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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 Bombay on Friday, the 10th January 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding*.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Affirmation of office, &c., taken by the Advocate-General.

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

Papers presented to the Council.

The following papers were presented to the Council :—

1. Letter from the Government of India, conveying their approval to the Port Trust Bill being taken into consideration by the Council of His Excellency the Governor of Bombay for making Laws and Regulations.
2. Letter from the Secretary to the Chamber of Commerce, forwarding Report of the Committee appointed by the Chamber to consider the Bombay Port Trust Bill.

THE BOMBAY PORT TRUST BILL.

Colonel Kennedy presents the Select Committee's Report on the Port Trust Bill, explains the general principles of the Bill, and moves that the Bill be read a second time.

The Honourable Colonel KENNEDY, in presenting the Select Committee's Report on the Port Trust Bill, said—I am glad to be able to observe that the principle of the Bill has met with general acceptance, both within this Council and outside. During its passage also through Committee, it has undergone very little alteration in detail, such alterations as have been recommended being chiefly in correction of clerical errors, and with a view to make the meaning of the clauses more clear and precise. It will be observed that, in effecting such amendments, the suggestions of the Chamber of Commerce have been, in several instances, attended to. For instance in Section 3 it seemed to be thought by the Chamber that it was not intended that the Chairman should also be a Trustee. There was a little ambiguity perhaps in the section as originally drafted, but as the Chairman always was meant to be a Trustee, and must be a Trustee, the clause has now been altered, so as to leave the point in no manner of doubt. Some difference of opinion has arisen on Section 32, and probably some further discussion will now arise as regards this section. I may say that I have no manner of doubt that it is fair and equitable, that if Government should require land they have made over to the Trust either at a certain price or as a free gift for any public purpose, they should be able to take it, striking out the cost of that land as its stands in capital account of the Trust, and I cannot see that any reasonable objection can be made to this arrangement, which would only probably apply to very small parcels or plots, and is not at all likely to result in wholesale resumption; for what would be the object in granting with one hand to take away with the other. But on the other hand, when the Trust has discharged all its capital liabilities and stands alone and clear of the Government, I can understand that in this case it is fair and right that the Trust should deal with the property, which would thus be unencumbered, as any other owner might do. The point, however, is not one, I think, of any practical consequence, as it must be very many years before the Trust is clear of debt, and by that time it is very possible that a very different state of affairs may exist. On this point I shall say no more at present, reserving what I may have further to say till I have heard the observations of other honourable members. An important addition has been made to the Bill by the insertion of a clause exempting the Trust property from Municipal taxation. This may seem at first sight a somewhat strong measure, but it was thought necessary, because in the absence of such a provision the Trust would have been placed under a heavy liability to the Municipality without the means of securing from the Municipality any equivalent. It will be within the recollection of the honourable members of this Council, that according to the existing and new Municipal Acts there is no provision which compels the Municipality to take over from the owner any street made by a private person, no matter whether such street may be extensively used by the public or not. Now, on the Elphinstone part of the Trust property, which measures 180 acres and is therefore larger than the Fort, there are about eight miles of streets perfectly well constructed, with commodious footpaths, and drained throughout, which must sooner or later become in every true sense of the word public streets, and when the Moody Bay part of the estate is completed, there will be six miles more of such streets. Now, if the Trust is compelled to pay Municipal taxation, and to maintain these really public ways besides, it will be placed in a very unfair position. So also with the lighting. At the present moment the Municipality do not light the Elphinstone and Moody Bay estates and there are no means of compelling them to do so under the existing Act; and under the new Act the Bludgeon Clause does not, I am sorry to say, apply either to maintenance of roads or lighting. Frequenters of the Apollo Bunder and persons who use the Mazagon Bunder will see those piers brilliantly and well lighted, and would probably give the Municipality the credit for the arrangement; but they would be wrong, both the bunders are now illuminated at the cost of the Harbour Board, *i.e.*, of the Port Trust. If, therefore, the Municipality were to force from the Trust a very large revenue and be under no obligation in respect to it, the arrangement would not be an equitable one, for, it may be remarked, there is no analogy between the Trust property and the private ground of a private person. Such a person may of course light his grounds, or make roads over them or not, according to his pleasure; but the Trust property will soon become an integral, and I hope a very busy and populous, part of the city, and will be traversed in all directions by roads that will be at the free service of the people. In this respect there is a great difference between the Trust property here and in Calcutta. At the latter place it consists chiefly of a line of foreshore, with certain piers and jetties projecting from it, and the Municipality do maintain and light the communications right up to

the line of foreshore and the jetties. I may here remark that it has been observed that the Trust property derives its value from the circumstance that it forms part of the town of Bombay, but I would submit that it is rather the other way. The Trust property embraces nearly the whole of the foreshore, on which alone can the trade be conducted. Now I think it is the town which derives its chief importance from the trade, for if the trade were to be annihilated where would the town be? It is for the interest therefore, I think, of the town to foster the trade in every way, and not to overburden it by making it pay heavy Municipal dues, and at the same time perform those services at its own cost for which the dues are levied. It would be right, I think, if an understanding could be come to between the Municipality and the Trust, that the former should treat the Trust property like any other part of the town, and that the Trust should then pay the usual taxes on some portion of its revenue; but when one party is bound, and another is not, it is not always easy to arrive at an equitable solution, and it is in this view that it is sought to leave both parties unbound. There is another point; the Elphinstone property has hitherto paid Municipal taxes to the extent of about Rs. 30,000 a year; but the Trust will come into other sources of revenue which the Elphinstone Company did not enjoy, and which hitherto have not paid Municipal dues. Adding these together, if the exemption it is now sought to secure for them is not obtained, the Trust will be legally liable for a payment of upwards of Rs. 70,000 per annum—a return for which the Municipality cannot be compelled to render any service at all, and under these circumstances it is doubtful whether the Trust could be started with a clear balance sheet. The gentlemen who oppose the exemption had better, therefore, well consider the effect of carrying their views; for it may result either that additional burdens must be laid on the trade, or that the measure must be abandoned for the present at least, for the Trust can hardly be started well, unless there is an equilibrium between the liability and revenue. I wish to notice one other point. The Chamber of Commerce have pointed out what they consider to be an important omission in the Bill. They remark that it contains no provision for a loan by Government to admit of the completion of certain docks and works stated to be required for the accommodation of the trade, and think that such a loan should be granted free of interest till these works have been completed and are ready for use. When the Viceroy was here, this subject was, I believe, brought under his notice, and he gave some assurances on the subject. However that may be, I am now authorised to say, that since his departure, a letter has been received from the Government of India, of which I will now read a portion:—

"These proposals will, of course, require very careful examination before they are forwarded for the sanction of the Government of India. But assuming that Mr. Ormiston's views are declared to be sound, and that on enquiry there is good reason for believing that the works when completed will ensure an income sufficient to meet all working expenses and the interest on the cost of construction, His Excellency the Governor of Bombay has expressed his readiness, with the concurrence of his colleagues in Council, to propose the introduction into the Port Trust Bill of a clause binding the Government of Bombay to impose on the shipping and trade such charges for the use of the docks not exceeding a maximum to be stated in the clause as will ensure an income sufficient to provide for the working expenses and for all interest."

I think and believe that this will be considered satisfactory by those interested in the matter, but I may add that, on careful consideration, it has not been considered advisable to complicate this Bill with the question of a dock loan. The discussion that will probably arise as regards the works to be executed, and in dealing with the question in its financial aspect so as to arrive at a solution satisfactory to all parties, will probably occupy some time, and it is very desirable that this Bill should be passed, and that a trust should be established with as little further delay as possible. It has also been considered that the important question as regards these docks and the loan that is required to admit of their construction, can best be settled with the assistance of a body so competent to advise as the new Trust will doubtless be, for when the Trust is established, Government will not have, so to speak, to deal with itself, but will have the advantage of hearing the matter discussed in all its bearings by another authority well qualified to aid with valuable opinions on such a subject. It is proposed therefore to deal with the dock question hereafter and as soon after the Trust has been set to work in another and separate Bill with their remarks. I will conclude, reserving what further I may have to say till I hear the discussion on the Bill, which will no doubt now arise. I now beg to move the second reading of the Bill.

The Honourable Mr. NARAYAN—After what has fallen from the Honourable Colonel Kennedy there remains little for me to add. As, however, on the last occasion the purchase of the Elphinstone property was adversely criticized, I will, with His Excellency's permission, controvert the statement which has been made that the purchase of that property was a most unfortunate occurrence. I have no hesitation in saying that before the purchase was completed there was scarcely any difference of opinion as to its being the duty of the Government to resume possession of the foreshore for the well-being of the Port, and that, while the negotiations towards this end were in progress, almost universal satisfaction prevailed at the prospect of a termination of the monopoly which had so long existed in the hands of a private Company. Considering that the promoters of that Company had commenced their work of reclamation so far back as October 1858, and that they had succeeded in reclaiming a portion of the ground at a cost of Rs. 1-9 per square yard, it must be admitted that the price paid by Government for the land was not excessive; indeed many of the original shareholders were almost ruined. It should not be forgotten that the whole of the native trade of Bombay, which was concentrated on the Bunders of the Elphinstone Company, was bound hand and foot to that private enterprise, and that as Government exercised the right under the Customs Act of regulating what goods should be landed on the Bunders of the Elphinstone Company and those belonging to Government respectively, much dissatisfaction was created in the minds of those who were deterred from landing their goods on the Fort Customs Bunder, because not only were goods allowed to be landed on the Government Wharves free of charge, but they were even allowed to remain there for some days without the payment of any fee whatever, while the entire native trade had to pay dues to the Elphinstone Company immediately the goods were brought alongside their Wharves. Of course those who had previously the free use of the Government Bunders considered themselves aggrieved; but the commonwealth had the satisfaction of knowing that the imposts on trade were to some extent equalised. It is no doubt true that the great depreciation in the value of land has diminished for a time the prospect of reducing the burdens which the purchase has involved, but any one who takes a dispassionate view of the circumstances of the case must come to the conclusion that the purchase was a boon which will be appreciated by posterity. There is, however, one circumstance in connection with this Bill which I cannot refrain from bringing to the special notice of His Excellency. It is this—the villagers and fishermen at Worlee, Mahim, Sewree, and other places have, from time immemorial, been in the habit of using the seashore to land various articles of food without the payment of any fee. There is not a single wharf or landing-place in these localities, nor has Government incurred any expense in affording these people any facilities for landing goods. I therefore submit that it is hard to bring them under the operation of this Bill, and if this matter receives, as I hope it will, indulgent consideration when the scale of tolls and dues is submitted to Government, my object in alluding to it will have been gained. There are one or two clauses in this Bill which I should be glad to see modified, but I will address myself to the details as each section comes under review. I beg to support the motion.

Mr. Narayan gives his reasons for his approving of the purchase of the Elphinstone property.

The Honourable Mr. FORBES thought it his duty to state that it was not the unanimous opinion of the people of Bombay that the purchase of the Elphinstone property was either for the benefit of the town or in any way desirable. For his own part he regarded that transaction as a most grievous obstruction and a most unfortunate occurrence for the mercantile interests of the town, and he was quite sure that any one who should now read the correspondence relating to the purchase, but who was unacquainted with the state of affairs in Bombay at the time the transaction was effected and the few years previous, could hardly understand how the Government of this Presidency, having at its disposal the best advice and every means of obtaining information on the subject, could have purchased the property at the exorbitant price paid. Referring to the correspondence, it was looked upon as a matter of certainty that this property was worth from Rs. 60 or Rs. 100 per square yard, or £60,000 per acre, and it was stated at the time that that was a moderate valuation and that the value of land would increase greatly. Instead of that anticipation being fulfilled, he thought there was evidence to show that the land would now only bring something like one-tenth of the value set upon it. He himself knew a recent case where Rs. 10 a square yard was considered too high a price for very similar land. As he had said, he regarded this transaction as a most grievous calamity, and he thought the feeling on this question was that the bargain was quite a mistake on the part of the Government

Mr. Forbes condemns the purchase of the Elphinstone property.

and would enhance the burdens on the trade of the Port, and further he thought that this calamity should be dealt with like any other public calamity that arose from either a political or military blunder. He could no more see why the Port of Bombay should be burdened with the total cost of this purchase, than he could see that Liverpool should be saddled with the total amount of the money paid in satisfaction of the Alabama claims. He thought the cost of the Elphinstone purchase should be borne by the Imperial Revenues of India and not by the Port of Bombay; and that considering this, they ought to take care that the burdens on the Port were not increased in consequence of the price paid for this property. He had something to say on one or two points in the Bill, but he would reserve his remarks till the sections came on for consideration in detail.

