoped, therefore, that some provision would be introduced into the Bill for the very necessary financial arrangement to which he had adverted being carried out. To leave unaltered the section stipulating that interest at 4½ per cent. shall be paid on all money lent to the Trust would simply be to put a stop to improvements in the harbour and indefinitely to postpone the construction of much needed works; for it would be impossible to increase the harbour revenue without first providing either wet docks or piers. If the money now expended in boat hire were saved to the trade an enhanced revenue would be obtained, but this saving cannot be effected except by the expenditure of a very large sum of money. He would not therefore like to see the Port Trust Bill become law without provision being made for the postponement of the payment of interest by the Trust on the capital required to complete the deep water basins until those basins were handed over ready to be used by large vessels.

The Bill was then read a first time.

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

The Honourable COLONEL KENNEDY moved that this Bill be referred to a Select Committee consisting of the Honourable Mr. Rogers, the Honourable the Advocate-General, the Honourable Mr. Ravenscroft, the Honourable Mr. Forbes, the Honourable Mr. Narayan Vasudevjee, the Honourable Mr. Bythell, and the mover; and that the report be translated into Guzerathi.

The motion was agreed to.

It was also agreed that the report should be returnable on the 20th December.

Mr. Tucker moves that the Vaccination Bill be read a first time.

In moving the first reading of the Bill No. 4 of 1872, "A Bill to extend and make compulsory the practice of Vaccination in the City of Bombay," the Honourable Mr. TUCKER said—I need not do more at present than call attention to the statement of objects and reasons, and shall defer further remarks until the second reading.

The motion was carried, and the Bill was read a first time.

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

The Honourable Mr. TUCKER then proposed that the Bill be referred to a Select Committee consisting of the Honourable the Advocate-General, the Honourable Sir Jamsetjee Jejeebhoy, the Honourable Mr. Bythell, the Honourable Mr. Narayan Vasudevjee, and the mover; and that the report be translated into Guzerathi and Marathi.

The motion was agreed to.

It was also agreed that the report should be made returnable on the 20th December.

Sir Jamsetjee makes a personal explanation as regards his absence during the second reading of the Bombay Municipal Bill.

The Honourable Sir JAMSETJEE JEJEEBHOY:—Before we leave this room I may be permitted to say a few words with regard to my absence during the second reading of the Municipal Bill as noticed by my honourable friend Mr. Tucker. I may observe that His Excellency the President kindly granted me leave to be absent till the end of September, and on this point His Excellency will, I am sure, bear me out. I was obliged to be absent on account of severe family bereavment combined with ill-health.

His Excellency the PRESIDENT said that Sir Jamsetjee Jejeebhoy had told him that he would not be able to attend the Council, and he had assented.

His Excellency the President then adjoined the Council.

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

J. NUGENT,

Acting Under-Secretary to Government.

*Púna, 17th October* 1872.

PRINTED AT THE GOVERNMENT CENTRAL PRESS, BOMBAY.