The Honourable Mr. TUCKER—I have no wish that there should not be any discussion on the policy pursued by the Government of His Excellency's predecessor with respect to the Elphinstone Estate; but as the only member of that Government now present who was a party to the negotiations made for the purchase of that property, I wish simply to say that the action of the Government was entirely influenced and governed by what they supposed to be the best interests of this City and Port. It may be that the bargain did not prove as good a one as it was originally supposed to be; but in spite of the Cassandra-like prophecies of my honourable friend on the left (Mr. Forbes), who is prone to take a gloomy view of what is going to happen, I still share the hopes of my honourable friend on the right (Mr. Narayan), that the arrangement which was made will not prove as unfortunate in its consequences as is now anticipated by some persons. Of course, as to the wisdom or prudence of the transaction every one has a right to his own opinion, and I have no desire in any way to prevent the free discussion of the question—on the contrary, I am quite ready to afford any explanation that may be thought requisite.

The Advocate-General justifies the purchase.

The Honourable the ADVOCATE-GENERAL—I did not intend to take any part in the discussion upon the motion for the second reading of this Bill, but after what has fallen from the Honourable Mr. Forbes I may be allowed to make one or two statements with reference to facts. It so happens that at the time the Elphinstone property was acquired by Government, I was a Director of the Elphinstone Company, and I am therefore in a position to state, for the information of my honourable friend on the right (the Honourable Mr. Forbes) and through him of those portions of the public who are not aware of what did take place at that time, that a considerable number of shareholders were opposed to the sale, and that one of my colleagues in the direction of the Company, a gentleman of great mercantile experience, actually retired from the Board rather than be a patry to a step which he considered to be a movement in the wrong direction. For my own part—and I think I may speak for the rest of the Directors.—I considered that Government had offered us handsome terms—terms which, considering the position of the market, it was wise for us to propose for acceptance by the shareholders. Our shareholders accepted these terms, but unless some such terms had been offered to us I do not believe that they would have sold their property. As to the value of the property, I may remind the honourable gentleman that the late Lord Mayo described it as the most magnificent site for trade he had ever seen, and it certainly was not supposed by the shareholders that they were making anything more than a fairly advantageous bargain with Government. With regard to the future of the Trust I will forbear from making any forecast. Unfortunately, we all know that the trade of Bombay has been in a depressed state for many years, and that the depreciation in the value of land which has resulted has had its effect upon the value of the Elphinstone property as upon all others; but I for one do not agree with the Honourable Mr. Forbes that the purchase by Government of this property has been a serious calamity for Bombay. On the contrary, I believe that the purchase of the Elphinstone property should now be regarded in the same light as it was when the purchase was concluded—as a step not only warranted but required in the interests of the whole community, and even, I may say, of India. I hope that with the revival of mercantile prosperity in Bombay, the value of the Elphinstone Estate will again rise in value; but I think that when the sale was effected it was justly considered that it would not be wise to allow the whole of what I may call the mercantile foreshore of this port, the great inlet for the commerce of India, to be in the hands of a private company.

His Excellency the PRESIDENT—That was the original mistake.

The Honourable the ADVOCATE-GENERAL—Perhaps; but the Elphinstone Company were not the original grantees; and with reference to what His Excellency has remarked,

I may say that if Government had to pay a handsome price to the Elphinstone Company for their estate, that company had originally to pay a very large price to those grantees for the concession of the foreshore.

The Honourable Mr. FORBES—Do I understand the Honourable the Advocate-General to say that the purchase of this Elphinstone property prevented the whole of the foreshore of Bombay from being in the hands of a private company?

The Honourable the ADVOCATE-GENERAL—I say that Government, in purchasing the Elphinstone property, secured the most valuable part of the foreshore—a property upon which nearly the whole business of the native town was carried on.

The Honourable Mr. BYTHELL said that, as he approved of the principle of the Bill now that the letter had been received from the Government of India promising an advance of a million sterling under certain conditions, which he considered very fair, he had not intended to trouble the Council with any remarks but to give a silent vote. However, since the Honourable Mr. Narayan had referred to the statement made by him at the last meeting, he thought he must in self-justification say a word or two. He was sorry that this question had been introduced now, as he thought it would have been better to let it drop. It would be remembered that the honourable member who introduced the Bill, on moving the first reading, had said that the purchase of the Elphinstone property was a boon to the public and that he (Mr. Bythell) had differed with the honourable gentleman, and had stated his reasons for so doing. The Honourable Mr. Narayan had said it was well known in Bombay that the negotiations were in progress, that the purchase of the property had been generally approved by the public at the time, and was considered a boon, a boon especially which would be appreciated by posterity. He could only say for himself that he was in Bombay at the time of the purchase, and that the first announcement he had of the intention of Government to buy the property was the publication of a letter in the daily papers committing the Government to the purchase of the property at a certain price, and he could say that many other mercantile men were in the same position as he had been. Some heard rumours of the intention, but disbelieved them; and he could say, as far as the mercantile community was concerned, that with the exception of the Directors of the Elphinstone Company, he knew of not a single gentleman who had not spoken strongly against the purchase, or who did not consider it rather a mistake than a boon. The Advocate-General had just said that the Company was in possession of the most important and most valuable portion of foreshore as regarded the trading interests; but he differed with that. No doubt at the present time the country trade was mainly conducted on the Elphinstone Bunders; but the great trade which gave importance to the town, the Cotton Export Trade and the Import of Manchester Goods, was carried over either the Fort Bunder or the Colaba Bunders with very few exceptions. Till within a few years, the whole export of cotton had been from Colaba, and therefore the Elphinstone property, though an important foreshore, was not the most important, nor had it the largest trade. And as regards the danger of allowing the Company its monopoly, what monopoly had it?

The Honourable Mr. NARAYAN—The whole of the native trade.

The Honourable Mr. BYTHELL—If it suited any merchant to land his goods on that property he did so and paid his fees; if it suited him to land his goods at a Government Bunder he did so and paid nothing. As it was now, at whatever part they landed their goods they had to pay fees in order to pay interest on the cost of the purchase of this property. As to what the Advocate-General had said regarding Lord Mayo's opinion of the property, he dared say the honourable gentleman would have seen since that Lord Mayo had expressed himself in very different terms after he heard all the circumstances. He would also remind them that before it was known that Government wished to buy the property, the shares of the Company were at a heavy discount, almost unsaleable. The dividend paid by the Company was not more than 3 per cent., and the revenue from the property since Government entered into possession was only 2 per cent., and yet Government gave what was equivalent to a 4⅓ per cent. dividend as the purchase price. With respect to what the Honourable Colonel Kennedy had said about the Government of India having power to take possession again of any of the land on the same terms on which the Trust acquired it, he thought it was rather unfair to the Trust that such a power should exist. When the negotiation after the purchase of the property was going on, the Government of Bombay addressed the Government of India, representing that it was unfair that the trade of the place should provide a Railway Station for the G. I. P. Railway, and that on that ground £400,000 of the debt should be remitted. The Government of India

refused to admit this, but they afterwards gave over property which was worth £400,000 in return. But if the Government retained the right to take possession of that property again at any time on the same terms as those on which the Trust acquired it, they might at any time lose some of the most valuable portions of the property. For instance, it was rumoured at present that the General Commanding this District was anxious to get a slice of the ground between Apollo Bunder and Grant Buildings for military purposes; now, if the Government took that ground on the same terms as the Port Trust paid for it, the Trust would actually get nothing at all for it. He thought the only fair way when Government wished to take possession of any property would be for it to write off from the capital debt a sum equal to the amount the property cost.

His Excellency the PRESIDENT—I don't know how the financial position is to be improved. Is it to be bettered, by better management?

The Honourable Colonel KENNEDY—That is it.

The Honourable Mr. BYTHELL—It has been an accepted principle that the burdens on trade ought not to be increased unless increased accommodation be provided, and the Government of India therefore remitted debt after debt until they reduced the total to an amount on which interest can be paid by the present income. Now if Government should resume any part of the property and give nothing for it there must be a deficit, and it will be for the Government or the Port Trust to increase the taxation in some way to make up for it.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—SIR,—Honourable Members have expressed their opinions on the question as to whether the purchase of the Elphinstone property by Government was on advantageous or disadvantageous terms. But I do not perceive what the consideration of that question has to do with this Bill. It is quite a foreign question. In my humble opinion the purchase was a very unfortunate transaction to the public on account of the very exorbitant price paid by Government for it. As I have no objection to the principle of the Bill, I vote for the second reading of it, reserving my objection to particular sections to be brought to the notice of the Council when those sections are considered in detail.

The Honourable Mr. FORBES—I did not catch the remarks which the Honourable Colonel Kennedy made with regard to the communication received from the Government of India; but I should like to hear the honourable member's opinion on this point, whether the whole tendency of this Port Trust Bill will be to increase the burdens of the Trade of Bombay or to decrease them.

The Honourable Colonel KENNEDY—I suppose that the honourable gentleman is alluding to the Bill simply as it stands at present and is not referring to the proposal to construct docks or basins, which forms no part of this Bill.

The Honourable Mr. FORBES—I wish information upon the subject on the broadest basis the honourable gentleman can give me.

The Honourable Colonel KENNEDY—I think that so far as the Bill stands at present, it will make no alteration whatever upon the existing state of trade. The Bill is merely to provide for the management of the existing sources of revenue, and if the proposed Trust desire to go in for large and heavy works they will, of course, have to count the cost, and make the necessary additional burdens to the trade of the port. It would only complicate matters if we imported this consideration into the present discussion. When these heavy works are determined on a separate Bill will be introduced, and then it will be considered whether the trade can stand further burdens.

His Excellency the PRESIDENT—I do not think that the Government should sanction any more burdens upon the trade of the port of Bombay in respect of anything to be done upon the Elphinstone property, until that property comes into use and the public get the benefit of what they have to pay for. However, so far as I understand the scope of this Bill, I do not think that there is any thing in it to hinder the Trustees from imposing such fees as they may deem to be necessary for the purposes of the Trust as it stands. We may fix a maximum, but Government is not pledged to prevent the imposition of fees. This, however, we may fairly pledge ourselves to look to—namely, that the trade of Bombay shall not be subjected to charges for interest on money to be spent upon the Elphinstone property until the public are getting the full value and use of the improvements to be effected.

The Honourable Colonel KENNEDY—The Trustees will have the power of collecting fees with the sanction of Government, and if they should see fit to decrease the burdens of the

port by reducing fees, there is nothing in the Act to prevent them from doing so. As a matter of fact, they may find it necessary to alter their imposts as trade fluctuates.

The Honourable Mr. FORBES.—Section 57, referring to the levy of fees, &c., might, I think, work most injuriously, because, supposing a merchant to send goods from England, he would not know what charges might be levied upon them when they had arrived in Bombay.

The Honourable Colonel KENNEDY—These will be matters for the consideration of the Trustees who, the honourable gentleman may suppose, will know best about the necessities of the trade.

After some further conversation,

The Honourable Colonel KENNEDY said—In the few remarks in reply which I have to make, I would say that I regret that any discussion should have arisen about the purchase of the Elphinstone property. I think that at this period such a discussion is a mere waste of time, and I shall not say anything to continue it. The Honourable Mr. Forbes however alluded to some estimate of the value of lands of the Elphinstone property. He says that an estimate was taken in 1869, when certain portions of ground were valued at Rs. 60 per square yard, but that these are now only worth one-tenth or one-seventh of that sum—that is to say, from Rs. 6 to Rs. 9. I do not know where the Honourable Mr. Forbes gets that information from, but it is totally erroneous. We have put up for sale several pieces of the property, and obtained offers up to Rs. 24 per square yard.

The Honourable Mr. FORBES—Was this the other day?

The Honourable Colonel KENNEDY—It was last year. The value of the property all over, including the Boree Bunder, is on an average Rs. 25 per square yard, so that we had thus offered to us a sum equal to the capital vaule of the portion then proposed to be sold. With regard to what the Honourable Mr. Bythell said about the value of the Elphinstone property as a place for conducting business, I would recall to his recollection a fact which he knows well, that of the total trade of the port, which amounts to 100,000 tons per annum, 50,000 tons come to Bombay over the Elphinstone property. Thus actually one-half of the whole trade of Bombay passes over this estate. I shall not repeat what I said in reference to Government resuming portions of the lands for public purposes, but I may make an observation with regard to the application for part of the land near Apollo Bunder for military purposes. There was such an application, but I think that I am justified in saying that Government would never consent to any project which would involve the alienation from the Trust of a large source of revenue.

The Council proceed to read the Bill a second time.

His Excellency the PRESIDENT put the motion to the Council that this Bill be read a second time.

The Bill read a second time and considered in detail.

The motion was carried, and the Council then proceeded to consider the Bill in detail.

The Honourable Colonel KENNEDY mentioned that Section 3 had been framed in accordance with the recommendations of the Bombay Chamber of Commerce. He thought that it was the impression generally prevailing that the Chairman was not to be a Trustee, but if there had been any ambiguity on this point in the section, there could be none now, since it was stated clearly that the Chairman was to be a Trustee.

The Honourable the ADVOCATE-GENERAL—With regard to the third section, I would ask if one-third is not a very small number of Trustees who are to be "connected with the trade of the port." The Chamber of Commerce have not, I observe, taken any objection to this proportion; but the Trust appears to me to be one in which the mercantile community is peculiarly interested, and therefore it seems to me that one-third is a very small number of mercantile members for this proposed Trust.

The Advocate-General thinks the proportion of one-third of Trustees in the Trust too small to represent the mercantile community.

The Honourable Colonel KENNEDY—There are other interests in the Trust to be considered besides mercantile interests. The general trade of the place is to be protected, so has the landed interests of the town and other proprietary interests, and if we make more than one-third of the Trust representative of the mercantile interests, I do not know how the other classes of interests can be properly protected. In the Calcutta Trust there is no limit at all mentioned, so that Government are not bound to have one single mercantile gentleman upon the Trust unless they choose. Here we have fixed a minimum of one-third of persons who shall be connected with the trade, and the framers thought this proportion would be fair, and that it would be dangerous to exceed that proportion as a legal enactment.

The Honourable the ADVOCATE-GENERAL—I do not see that the landed interest has any need of precautionary measures being taken for its protection from the Port Trustees. The landed proprietors will only be indirectly affected by the Port Trust, because the Trust will have ample lands of their own on which to erect warehouses in the immediate proximity of the harbour. I observe that one-third is fixed only as a minimum, but my experience in public matters has shown me that a fixed minimum of this kind is very seldom exceeded. No doubt the payment of the interest to Government is a great obligation, but it is a greater obligation to carry on the trade of the port properly, and if the latter is not done, the other interest will not be paid. This is why I wish more of the Trustees than one-third of their number to be connected with Trade, and I do not think it desirable that the mercantile element should be liable to be outvoted by official persons upon important points on which the mercantile community are best fitted to form an opinion. Such a position would be an awkward one for what is presumed to be a mercantile board to be placed in.

The Honourable Mr. TUCKER—I agree with the Honourable Colonel Kennedy that there are more interests than those of the mercantile community to be looked after in this matter, and as only a minimum is fixed in this section, I would point out that if Government consider it desirable to appoint more mercantile members to the Trust than one-third of the entire number of trustees, they are at perfect liberty to do so.

His Excellency the PRESIDENT— I think there is a question as to what is the "trade" of the port. Some seem to consider that it is only the shipping interest, but the trade of Bombay is a large and varied one, and I think that what is intended by this section is, to limit the number of persons in the service of Government.

The Honourable the ADVOCATE-GENERAL concurred with his Excellency the President as to the broadness of the phrase "persons connected with the trade of Bombay," and remarked that under these words retail tradesmen might find a place among the Trustees.

The Honourable Colonel KENNEDY—There can be no objection to amend the section so as to make it a little more clear, but I do not think that a greater number than one-third would be advisable.

The Honourable Mr. BYTHELL—I think that the mercantile community would agree to leave the kind of men that should be elected to the Trust to represent the trade of the port in the hands of Government.

The Honourable the ADVOCATE-GENERAL—My object is solely to keep the official element from swamping the mercantile element, and I therefore think, considering that the trade of Bombay is so wide and varied, that at least one-half of the Trustees should be mercantile men.

After some conversation, the Honourable the ADVOCATE-GENERAL proposed a series of amendments, making section three eventually as follows:—

"It shall be lawful for the Local Government at any time after the commencement of this Act, by order published in the *Bombay Government Gazette*, to nominate and appoint not less than nine, nor more than twelve persons, of whom not less than one-third nor more than one-half shall be persons holding salaried offices under Government, to be Trustees of the Port of Bombay, and by the same, or any other order published in like manner, to nominate one other person to be Chairman of such Trustees, and such persons and the Chairman shall be the Trustees of the Port of Bombay."

The Honourable Colonel KENNEDY—I think that, if the Council desire to protect the interests of the landed interest, they should not increase the proportion of mercantile representatives in the manner which is now proposed.

The Honourable Mr. BYTHELL—The Honourable Colonel Kennedy might remember that it will be very difficult to find landlords in Bombay who are not connected with trade in some way.

The Honourable Colonel KENNEDY dissented to the amendments, which were accordingly put to the vote, with the following result: —

Ayes—6.	*Noes*—2.
The Honourable H. P. St. G. TUCKER.	The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.	The Honourable Colonel M. K. KENNEDY.
The Honourable MUNGULDASS NUTHOOBHOY.	
The Honourable J. A. FORBES.	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable J. K. BYTHELL.	

Section 3 was then agreed to as amended and stands part of the Bill.

Is the Chairman to be a salaried officer?

His Excellency the President asked, regarding Section 6, whether it was definitely settled that the Chairman and Trustees were to be paid.

The Honourable the ADVOCATE-GENERAL thought that they must be paid, because it could not be expected that mercantile men would accept the onerous duties attaching to either Chairmanship or Trusteeship without payment.

The Honourable Colonel KENNEDY remarked that he hoped there was enough public spirit in the mercantile community to lead them to expect that these duties might be undertaken without salaries.

His Excellency the PRESIDENT said the Chairman would have a good deal to do, and it might be advisable to make it a matter beyond doubt that his office should be a salaried one.

The Honourable the ADVOCATE-GENERAL—I understood the Honourable Colonel Kennedy to say that according to the present calculation the Trustees will have a small balance at the end of the year. Does that calculation include the payment of salaries?

The Honourable Colonel KENNEDY—No; that was not taken into account; but nevertheless I do not think the payment of salaries would turn a balance.

The Honourable Mr. TUCKER remarked that at present the members of Council were not fully cognizant of the duties which were to be imposed on the Chairman and Trustees respectively, and he recommended that the section should stand over for future consideration.

The Honourable Mr. BYTHELL said that so far as he could make out, the Chairman must be the executive officer, and it should be a question for Government whether it would be wise to appoint a special salaried officer. If the Chairman were to have a large salary, the Bunder fees or Port dues would have to be increased.

The Honourable Colonel KENNEDY—The framers have always held the idea that the Chairman should have no other duties to attend to than those of the Trust, and if such an office is to be tacked on to the other duties of the Commissioner of Customs or the Collector of Bombay, I cannot but think that the Trust will be a failure. I would much rather see it decided at once that the Chairman should be a salaried officer.

The Honourable Mr. BYTHELL—In Calcutta, the Chairman of the Trust is not a salaried officer, and yet the Calcutta Trust has been anything but a failure.

The Honourable Colonel KENNEDY—The Calcutta Trust is comparatively a small concern.

The Honourable Mr. BYTHELL—But the Calcutta Trustees have effected a good deal of valuable work. They have taken upon themselves the receiving of the entire cargo from a ship's side and being responsible for its safe custody until they deliver the goods over to the consignee. That is a work of considerable magnitude.

The Honourable Colonel KENNDDY—But in Bombay the Trustees will have to look after the management of the land estate, warehouses, and a number of other matters, and this alone will entail a considerable deal of work.

After some discussion, further consideration of the section was postponed.

The Honourable the ADVOCATE-GENERAL—In looking at Section 8, it occurs to me that there is a question as to how much of the Elphinstone Land Estate should be put under the Port Trust. If the bargain made with Government is embodied in the terms of this section, and is a final bargain, then there is no practical use in discussing the matter in Council; but I feel it my duty to say that I think it would be far more advantageous for the Port Trust if a severance of the estate could be effected—the dock estate being made over to the charge of the Trustees, and the land estate to the Municipality.

The Advocate-General thinks that the land estate should be divided—part of it to be given to the care of the Municipality, and part to the Port Trust—the object being to relieve the Trust of the expenditure of upholding the whole of the property.

The Honourable Colonel KENNEDY—If it was futile to discuss the purchase of the Elphinstone property, I think it is equally futile to discuss the question now raised at this stage. I believe it would be impossible to sever the estate now, and moreover the Trustees must eventually look to the land estate to enable them to pay off their capital debt. They cannot sell their docks or wharves, but there is nothing to prevent them from selling their land.

The Honourable the ADVOCATE-GENERAL—If I were one of the Trustees, I would prefer to surrender the chance of future profits in order to avoid the present burden attaching to the possession of the landed estate.

The Honourable Colonel KENNEDY—I am fully convinced that the property will prove most valuable to the Trustees.

The Honourable the ADVOCATE-GENERAL—That was the view which was taken of the land estate by the Elphinstone Company, but at the same time the present value and the prospective value of the estate are different things. If we are in a position to start this Trust with as few burdens as possible, I think it would be desirable to make over to it the dock estates only. If it is impossible to effect such an alteration now, there is no use talking; but if there is any possibility of our being able to relieve this Trust from the burden of paying interest on the cost of this large landed estate, I should like to see the matter referred back to the Government of India.

The Honourable Mr. TUCKER—I consider that there is now a distinct obligation on Government to keep all the estate under the Trust, and I think it would be impossible to make a severance. The whole of this Bill proceeds on the supposition that these joint estates, when united and transferred to the Government of Bombay, should be again made over to the care of a public body. If this understanding with the Government of India is departed from, then the whole character of our arrangements will have to be reconsidered, and I do not think this Council is competent at the present stage of our deliberations to discuss the whole basis of the agreement.

His Excellency the PRESIDENT expressed an opinion that the question raised by the Honourable the Advocate-General did not properly arise out of the Bill as it then stood before the Council.

The Honourable Mr. BYTHELL—I quite agree with the Honourable the Advocate-General that it would be fairer and more advantageous to the Trust if the land estate could be taken off its hands, because in the meantime the Trustees will have to pay interest at 4 per cent. per annum upon property which brings them only a small income—an income, at all events, which is much less than the interest upon its cost; but seeing that the Government of India stipulated that the whole property, landed estate as well as dock estate, should be taken over by the Trust, and that interest should be paid upon the whole, I do not see that we can re-open the whole case again at this time. The correspondence that has already been published on the matter is voluminous, and if this subject is re-opened another long correspondence will be started, the result of which will be to delay the establishment of the Port Trust indefinitely.

The Honourable Mr. FORBES—If there were the slightest possibility of the Honourable the Advocate-General's suggestion being acceded to, I should at once support it, because the severance would be of the greatest importance to the Trust.

His Excellency the PRESIDENT—The Government of India have made concession after concession to us, and now after having arrived at what promised to be a settlement of the whole affair, if the honourable gentleman propose such a division of the estate as has been suggested, the result will be endless delays, and I think that, considering the spirit with which the Government of India have made the various concessions, they would not be very willing now to agree to any serious alterations of the plans determined upon.

The Honourable the ADVOCATE-GENERAL—I am quite satisfied with the discussion that has taken place, but with reference to the remark of the Honourable Mr. Tucker I think that the question was a perfectly legitimate one for this Council to discuss.

The Honourable Colonel KENNEDY—We are met here to settle the management of the estate. The estate was given under certain conditions, we must take measures for its management as a whole or let it alone, and therefore I do not think the subject started by the Advocate-General is a proper one for discussion now.

The subject dropped.

His Excellency the PRESIDENT—In the fifth line, it is said that the lands and property shall "absolutely vest" in the Trustees. I do not think it is desirable that the word "absolutely" should be allowed to remain, because it might trammel the future action of Government, who are simply holding the property through these Trustees for the benefit of the public. If the property is to vest absolutely in the Trustees, it might be argued that it could not be Government property, and therefore all Municipal taxes must be paid upon it.

The Honourable Colonel KENNEDY—Absolute powers must be vested in the Trustees so that they may have powers of sale.

The Honourable the ADVOCATE-GENERAL—The Trustees can only hold the property as Trustees and not otherwise, and if they presume to act in any other way than is provided in the Act, then they will be guilty of a breach of trust. The property should, I think, vest in the Trustees, because if it does not there will be considerable practical difficulty experienced in all cases of leases and sales of small pieces of land, in which the Secretary of State would have to intervene. I do not think it would be advisable to call into requisition the ponderous machinery of Government for the letting of pieces of land from year to year, or the storage of timber or coal, and I do not think that there is any thing objectionable in the phraseology of this part of the section. In vesting this property in the Trustees it does not cease to be the property of the public, and it can be resumed by Government at any time under the provisions of the Act.

His Excellency the PRESIDENT—I wish Government to be allowed to hold the titles.

The Honourable Mr. TUCKER—I understand His Excellency to desire that by some limitation of the transfer of the proprietary interest in these lands from the Government to the Trustees, consequences such as the liability of Municipal taxation may be avoided.

The Honourable the ADVOCATE-GENERAL—So far as any right that Government will have to claim exemption from taxation under this Act is concerned, I think that right will depend entirely upon what are ultimately the terms of this enactment. The question of liability to Municipal taxation is raised in another section.

After some conversation the word "absolutely" was struck out from the fifth line.

It was agreed to use one form of phraseology in the Bill with respect to the Secretary of State—viz., "Secretary of State for India in Council."

In line 12 "said" was struck out and "for India in Council" added after "State," in line 3. The section was then agreed to as amended and stands part of the Bill.

Should the Port Trust property be exempt from the burdens of Municipal taxation?

His Excellency the PRESIDENT (alluding to the latter part of Section 9) asked whether it was necessary to use special words exempting the taxation of the property after the enactment on the Municipal Bill.

The Honourable Colonel KENNEDY—I do not think it would be advisable to leave out the exempting clause. His Excellency will remember that during the discussions on the Municipal Bill the same argument was used, and the Council nevertheless decided that the section exempting Government property should stand.

The Honourable Mr. NARAYAN—Sir,—I beg to propose that lines six to eleven from the word "and" to the word "Bombay" be expunged. The Honourable Colonel Kennedy has expatiated at great length on this question in presenting the report of the Select Committee, but I must confess that I still fail to understand why this property of Government now to be vested in the Trustees should not contribute its quota towards the conservancy and the police and lighting expenses of this city, as in Calcutta. This Municipality, it must be remembered, contributed 3 lacs of rupees towards the construction of the overbridges which now adorn the entrances to the respective Bunders which are being vested in the Trustees. This large expenditure was forced upon it in consequence of Government having permitted the G. I. P. Railway Company to make level crossings over the roads leading to these Bunders. One of these Bunders is now set apart for the landing of Troops, and from it the Trustees will derive an annual revenue of Rupees 23,000. This again has necessitated the removal of the night-soil depôt now in its vicinity, and the threatened action at law by Government will compel the Municipality to spend a large sum to take away the nuisance. Our Municipal Commissioner, Mr. Pedder, informed us the other day that the immediate outlay for the removal of this nuisance was estimated at over four lacs. To my mind the argument in respect of the repair of the roads on these Bunders loses its force when the state of the roads in several parts of the outlying districts of Bombay is considered. The Council is probably aware that, with the exception of the two main thoroughfares, none of the so-called roads in the whole of the populous Mahim District are put in repair by the Municipality. The old lanes which have been in existence for years, some perhaps for centuries, are entirely neglected, and the people living in that locality may often be seen during the monsoon wading knee-deep through mud or slush. Now, I ask, can the owners of property and others successfully resist the payment of taxes to the Municipality on that account, on such a plea as that urged for exemption by the Honourable Colonel Kennedy on behalf of the property to be vested in the Trustees? Again, the suburbs of Worlee, Mahim, Chinchpoogly, Wadalla, Matoonga, and Sion have not the benefit of a single lamp, and yet we make the residents of those places pay the lighting

rate, even on their paddy lands. The equity of the principle involved in this matter was argued at considerable length on a former occasion, and the majority of the Council were of opinion that there was no injustice in requiring the people to contribute, because they were benefitted indirectly. If so, there is equally no injustice in recovering taxes from the property referred to, the principle in both cases being identical. It has also been urged that the transferrees, the Trustees, should not be placed in a worse position than that at present occupied by the transferrors. I submit, Sir, that the whole of the Elphinstone estate, which forms the bulk of the property to be vested in the Trust, has up to the date of its transfer to Government paid all Municipal rates, and that those which have since accrued are under adjustment by Government. I scarcely need say that I am not taking any partisan view of this matter, because any action of Government that may tend to reduce the income of the Municipality will only retard local improvements in this terminal port for all India, the sanitation of which is not only a matter of local but imperial importance.

His Excellency the PRESIDENT—What does the honourable gentleman expect to gain by his alteration?

The Honourable Mr. NARAYAN—Rs. 70,000 for the Municipality.

His Excellency the PRESIDENT—How much do the Municipality get from the existing Harbour Board?

The Honourable Colonel KENNEDY replied that the Municipality got nothing from the existing Harbour Board.

Upon this the Honourable Mr. NARAYAN observed that there was a resolution of Government directing payment of the police and lighting rates for these lands.

The Honourable Colonel KENNEDY—There is a resolution, but not a very distinct one. Up to the present time the Municipality have received nothing in settlement of their claims for Municipal taxation. True, they have received some money upon account—that is, a certain amount of liability has been admitted—but no settlement has been made. The whole matter is under consideration.

His Excellency the PRESIDENT—How long has this adjustment been under consideration?

The Honourable Colonel KENNEDY—For a very long time. The subject is one of great difficulty.

The Honourable Mr. NARAYAN—The principle involved in the matter is not different from what it is in Calcutta, where Municipal taxes have to be paid for such properties.

The Honourable Colonel KENNEDY—The settlement now under consideration or adjustment is under the law of Act II. of 1865, but under the new law a totally different state of affairs will be constituted.

The Honourable the ADVOCATE-GENERAL—But the new Bill is not a law yet.

The Honourable Mr. BYTHELL asked the Honourable Colonel Kennedy whether, in estimating the income and expenditure, any provision has been made for the payment of Municipal taxation?

The Honourable Colonel KENNEDY—Yes; but only to the extent of the sum paid by the old Elphinstone Company.

The Honourable ADVOCATE-GENERAL—Then that admits the principle.

The Honourable Colonel KENNEDY—Of course that is under the old Act, by which lands are liable to Municipal taxation, but buildings are exempted, and the adjustment which is being made now is solely in reference to the liabilities under that Act.

The Honourable Mr. MUNGULDASS—I fully concur with the honourable gentleman in what he has urged in support of his motion and I would not go over the same ground again, but would only add that the chief circumstance under which the exemption of Government properties from the Municipal taxes was urged and carried in the new Municipal Bill, was the Acting Advocate-General's opinion that this Council had no power to tax Crown properties. The opinion of the Honourable Advocate-General is however just the reverse. I would further add that as the Port Trust property would receive protection from the Municipal Police and Fire Brigade, it ought not to be exempted from Municipal taxes. The Municipality has already been deprived of a large revenue in consequence of Government having purchased half of Colaba. If the Elphinstone property, which hitherto paid Rs. 30,000 a year to the Municipality, should now on

its being made over to the Port Trust be exempted from Municipal taxation, the loss to the Municipal revenue would be very great indeed; and the proceeding would be unjust and unfair. I therefore vote in support of the motion.

The Honourable Mr. ROGERS—The principle upon which the Honourable Mr. Narayan seemed to base his motion that the Municipality should have power to tax this property, is simply this—that because people on the outskirts of the town have to pay Municipal dues and yet get no benefit whatever in return, therefore the Port Trust should be put in an equally bad position. I do not admit the force of that argument, and I think that the people on the outskirts ought to fight for their rights. It seems to be forgotten that it would be entirely a one-sided bargain if the Municipality were allowed to tax this property, because we can have no guarantee whatever that the Municipality will light or watch over this property. We cannot force them to do so. I think that it is a matter for compromise between the Trustees and the Municipality, and I do not suppose that the Governor-General will object to a compromise being come to.

The Honourable the ADVOCATE-GENERAL—The great difficulty in this matter seems to arise from the impecuniosity of the Municipal Corporation party on the one side and the Port Trust on the other. For my own part, all I have got to say is that I adhere most fully to the opinion which I expressed in the report that I sent in to Government in regard to the Municipal Act, in conjunction with General Marriott, Mr. Hope, and Mr. Dosabhoy Framjee. I can see no reason why Government buildings should be exempted from taxation, and that being so, I can see no reason whatever why the Port Trust property should not also have to pay Municipal taxes. I have no doubt whatever that this Council had power to impose Municipal taxation upon Government property, and that being so, I think this Council has power to impose taxation upon the property which is to be vested in this Trust. Of course my opinion must only be taken for what it is worth, because I believe that the gentleman who acted as Advocate-General while I was in England held quite a contrary opinion. Whether or not this liabilityis or is not a case for a compromise is of course a very different affair, and if the Port Trust and the Municipality agree to a compromise, I think such a course will be far better than for this Council arbitrarily to relieve the Port Trust property from Municipal taxation for a number of years. But if there is a compromise, I think it ought to be put into the Act as was done in the case of Act XXV. of 1858, when it was agreed that Government should pay a lump sum yearly in lieu of Municipal taxes.

The Honourable Mr. MUNGULDASS—It was Rs. 13,000 a year.

The Honourable the ADVOCATE-GENERAL—At all events that bargain was recorded in the Act, and I shall be very glad indeed if the terms of a compromise could be agreed on and introduced into this Act. I do not think that the Municipality should be placed in the false position which they would hold if this section were passed as it is, because if they asked for a compromise from the Trustees, the Trustees might turn round and point to this section, saying, "Here is the Act, and by the 9th Section of it you will observe that we are specially exempted from paying Municipal taxes."

The Honourable Mr. TUCKER—I am of opinion that the part of the section which has been objected to ought not to form part of the present Bill. In the Municipal Bill, though we agreed to exempt Government lands and buildings from the occupiers' rates due the Municipality, there was a general "consensus" of opinion that Government buildings should equitably pay police and lighting rates, and it was announced by His Excellency the President that Government would pay a subvention to the Municipality equivalent to what would be leviable for these rates. If therefore the estates which we are about to hand over to the Port Trust remained in the possession of Government, we should have to pay the equivalent of these rates, and on the transfer of the estate to the Trustees I see no sufficient reason for the continuance of any exemption.

His Excellency the PRESIDENT—It must be admitted that it would be very unreasonable if, in consequence of this section being passed as it is, the Port Trust were placed in a position to refuse to come to any compromise with the Municipality.

The Honourable Mr. NARAYAN—I think it is altogether a matter of principle.

The Honourable Mr. BYTHELL—I intend to vote against the Honourable Mr. Narayan's motion, although in the Legislative Council deliberations on the Municipal Bill I voted against a provision similar to the one he desires to see expunged from this Bill; and my reason for adopting my present position is this. I think that all Government property ought to be taxed, and, as I said during the debate on the Municipal Bill, the English Government have promised to introduce a Bill to make all Government property through-

out Great Britain subject to Municipal taxation; but as a majority were of an opposite opinion in this Legislative Council, and a section was put in the Municipal Bill specially exempting all Government property from taxation, I think that, in order to prevent this property being put in unfair position compared with other property, we ought to agree to this section. I certainly should object to the Trust property being compelled to pay Municipal rates while all other Government property is allowed to be exempted. With regard to what the honourable mover has said, that if we throw too great burdens upon the Municipality it will be impossible to carry out local improvements, or at all events that their completion will be retarded for many years, I would point out that on the other hand if the Municipality are so blind as to be the cause of imposing heavy taxes upon shipping, they will drive the trade away from the port, and (as the Honourable Colonel Kennedy has asked) where will the revenue of Bombay come from then?

His Excellency the PRESIDENT—I think we might allow this section to go as it is, because what the Honourable Mr. Narayen has said is to all intents and purposes covered by the clauses of the new Municipal Bill.

The Honourable Colonel KENNEDY thought there could be no harm done in making assurance doubly sure by adopting the section.

After some further discussion, a vote was taken upon the amendment proposed by the Honourable Mr. Narayan, with the following results:—

Ayes—5.	*Noes*—3.
The Honourable H. P. ST. G. TUCKER.	The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.	The Honourable Colonel M. K. KENNEDY.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable J. K. BYTHELL.
The Honourable J. A. FORBES.	
The Honourable NARAYAN VASUDEVJEE.	

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

In line 9 of Section 11 "shall" was substituted for "may."

In Section 12 the words "as soon as practicable" were inserted between "President" and "after," in line 7.

The words after "same" in line 8 of Section 14 were struck out down to and including "Secretary" in line 10. The section was then agreed to and stands part of the Bill.

In line 5 of Section 16, the words "three members of the" were struck out, and "Trustees" was substituted for "Trust." The section was then agreed to and stands part of the Bill.

Section 17 raised some little discussion with reference to the powers which the Chairman should be invested with. Consideration of it was postponed.

On Section 18 the Honourable the ADVOCATE-GENERAL moved that the latter part of Section 18 beginning at line 8 should be struck out, and the following words substituted: "And no acts or proceedings of the Trustees, or of any person acting as a Trustee, shall be deemed to be invalid in consequence of its being afterwards discovered that there was some defect in the appointment of any Trustee or Trustees or person acting as a Trustee as aforesaid."

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

The Honourable the ADVOCATE-GENERAL considered that Section 19 required to be considerably amended. It provided that a Trustee should be disqualified if he were absent from six consecutive meetings of the Trustees without permission from the majority of the Trustees, or who accepted any office or place of profit under the Act, and so forth; but it contained no provision whatever that a man incapacitated by illness or by imbecility, or by insolvency should cease to be a Trustee. In all the acts relating to public bodies, provision was made for cases of this kind.

The Honourable Colonel KENNEDY—But these rules are adopted, because there is no power outside the Bank or public body to remove unfit persons. In the succeeding section here, however, the honourable gentleman will find that it shall always be lawful for the Local Government to direct that the Chairman or the Trustee should cease to be a Chairman or Trustee.

The Honourable the ADVOCATE-GENERAL still believed that the section required amendment, and proposed that in line 10, " any time after " should be omitted and " the time or during the term of " substituted ; that " holds or " should be placed before " shall " in line 11 ; that " save with the sanction in writing of the Local Government " should be omitted from lines 14 and 15 ; and that in line 20 " or who is or becomes a bankrupt or insolvent " should be inserted before "shall."

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

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

J. NUGENT,
Acting Under-Secretary to Government.

Bombay, 10*th January* 1873.

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 Bombay on Wednesday, the 15th January 1873, 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 ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The real imports and exports of Bombay.

Before proceeding with the consideration of the Bombay Port Trust Bill, the Honourable Colonel Kennedy explained that he had been mistaken in stating on Friday, the 10th, that the total traffic of the port for the year amounted to 100,000 tons. The total of imports and exports really was 1,631,236 tons, of which 945,492 passed over the Elphinstone property.

The Bombay Port Trust Bill considered in detail.

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

The relative position of the Port Trustees to the Customs authorities.

His Excellency the PRESIDENT—On referring to one of the sections which we passed the other day—I mean the 8th section—I find that among the lands and properties which it is proposed to vest in the Trustees for the purposes of this Act, are the several bunders, lands, and buildings specified in Schedule C. On referring to that schedule I find that it includes the Customs Bonded Warehouse. There are other sections also in this Bill which appear to vest in the Trustees of the port for the time being the actual control and management of the Custom House and Bonded Warehouse. Now, I want to know whether the Select Committee on this Bill had their attention called to the fact that at present the Customs Bonded Warehouses are strictly and entirely the property of the Customs authorities, and that there are no less than forty-six sections in the Consolidated Customs Act defining their responsibility for the warehousing of goods and giving them entire control over the Bonded Warehouses. To me, it seems that this local Legislature does not possess the power of repealing or modifying sections or liabilities created by an Act of the Imperial Legislature. I am aware that the Bill before us has obtained the consent of the Governor-General for its introduction, but I am not aware that his attention has been drawn any more than mine as to the change that would be effected if this Bill were passed as it is. It seems even doubtful whether the Governor-General can give power to a local Legislature to repeal or alter an Act of the Imperial Legislature, and whether such repeal or alterations should not proceed from himself. These, however, are legal questions; and putting them aside for a moment and coming to the question of expediency, I would say that I for one will feel exceedingly unwilling, unless the strongest reasons are given to me, to transfer the power now exercised by the Customs to the Port Trustees, who, as the honourable members are aware, are to consist largely of gentlemen connected with the trade of Bombay—and which powers involve the control of a large portion of our revenues. We know that questions are constantly arising as to the control and management—I mean re-packing, re-shipping and the like of goods in the Bonded Warehouse,—and these are matters which involve questions of revenue which are now entirely in the hands of the Customs officers. I certainly think it would be undesirable

to make over any part of the power of collecting Customs revenues or the control of the Custom House to this body of Trustees. As I understand the Bill, the officers of Customs would have no real control over their own public warehouse or over new warehouses if these were established—everything would be in the hands of the Port Trustees.

The Honourable Colonel KENNEDY said that there was some provision made for control by the Customs authorities.

His Excellency the PRESIDENT—But how can they possess that if these Trustees are to be vested with the Customs Bonded Warehouses, and are to appoint officers? We know that a large proportion of the trade of Bombay passes through the Customs Bonded Warehouse, but the great object of the Trustees will be simply to secure for the Trust the revenues arising from these warehouses, and there is no reason why these revenues should not be collected by the Customs authorities and handed over to the Trust. The control of the trade will by this means still remain in the hands of the Customs authorities.

The Honourable Colonel KENNEDY—But I submit that under the Customs Act licences may be granted at any time to any person to establish a bonded warehouse, and so far as the control of the Customs' revenue is concerned, of course that will still be under the control of the chief officer of Customs.

His Excellency the PRESIDENT—But I maintain it would be quite impossible for the chief officer of Customs to exercise control over a body such as this Port Trust will be, and I think that the collection of the revenues accruing to the Port Trust for the purposes of this Act could just as easily be carried on by the Customs officers as by the Port Trustees.

The Honourable Colonel KENNEDY—The system of private warehouses is common in almost every British seaport, and in Liverpool it is carried on to a great extent. The rule is that two locks are put upon each bonded warehouse—one in charge of the owner, and the other in charge of an official of the Custom House, called a locker I think.

His Excellency the PRESIDENT—But the honourable gentleman is giving me no reason for imposing upon the Trustees duties which strictly belong to Customs authorities.

The Honourable Colonel KENNEDY—This provision, with others in the Bill, has already received sanction from the Government of India.

His Excellency the PRESIDENT—It is possible, however, that this particular point was not brought to the notice of the Governor-General.

The Honourable the ADVOCATE-GENERAL—As to the legal question, I find that the authority of this Council is very clearly defined in the 42nd and 43rd sections of the Indian Councils' Act, 24th and 25th Vic., cap. 67, and the conclusion I come to is that it would not be competent for this Council to take into consideration any question affecting the Consolidated Customs Act without the sanction of the Governor-General being previously obtained; but as this sanction has been obtained, we are not prevented from discussing matters which may affect the provisions of that Act.

His Excellency the PRESIDENT—As regards the other branch of my objections I have not heard any argument in support of the necessity—I use the word "necessity" particularly—for transferring the control of that great portion of the trade of Bombay which passes through the Custom House from the Customs authorities to the Port Trustees.

The Honourable Colonel KENNEDY—The Bill does not transfer control from the Customs authorities; it merely vests the Customs' warehouses in the Trustees.

His Excellency the PRESIDENT—And provides for the appointment of officers.

The Honourable Colonel KENNEDY—But only officers for Trust purposes.

The Honourable Mr. TUCKER—I should like to ask the honourable mover whether this proposal to transfer what is now a public bonded warehouse, which is under the charge of the Customs Department, to the new Corporation that is to be created by this Bill, has been duly considered in the Executive Council, and whether the officials in the Customs Department have been in any way consulted on the subject. For myself I may say I was not aware that any agreement of the kind had been proposed until my attention was drawn to the clause this forenoon.

The Honourable Colonel KENNEDY was understood to say that he could not answer this question positively.

The Honourable Mr. TUCKER having asked the Honourable Colonel Kennedy whether the head of the Customs Department had been consulted, he said that he could not tell.

The Honourable Mr. TUCKER—Was the matter considered by the select committee? Of course the Trust may create private warehouses hereafter, but has it, after due deliberation, been settled that the present public warehouse is to be handed over to this Trust?

The Honourable Colonel KENNEDY—The select committee have gone through the Bill, leaving it as we have found it, and we know that the Government of India as well as this Government have been cognizant of the proposed arrangement.

His Excellency the PRESIDENT—As I understand the matter, this Bill has been assented to by the Government of India with the view of settling the financial difficulties in connection with the port of Bombay, and with that view they are willing to concede all that lies in their power to place the proposed Trust in a solvent condition. I have no doubt that when it was suggested to them that the Bonded Warehouse should be transferred to the Port Trust, they simply said, "Very well, do so," but that they deliberately intended to give the Trustees control over the Customs authorities I very much doubt. As it is, my own opinion upon the matter is so strong, that I would prefer to see the subject placed particularly before the Government of India, and I certainly would suggest to them that the control should still remain in the hands of Government.

The Honourable Colonel KENNEDY—A serious part of the matter is this, that the capital value of the Bonded Warehouses has been calculated in the property to be made over to the Trust by Government.

His Excellency the PRESIDENT—Well, estimate the value of the rents and the annual income at so much capital. It is merely a matter of calculation.

The Honourable Colonel KENNEDY—The Bill much as it stands has been before the Government of India for a long time; so that they must have been aware of the arrangement, and, I must say, that the objections which have been raised to-day have taken me by surprise. I cannot conceive how there can be any bonded warehouse, private or public, not under the control of the Customs authorities.

His Excellency the PRESIDENT—I still have heard no reason for the transfer, and I am still doubtful of the necessity for the change. I maintain that the great bonded warehouse of the place, the Government warehouse, which brings revenue to the Customs, should be under the control of officers immediately answerable to Government, and up to this moment, with all respect for the honourable mover, I have not heard a syllable about the need for the transfer of control.

The Honourable Coonel KENNEDY—The difficulty is as regards the capital to be debited.

His Excellency the PRESIDENT—That is to say, the honourable gentleman wishes the Trust to be in the possession of property estimated at a certain value?

The Honourable Colonel KENNEDY—Precisely.

The Honourable Mr. TUCKER—I have not had time yet to look carefully through the Consolidated Customs Act, but I am inclined to think that the control of the chief officer of Customs over this warehouse, as a private warehouse, would remain just the same. I cannot see any distinction as to control between a Government bonded warehouse or a private warehouse, and I do not think that any alteration of the status of a warehouse would affect its liability to be controlled by the chief officer of Customs.

His Excellency the PRESIDENT—That is very true, but the honourable gentleman must have seen enough of the business of life to be aware that it is a very different thing for a Collector of Customs to carry on a contention against an individual owner of a warehouse as compared with carrying it on against a set of gentlemen such as these Trustees will be—gentlemen representing, for the most part, the trade of the port. These Trustees might make alterations which the Customs' officers, acting for the interests of Government, might object to; but if they persisted, these officers would have to contend against the whole weight of this new Board.

The Honourable the ADVOCATE-GENERAL—In the 29th section of this Bill I notice that among the works to be carried out and constructed by the Trustees "are tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and stroing goods and merchandise landed or to be shipped or otherwise." This, I presume, would include not only the present bonded warehouses, but also others which may be constructed. We are told this Act is not intended to repeal the Consolidated Customs Act, but if the Trustees are to have an establishment of their own to carry out the purposes of this Act, that would bring them into conflict with the Chief Customs authority under the Customs Act

of 1863, because by that Act it is provided that any building which is used as a public warehouse must be under the lock and key of some person appointed by the chief officer of Customs of the port or place in which such public warehouse may be situated. Therefore if the Port Trustees are to appoint one set of officers to manage their warehouses, the Customs authorities must appoint another set of officers, and there will be a conflict of authority.

The Honourable Colonel KENNEDY—There can scarcely be any conflict, because on private bonded warehouses there are always two locks, of which the keys are kept, one by the owner of the warehouse and the other by the Custom House Officer.

The Honourable the ADVOCATE-GENERAL—There would be this further difficulty under the Customs Act, that the Chief Customs authority is to determine in what divisions of these warehouses goods shall be stowed, what sort of goods shall be received, and in what manner they shall be arranged.

The Honourable Colonel KENNEDY—Under this Act the Chief Customs Officer would still exercise these powers.

The Honourable the ADVOCATE-GENERAL.—But would it not be better to express this?

The Honourable Colonel KENNEDY—If the honourable gentleman will look at the 95th section, he will see that it is provided that the provisions of this Act shall not interfere with the rights of the Government to collect Customs' duties at all or any of the Bunders mentioned in Schedule C, and I think that this arrangement would cover the case of bonded warehouses.

The Honourable Mr. TUCKER—I do not think so. With regard to what His Excellency has said, I fully assent to his views of the importance of the question he has raised, and the necessity that it should not be settled without very careful consideration. It appears to me, however, that we might now go on with the Bill, and by to-morrow we may find out exactly how matters stand, and be able to make subsequently such alterations in the schedule as we may deem necessary.

His Excellency the PRESIDENT—I have a word or two to say regarding what fell from the Honourable Colonel Kennedy, to the effect that the Bill and its provisions have been a very long time before the local Government and the Government of India, and that he is taken by surprise because objections have been raised now. Possibly the Bill has been before the local Government for a long time, but I am not to blame for that. The Bill was prepared before I came out to India, and others than me embodied in it its present provisions. So far as I am concerned, I may now say that I for one never heard such a proposal started as that the bonded warehouses and the control of bonded goods should pass from the Customs into the hands of the Port Trustees, and I can say that such a proposal never came before me in any shape. The matter did come to my notice somewhat accidentally. A gentleman called upon me the other day in regard to some business, and in a conversation which we had the whole thing came before me clearly. This is the first opportunity I have had since of speaking on the subject, and I now take the opportunity of saying that I think the proposed transfer very unnecessary and very objectionable. So far as I am concerned, this is a plain explanation of this affair.

The Honourable Mr. NARAYAN—In Schedule G, the statement of capital account of the Port Trust referred to in Section 48, there are only two items of warehouses mentioned, and one of them, the Apollo Bonded Warehouse, was a private property, under the management of Messrs. Nicol and Company for several years.

The Honourable Colonel KENNEDY—I have already stated that one of the main objects of the framers of the Bill was to get the value of the buildings into the statement of the capital of the Trust.

His Excellency the PRESIDENT—That is to say, the honourable gentleman wishes to show the Government of India and the public that the Trust have certain capital. Then supposing he states that the income to be derived from the Apollo Bonded Warehouse when capitalized is worth Rs. 5,50,000, the thing is done, and in the dealing with the Government of India he has just to estimate the fees at so many years' purchase.

The Honourable Colonel KENNEDY—I am not prepared to go *de novo* into the whole circumstances again, and I think that as this measure has been before Government for the last three years, it might have been expected that very little needed to be explained now.

His Excellency the PRESIDENT—The honourable gentleman must remember that the long correspondence which he says has been going on for the last three years has been

nothing but a prolonged controversy respecting the terms of payment, and that that controversy went on until at last the Government of India made those concessions which enabled this Bill to be prepared.

The Honourable Colonel KENNEDY—In that correspondence the question of the bonded warehouse was discussed, and it will be seen from it how the question arose with the Government of India.

The Honourable Mr. FORBES—Before this subject is disposed of, I should like to say one or two words upon it. I think there is one point which has been rather overlooked in this discussion, but to which the mercantile community perhaps attach more importance than they do to any other point which has been discussed—that is, the great benefit that was expected from the future Port Trust in the shape of increased facilities for the operations of trade and commerce. I think that one of the departments in which these facilities might be principally looked for would be in bringing goods into these bonded warehouses and arranging for their disposal and altogether placing them more for the convenience of the merchants to whom they belong. I think that if the bonded warehouses were not handed over to the Port Trust, the result would be that other bonded warehouses would be constructed in which, perhaps, greater facilities would be afforded than are given in the present Customs Bonded Warehouses.

His Excellency the PRESIDENT—Does the honourable member mean that if in consequence of our mismanagement of these warehouses the other warehouse owners would come up to the Collector of Customs and ask him to place their warehouses in a better position than his own? If they were to do so, I cannot conceive that any Collector of Customs would do anything that would place his own warehouses in a position in which it could not compete with other warehouses. So far from this being the case I think it would be the business of the Collector of Customs to take precautions against any such contingency.

The Honourable Mr. FORBES—I think the arrangements that would prove most beneficial to the trade would be those made by the two departments conjointly—that is, by an amicable arrangement between the Custom House Department and the Port Trust.

Some conversation ensued, and then His Excellency the President intimated that prehaps it would be advisable for the Council to adopt the Honourable Mr. Tucker's suggestion and postpone consideration of this matter.

The Council then proceeded to consider Section 23, which was agreed to and stands part of the Bill.

The Honourable the ADVOCATE-GENERAL considered that it would be better to call the "Deputy Conservator" the "Harbour Master" at once.

The Honourable Mr. TUCKER did not agree with the Honourable the Advocate-General, because "Deputy Conservator" was a title which was to apply to an office yet to be created by the Trustees. The Deputy Conservator was not to be the existing officer but an officer appointed by the Trustees and to act under the Trustees.

The Honourable Colonel KENNEDY remarked that the wording of the Calcutta Act had been followed in this section.

His Excellency the PRESIDENT considered that a question arose as to whether the officers to be appointed by the Trustees should be entitled to pensions.

Officers appointed by the Trust not to be entitled to pension allowances.

The Honourable Mr. TUCKER believed that unless the Government of India specially admitted these officers to the privilege of receiving pensions, they would not be entitled to them.

His Excellency the PRESIDENT instanced the Municipal Commissioner who, a public servant, was entitled to receive a pension.

The Honourable Mr. TUCKER said that if the Municipal Commissioner were not a Government servant as well as the servant of the Municipality, he could have no claims whatever to a pension, because his pension depended not upon his Municipal servitude but upon his connection with Government.

The Honourable Mr. FORBES asked if the present salaries of the harbour officers were to be made the basis upon which to arrange the salaries of the officers to be appointed by the Trust.

The Honourable Colonel KENNEDY replied that this would be a matter entirely for the Trust to consider. It would be perfectly competent for the Trustees to modify these salaries, subject to the sanction of Government.

His Excellency the PRESIDENT—Is there no provision in this Bill for the treatment of officers who will, or may be put out of their occupations when the Trust assumes the management of the Port? Are these officers simply to be cast adrift without any recompense?

The Honourable Colonel KENNEDY—I think so, if the Trustees see fit to do so.

His Excellency the PRESIDENT—Without any compensation whatever?

The Honourable Colonel KENNEDY—I think so.

The Honourable Mr. TUCKER repeated that the whole question was one for the consideration of the Imperial Government. Certainly provision for certain officers had been made in the Municipal Bill, but then that provision was made because an existing institution was being taken over in a modified form. The case was different with the Port Trust, which would be an entirely new body.

The Honourable Colonel KENNEDY—A great many of the officers who will probably be taken into the service of the Port Trust are under agreements, and I suppose that the bargain will hold good with the Trust, which (when the period of agreement with these officers has expired) may dispense with the services of officers they do not require. As a matter of fact Government have already given notice to all the employés engaged on capital account.

The subject now dropped.

Should the Chairman be allowed to appoint officers and servants of the Trust not specified in Section 24?

The Honourable the ADVOCATE-GENERAL—With regard to the proposal that the Chairman of the Trustees should have the appointment of all the officers and servants who are not to be appointed by Government, is it desirable that he should possess those powers?

The Honourable Mr. TUCKER gave it as his opinion that such appointments were always better if left to one man.

The Honourable the ADVOCATE-GENERAL—Of course there are objections both ways. In the one case, there is the object of convenience to be gained, and in the other there is the fear that the Chairman might fill up the positions in his gift with his own creatures; but for my part, I would prefer to see this power which it is proposed to vest in the Chairman exercised by the Trustees.

The Honourable Mr. FORBES concurred with the Honourable the Advocate-General.

The Honourable Mr. NARAYAN thought that at all events the Trustees should have power to remove the nominees of the Chairman.

After some further discussion, the section was altered by the omission of the words "by the Trustees at a Meeting" from lines 26 and 27 and their insertion after word "duty" in line 28.

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

The Honourable the ADVOCATE-GENERAL remarked (regarding Section 27) that supposing a servant of the Trust had inherited a piece of land which the Trustees required, it would be rather severe to compel that servant to forfeit Rs. 1,000 and his situation merely because he was compelled to sell property which the Trustees desired to have.

The section, after a few remarks were passed upon it, was agreed to and stands part of the Bill.

In line 17 of Section 28 the words "as such" were transferred from the end of the line to between the word "servant" and the word "or."

Section 29, referring to the general nature of the works under the Act, was then considered.

The Honourable the ADVOCATE-GENERAL said he observed this section gave power to construct docks, and he wished to know how this would coincide with what fell from the honourable mover at the last meeting of the Council, for he thought the Honourable Colonel Kennedy proposed that these powers should be conferred by a separate Act.

The Honourable Colonel KENNEDY said this was a general power to apply any money the Trust might have, but that the raising of money by loan for such a purpose would be the subject of another Act.

His Excellency the PRESIDENT—The Trust cannot undertake any works which are to cost more than Rs. 25,000 without the sanction of Government.

Clause 3 was so altered as to read—"laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading, and unloading vessels."

The power of the Trustees over the entire foreshore objected to.

The Honourable Mr. TUCKER referring to the 4th clause, asked if it was proposed to give the Trustees a right over the whole foreshore of the island.

The Honourable Colonel KENNEDY replied that it was intended that the Trustees should have this right, with the sanction of Government.

The Honourable the ADVOCATE-GENERAL remarked that the Bill already declared that any land which the Trustees thought it necessary to acquire could be obtained under the Lands Acquisition Act.

The Honourable Mr. TUCKER said that as a matter of fact the Municipality possessed portions of the foreshore, the outfalls of drains, for instance; and if the Trustees desired to reclaim or enclose the part of the foreshore where one of these drains might be, the Trustees would assuredly come into contact with the Municipality. There could be no doubt that by this time the Municipality had acquired certain easements, and under the new Municipal Act the property vested in the Municipality was secured to them.

The Honourable Colonel KENNEDY said it was very desirable that the Trustees should not be debarred from acquiring any part of the foreshore if they considered that doing so was necessary for the interests of the Port.

The Honourable the ADVOCATE-GENERAL—It can, I imagine, only mean the portion vested in the Trustees under this Act, or to be hereafter acquired by them.

The Honourable Mr. TUCKER—That should be the wording, I think.

The Honourable Colonel KENNEDY—This Bill is word for word the same as the Calcutta Act, and there is a Municipality there and private owners also. The object of this section was to give the Trust the right of making reclamations without obtaining formal grants in front of their own property.

The Honourable Mr. TUCKER—I do not think that is proper.

The Honourable the ADVOCATE-GENERAL—The Trustees will by this Bill have acquired more than half of the harbour foreshore, and the question is whether they should be allowed to deal absolutely with the portions left in the hands of Government or other persons, without first acquiring the land in some legitimate manner.

The Honourable Colonel KENNEDY—I don't think this section gives them any such power. Certainly it was not intended they should have it.

The Honourable the ADVOCATE-GENERAL—This section, according to the wording, gives to the Trust the right to say, "This part of the foreshore is necessary for the execution of works under this Act, and we claim to enclose it."

The Honourable Colonel KENNEDY—Yes, but there is a process necessary to obtain it.

The Honourable Mr. NARAYAN thought it would be a pity if the Trustees were allowed to interfere with certain prescriptive rights which the Municipality may have acquired in the Harbour.

The Honourable Colonel KENNEDY—The Municipality have no rights in the harbour.

The Honourable Mr. NARAYAN—The Municipality would surely possess a prescriptive right in the case of a drain discharging from Sewree into the harbour.

The Honourable Colonel KENNEDY—But I hope that all such powers will be knocked on the head soon, and these matters left in the hands of Government.

The Honourable Mr. TUCKER—Still, the honourable gentleman must do these things in a legitimate way. I see no reason for investing the Trustees with such extensive powers.

The Honourable the ADVOCATE-GENERAL—If we adopt the clause as I now propose to amend it, I think that difficulties with persons who have already acquired rights on the foreshore will be avoided, while at the same time the Trustees will be left with quite enough to do with their funds. I would propose that the clause be amended as follows :—"Reclaiming, excavating, enclosing, and raising any part of the foreshore of the Port of Bombay which may be vested in the Trustees by this Act, or which hereafter may be acquired by them, and which reclamation, excavation, enclosure or raising may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act."

The Honourable Colonel KENNEDY said he had no objection to the alterations.

The clause as amended was then agreed to.

Clause 5 was amended by adding at the end of it the words "as aforesaid."

The Honourable Mr. TUCKER thought some limitation to the operations of the Trustees ought to be expressed in the next clause.

The Honourable the ADVOCATE-GENERAL concurred with the Honourable Mr. Tucker, and inquired whether, among "such works, without the limits of the Port, as shall be necessary for the protection of works executed under this Act," the construction of gun-boats by the Trustees was included.

The Honourable Mr. TUCKER said it might also be asked, whether the Trustees were to be allowed to build fortifications outside of the limits of the Port.

The Honourable Mr. NARAYAN thought that all that was contemplated by the framers of the Bill was that the Trustees should have power to place pilot schooners outside of the harbour.

The Honourable Mr. TUCKER considered that it should be expressly stated that the Trustees were not to exercise the powers mentioned in this clause without first obtaining the sanction of Government. He for one would object to the Trustees being allowed to wander outside the limits of the port and construct such works as they choose. They might take a fancy to construct considerable works on Hog Island or Elephanta which Government nor the general community approved of.

The Honourable Colonel KENNEDY said this clause only gave the Trust a general power to construct any work which they thought necessary, with the sanction of Government previously obtained.

The Honourable Mr. TUCKER pointed out that there was no special provision for the permission of Government being necessary for any work outside the harbour.

The Honourable Colonel KENNEDY—The Trustees can do nothing which will cost more than Rs. 25,000 without first getting the permission of Government.

The Honourable Mr. TUCKER thought that for works outside the harbour even this should not be allowed, and that in such a case the express sanction of Government should be made necessary in every instance.

The Honourable Colonel KENNEDY said he had no objection to that being provided.

The Honourable Mr. TUCKER asked if the Act contained any provision for the providing of pilot boats and maintenance of pilots.

The Honourable Colonel KENNEDY—As the Conservators of the Port the Trustees would have the power to provide pilot boats.

The Honourable the ADVOCATE-GENERAL—Where are the Trustees expressly appointed "Conservators of the Port?"

The Honourable Colonel KENNEDY said that was further on, and Section 78 having been pointed out to the Honourable the Advocate-General, he said that it is true this section gives the Trust the power to appoint pilots, but if the Trustees are to have power to build pilot boats and construct beacons and lighthouses they had better have it distinctly granted and not merely by implication.

The Honourable the ADVOCATE-GENERAL afterwards added—Suppose there were a storm and the lighthouse were swept away—

The Honourable Colonel KENNEDY—The Port Trust would not require to rebuild it. It would be an imperial work.

The Honourable the ADVOCATE-GENERAL—Supposing that beacons were required to be erected in the harbour?

The Honourable Colonel KENNEDY—Then that would be for the Trust to do, but sea lighthouses are imperial works.

The Honourable the ADVOCATE-GENERAL said it seemed to him as if the Trust had the power to make rules, but had not the power to make the things the rules were required to regulate. He thought it would be advisable to introduce a section for the provision of beacons or pilot vessels.

The Honourable Colonel KENNEDY—All the duties conferred on the Conservator of the Port are conferred on the Trust. He had no objection to such a clause being added if it were thought necessary.

The Honourable the ADVOCATE-GENERAL—Perhaps it will be convenient to let it stand over and if necessary bring up an amendment on the third reading.

The Honourable Mr. FORBES—I think that the adoption of the section approved of by the Chamber of Commerce would cover everything that could be gained by leaving out the last five lines of the section as it stands in the Bill. I beg to propose that the Chamber of Commerce's section be substituted for the section standing in the Bill. I propose this quite agreeing with His Excellency's remarks that whatever line of policy may be hereafter adopted with regard to this land, it will be solely the public interest that will require to be attended to; but, at the same time, I think it will simplify any future action which may require to be taken, if we now decide that the value to be paid for the land shall be ascertained according to the law which may be specially passed with the object of settling questions of this sort. It will be quite impossible for the Trustees to know the value of the concessions which have been made to them by the present Government, if at any future time they are to be liable to have a portion of their land taken back from them at the present market value of the land. In a few years this property may have altered entirely in value by the construction of new buildings upon it, and from other circumstances, and I consider that it is quite impossible for us at present to put a fixed value upon any concessions which may have been given to the Port Trust. I think that the attitude assumed towards the Port Trust by the Government of India is so liberal that it shows an evident desire to place the Trust upon a favourable footing, and we need not be afraid that any objection will be raised in that quarter to the proposal of the Chamber of Commerce.

The Honourable Mr. TUCKER—Before we go any further in this matter there are two questions to be considered. Are we able to depart from the stipulations required by the Government of India which we have sought to embody in this section? If we are not, there is no use of discussing the subject further. The next question is, what is the fair and just mode of dealing with the Trustees in such a case as this? I think we must consider that we are not conferring upon this body which is about to be constituted, an unencumbered estate: we are giving that body a property on certain terms, and with certain obligations to fulfil, and therefore I cannot see why we should impose upon the Trustees any different stipulations from what we should require if we were transferring the property to any other person or company. Now, in some leases which are falling in just now, and which were issued by Government ninety-nine years ago, I find a provision in them that Government, if they desired to resume the lands, were to be able to do so upon paying the market value of the lands or buildings at the time being. This would appear an equitable mode of treatment.

The Honourable the ADVOCATE-GENERAL—I believe that where there is a general law applicable to any subject it is best to adhere to it, and that in this matter there is no reason for excepting the Port Trust from the benefit or burden of the general law. Here we have the Port Trust taking over a very large property from Government in order to relieve the public to a certain extent from the cost which the public incurred in acquiring that property, and the Port Trust is to pay 4 per cent. for ten years upon the book value of that property and 4½ per cent. afterwards—that is to say, the public particular is annually to pay a large sum of money as interest to the public general. Then why should not that portion of the public which takes upon itself the burden of paying to the general public this interest, as well as the capital value, have the full benefit of the property which it takes over? If this is to be looked upon as an imperial concern, why are we dealing with it simply as a matter affecting the Port of Bombay? If, as regards the payment of this debt, we are merely substituting a portion of the public for the general public, why should not the public of Bombay who are affected, the mercantile public particularly, have the advantages which, upon general principles, they seem to be entitled to have? On the other hand, if the property which is being conveyed to the Trustees is less in value than what they paid for it, why should they insist upon taking from the general public a higher value for the land than what the law gives them? I can see no reason why a particular portion of the public should not get the profit of a transaction in which it is engaged for the relief of the public at large? Nor can I see any reason why it should not bear any loss which fairly result from that transaction. I think it would be unwise to depart from the general provisions of the law, and therefore I should prefer this thirty-second section left out, and if land is required that it should be taken up in the usual way, under the Land Acquisition Act. But then we are met by this important consideration, will the omission of this section be fatal to the whole Bill? I should be loath to divide the Council upon a matter that could not possibly be reconsidered by the Government of India, and I would prefer accepting the section as it stands rather than im-

peril the Bill. On referring to the letter of the Government of India, dated the 15th June 1869, I find that the twelfth and thirteenth paragraphs embody what is contained in this thirty-second section, and if it is considered that this section is an essential part of the Bill, I would not desire to see the measure sacrificed upon that point, although, as I have said, I would prefer to see the section omitted.

The Honourable Colonel KENNEDY—In one of the late letters from the Government of India, they intimate, after making concessions first upon one point and then upon another, that in all cases in which distinct concessions have not been made, it must be understood that the original understanding is adhered to. This intimation would certainly apply to this section, and I have no doubt that in the estimation of the Government of India it is essential that it should be retained in the Bill until the capital debt is paid.

His Excellency the PRESIDENT—We have heard a great deal about the responsibilities which these Trustees are to undertake, but it seems to have been entirely forgotten, when considering the terms upon which Government are to get back the land, that Government have given the Trustees a free gift of £400,000, upon which no interest whatever is to be paid. It is therefore reasonable to consider that in making the stipulations upon which land was to be retaken for public purposes, Government considered that they were entitled to some privileges in return for this large gift.

The Honourable Mr. BYTHELL—But the station at Warree Bunder had cost the Trust £700,000, and this had a considerable deal to do in prompting this gift of £400,000. In fact the whole argument, as adduced by the Government of Bombay in the correspondence with the Government of India, was that a reduction in the debt of the port ought in justice to be made because a large sum which it was proposed to saddle Bombay with had been expended solely for imperial and not local purposes. Certainly, the Trust will pay no interest on the cost of the property, valued at £ 400,000, transferred to the Trust as a gift; but the Trust will continue to pay interest on the cost of the Elphinstone property, and in the latter item is included the sum, £ 700,000, expended in the construction of the Warree Bunder, which will not belong to the Trust but to the Imperial Government.

The Honourable Mr. TUCKER—I feel exactly on this point as the Honourable the Advocate-General has expressed himself. If this section cannot be left out without imperilling the whole Bill, I would not vote against the retention of the section; but at the same time I would prefer it to be struck out, because it is contrary to my notions of what is right in such matters. This, apart from the consideration of granting to any public or private body a valuable estate of this character. Perhaps the section might be left over until we come to the third reading.

The Honourable the ADVOCATE-GENERAL—It does not seem to me to be just to saddle the Trust with the cost of constructing the Warree Bunder, and that seems to be recognized by the Government of India when they sanctioned £400,000 to be credited to the Trust as capital not to be repaid to Government. Clearly, the Government of India could not have meant, when dealing with a body like this Trust, to make the Trustees pay for what they really did not get.

The Honourable Mr. TUCKER—I do not think the fact can be got over that the Imperial Government got this station for nothing, and it must have been paid for either by the local Government or somebody else.

His Excellency the PRESIDENT—The Government of India were the possessors of the foreshore of Bombay, and that gave them a perfect right to say to certain persons: "If you wish to take the right of reclaiming a certain quantity of land from that foreshore, you may do so upon the condition that you build us a railway station." That is really what was done.

The Honourable Mr. TUCKER—The interest of the Government of Bombay, and of the Government of India, in the foreshore of Bombay were identical. I do not think that the Government of India will insist upon this clause being a *sine quâ non* of the measure.

The Honourable Colonel KENNEDY—If the Council adopts the amendment, it will lead to a revival of correspondence upon a subject which has been already settled. I would agree to the amendment if the capital debt were discharged, but until that is done, I think this section ought to be retained.

This course was agreed to; and then on the motion of the Honourable Mr. Tucker the words " with the sanction of the local Government previously obtained," were inserted in the first line after the words " The construction."

This clause and the entire section were then agreed to as amended, and stand part of the Bill.

In line 9 of Section 30, " for India" was inserted between " State " and " in."

The local Government's true interest in the Port Trust property.

His Excellency the PRESIDENT remarked that the position of the local Government with respect to the property to be vested in the Trustees was not very clearly defined. This section seemed to imply that the Government were simply parting with their property for a term of years and that that property would revert to them when that period expired.

The Honourable the ADVOCATE-GENERAL said that the Trustees must be, *virtute officii* able to sell the property. The position seemed to him to be this. The local Government assigned to the Port Trust all the property mentioned in Schedule G, attached to the Bill, on the understanding that the whole of the money should be paid sooner or later. Government maintained control over the Trust because they were the chief creditors of the Trust, but it would be a hard case if Government maintained the same full control after the Trust had repaid all the money due upon the estate.

The Honourable Colonel KENNEDY—I understood the Honourable the Advocate-General the other day to give a distinct opinion that the property would remain the freehold property of Government, and that, as the property was merely given over to the Trustees for management, it would be exempted from the payment of Municipal taxes under the new Act.

The Advocate-General sees no reason why Government property should not be taxed.

The Honourable the ADVOCATE-GENERAL replied that he certainly did not express that opinion, because it was not his opinion. What he said was that the reversion would remain with the Government. He had given his reasons for thinking that this property could be taxed for Municipal purposes, and one of them was that he saw no reason why Government property should not be taxed. In the voting which took place, he did not vote that the Port Trust should be exempted.

The Honourable Mr. NARAYAN differed from the Honourable Colonel Kennedy's notion that this property could be vested in Trustees, and yet be freed from Municipal taxation.

The Honourable Colonel KENNEDY—The ground of my view that the Trust should be thus exempted was because there was no means of compelling the Municipality to give a *quid* for a *quo*.

After some further discussion, the subject dropped.

Sections 30 and 31 were then agreed to and stand part of the Bill.

The right disputed of Government to take land from the Trustees if Government simply declared such land to be required for a public purpose.

The Honourable Mr. BYTHELL (regarding Section 32) objected to the Trustees being bound to provide from the land in their possession, on the terms mentioned in that section, any land which Government might declare to be required for a public purpose. Property which had become valuable to the Trust might be required, or at all events considered useful, for imperial purposes, and by this section Government could seize the property from the Tustees whether they wished to part with it or not, and that, too, in many instances without paying any thing for it. If Government happened to require at any time one of the properties which have been made over to the Trust as a free gift in mitigation of the burdens of the port and if the property so required were bringing in any revenue, the Trust on losing it would have to increase the taxation on trade in order to obtain the revenue which by this Act it will be bound to provide. Therefore these so-called gifts made in return for the Warree Bunder (which has now been virtually built for Imperial use by this port) may any time be cancelled. When the Port Trust correspondence was disclosed it became a question with the mercantile community whether the Government of India should not be memorialized to make still further concessions, because the trade is even now paying bunder fees at landing places which before the Elphinstone property was purchased were free to the trade. It was decided however to accept the burden because of the liberality displayed by the Government of India in making over to the Trust several properties, but if these gifts may at any time be revoked and nothing given in return the position is dangerous to the trade of the port.

The Honourable Colonel KENNEDY—The land will only be resumed if it is required for any public purpose, and I think it is only right that the local Government should have this power over such a property, as long, at all events, as the capital debt remains undischarged.

His Excellency the PRESIDENT—Here again the honourable member reverts to the interest of Government in the Port Trust. I deny that there is any interest in this Port Trust but the public interest.

The Honourable Colonel KENNEDY—Really there will be no interest created by the Bill but the public interest.

The Honourable the ADVOCATE-GENERAL—The public has this interest in the Trust, that if the capital debt were discharged, Bombay would become practically a free port.

His Excellency the PRESIDENT—That, however, is an imperial question.

The Honourable Mr. TUCKER—It cannot be denied that we are by this Bill creating a corporation,—an actual entity. At present the public interests and those of this entity may be identical, but there can be no doubt that in the course of time they will deviate, and the interests of the Corporation become quite distinct, if not actually conflicting with the interests of the public.

His Excellency the PRESIDENT—Then we might immediately suspend the Port Trust.

The Honourable Mr. TUCKER—That might be a course of some difficulty. What I have indicated has proved to be the history of most Corporations, and there is no reason to believe that the Port Trust will prove any exception. Fifty years hence all this property may be built upon, but suddenly a public park is wanted. Property in other parts of Bombay may be dear, but the public discover that they can get this land of the Port Trust at a cheaper rate—by purchasing it at its cost price. If this section stands, there is nothing to prevent the public from taking the ground, and I would ask if it is wise or sound policy to create the possibility of such a state of things?

The Honourable Mr. BYTHELL—There is this important fact to be considered, that interest must be paid on the capital debt of about two millions sterling. The debt has been reduced to that amount because it was found that the port could not pay interest upon a larger sum without inflicting serious injury on its trade—but, then, £700,000 of the total debt was spent in making a railway station at Warree Bunder, which certainly should be regarded as an imperial concern. It therefore becomes a serious consideration whether, by retaining this section, the Council should give Government the opportunity of increasing the burdens of the port, when it is already compelled to pay interest on a sum a considerable portion of which was contracted by the making of this Warree Bunder station—a work not for the good of that mercantile section alone, but for the good of the whole country.

His Excellency the PRESIDENT—Still I cannot see any interest in this Port Trust beyond the interest of the public.

The Honourable Mr. BYTHELL—Sir,—The question is a most important one as regards Bombay. An enormous debt has been contracted and the point that has taken years of correspondence to settle is—shall the whole of this debt be paid for by Bombay alone or shall a portion be an Imperial debt chargeable to the revenue of the whole country. It has been argued by the Government of Bombay and admitted by the Government of India, that it would not be fair to make this small section of the Indian community bear the whole burden. It has been admitted also by Government that no new burdens can fairly be imposed on the trade unless some new accommodation be provided in return. Now, by Section 32 new burdens can easily be imposed at any time, for the Trustees have no alternative—they must pay interest on the debt as it stands at present. This is not a pleasant contingency to look forward to, for Bombay is already placed at a considerable disadvantage in competing with Calcutta in consequence of the present Bunder imposts and excessive railway charges. I would prefer that this section be omitted and the following, as suggested by the Chamber of Commerce, adopted in its stead:—

"XXXII. The Trustees shall be bound to provide from the land in their possession any land which the Government shall declare to be required for a public purpose, and the Government may order proceedings to be taken for obtaining possession of the same for Government and for determining the compensation to be paid to the Trustees according to any law in force for the acquisition of land for public purposes."

The Honourable Colonel KENNEDY—I certainly cannot support that amendment. As to the cost of the railway station, the 70 lakhs was the cost of the land and of the wharf walls and basins. The Trust has wharfage rights over the latter.

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

Ayes—8.	*Noes*—2.
The Honourable H. P. St. G. Tucker.	His Excellency the Honourable Sir Augustus Almeric Spencer.
The Honourable A. Rogers.	The Honourable Colonel M. K. Kennedy.
The Honourable the Advocate-General.	
The Honourable Munguldass Nuthoobhoy.	
The Honourable Sir Jamsetjee Jejeebhoy.	
The Honourable J. A. Forbes.	
The Honourable Narayan Vasudevjee.	
The Honourable J. K. Bythell.	

The amendment was therefore carried.

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

In line 1 of Section 36 "and in the manner provided by" was inserted after "of"; and to the end of the section the following words were added on the motion of the Honourable the Advocate-General:—"Provided that no compensation or compromise involving payment or receipt by the Trustees of a sum greater than Rs. 10,000 shall be valid without the assent in writing of the Local Government."

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

In section 37 the word "salaried" was omitted.

Section 39 was amended as follows:—In lines 7 and 8 the following words were deleted—"estimated cost of any works or arrangements," and the words, "acquisition of any immoveable property or of any works, plant, vessels, or appliances, the purchase of which may be" substituted. In line 9, the words "in such manner" were inserted between "and" and "as."

Considerable discussion took place upon the meaning of the word "arrangements," which the Honourable Colonel Kennedy interpreted to mean, among other things, all plant required by the Trustees, and the result was that the section was amended in the manner indicated.

In section 40, the words:—"Such money shall be raised in such a way as" were omitted from lines 40 and 41; and the words "the manner in which such money shall be raised" inserted after "appoint" in line 9. The section was then agreed to as amended and stands part of the Bill.

The last line of Section 41 was altered to read, "Section 49 of this Act."

In line 5 of Section 42 "or" was substituted for "and," and the words "or arrangements" in the next line were struck out and "plant, vessels, or appliances," substituted for them.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Bombay, 15th January 1873.

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 Bombay on Thursday, the 16th January 1873, 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 ADVOCATE-GENERAL
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The Bombay Port Trust Bill considered in detail.

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

The Honourable the ADVOCATE-GENERAL moved that after the word "sums" in line 6 of Section 45, the following words should be inserted: "which shall be raised under the provisions of Section 39 of this Act or;" that the words "for India" should be inserted between "State" and "in" in line 8; and that in line 9 "sections" should be "section" and that "and 39" should be omitted.

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

The Honourable the ADVOCATE-GENERAL considered that as by Section 40, the Government were to direct and appoint the manner in which the money was to be raised, it would not be wise to limit the Trustees to payment of interest merely on debentures that might be issued by them, and moved that the words "debentures that may have been issued by the Trustees," in lines 11, 12, and 13 of Section 46, be omitted, and the following words substituted: "money that may have been raised by the Trustees under the provisions of Section 39 of this Act."

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

The Honourable the ADVOCATE-GENERAL moved that in line 10 of Section 47, "Section 49" should be substituted for "Section 39," and that in lines 11 and 12, the words "in paying off any of the debentures issued under this Act," should be omitted; and the following words substituted: "shall be applied to paying off any of the money that may have been raised by the Trustees under the provisions of Section 39 of this Act."

The Honourable Mr. FORBES asked if surplus revenues were to be applicable to new works.

The Honourable Colonel KENNEDY said that they would not.

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

In line 4 of Section 48, "for India" was inserted between "State" and "in."

In the 7th line of Section 49, "G" was substituted for "A."

The words "which shall be to come from the commencement of this Act up to" in lines 8, 9 and 10 of Section 50 were omitted and the following words substituted: "between the date on which this Act shall come into operation and."

His Excellency the PRESIDENT said that in Section 51 the Trustees were empowered to "pass, reject, modify, or alter" the estimate of expenditure, and to pass such estimate so modified or altered; but no provision seemed to be made for the line of action to be taken if the Trustees resolved to reject the estimate. It was quite possible that the Trustees might quarrel with their chairman and throw out his budget.

The Honourable Colonel KENNEDY—Then the chairman would be immediately removed by the Government for contumaciousness—at least, I hope so.

His Excellency the PRESIDENT—I do not think so. The Government and the chairman might be agreed on the matter of dispute. It does not follow that the Government are to be in opposition to the chairman. The question remains—What is to be done if the Trustees get rid of the estimate?

The Honourable Colonel KENNEDY—We might say that "the chairman shall forthwith prepare another estimate."

His Excellency the PRESIDENT—I think we might leave out the words "or to reject" in lines 4 and 5.

The Council agreed to His Excellency's amendment.

The Honourable Mr. TUCKER wished to know what was the object of the words "if necessary" in line 12 of Section 52. They left an ambiguity as to what was to be done by the Trustees in the event of Government returning their estimate.

His Excellency the PRESIDENT concurred with the Honourable Mr. Tucker, and said that it was necessary that there should be a final power, and, therefore, if the Government returned the estimate to the Trustees with certain remarks, the option to make, or decline to make, alterations implied in these words "if necessary" should not be left to the Trustees.

The Honourable Colonel KENNEDY said the section was only slightly different from the Calcutta Act, and he would have no objection to any alteration which would give the section more of the nature of a "bludgeon clause."

The Honourable the ADVOCATE-GENERAL—Supposing the Trustees were right, and the Government wrong, upon the point raised in the "remarks": what is intended to be done?

The Honourable Colonel KENNEDY—The Government is to rule.

His Excellency the PRESIDENT—If the Trustees are not empowered to spend more than Rs. 25,000 without the sanction of Government, and cannot appoint more officers than Government approve of, I do not see the necessity for having any bludgeon clause.

The Honourable Colonel KENNEDY—We are here following the usual practice: all budgets are submi tted to a sanctioning power.

His Excellency the PRESIDENT—If we do that here, and make the reference of the budget to the Government final, there will be some reason in the section; but if it is to be left in the way it appears here, it is neither one thing nor another, and unless it is altered it is useless.

After some discussion the words "if necessary" were struck out, and in the 16th line "greater" was struck out, and "otherwise" inserted between "estimate" and "than."

The power of the Trustees to spend sums in emergent cases.

His Excellency the PRESIDENT—By Section 54, we give the Trustees power to break in upon the budget, since they are to be allowed to spend certain amounts in cases of pressing emergency. Is this intended?

The Honourable Colonel KENNEDY—This power to the Trustees to make supplemental estimates, and to expend money in pursuance of these estimates, is simply to meet emergent cases, such as a wharf tumbling down. This section is slightly amended from the Calcutta Act, which fixes the sum not at Rs. 5,000 but at Rs. 2,000. I venture to suggest that it would be very absurd if the Trustees did not possess some such power.

His Excellency the PRESIDENT—What is the value of the Trust if its officers cannot act in an emergency, such as the honourable member has instanced? Surely these officers would be justified in taking the steps necessary to meet the emergency.

The Honourable Colonel KENNEDY—They would be breaking the law, and it would be well not to put men into that position. The chairman might be a timid man, and afraid to act unless he were strictly within the law, and, I think, there can be no harm done in retaining this section.

Section 54 was then agreed to, and stands part of the Bill.

The Honourable the ADVOCATE-GENERAL—In Section 55, I see it is laid down that ten days' notice of the time and place at which the audit and examination of accounts is to take place, must be given. Might I ask, what is the object of giving this ten days' notice?

The Honourable Colonel KENNEDY—It might be to give the public an opportunity for making suggestions. I cannot say exactly, however, what it is for. It is in the Calcutta Act.

The Honourable Mr. ROGERS—I see that the section says that a copy of the accounts to be audited and examined is to be deposited in the Office of the Trustees, where it is to be open for inspection by any person on payment of a rupee, and, possibly, this ten days' notice is meant to give the public an opportunity, as Colonel Kennedy says, to make suggestions.

The Honourable Mr. TUCKER—It is a novel proceeding in Bombay, that the public should be summoned preliminary to an audit. I cannot see how the work is ever to be carried on, if the public, for the payment of their rupee, are to be permitted to examine the accounts, and then give the auditors advice as to their duties.

The Honourable the ADVOCATE-GENERAL—I think it would be much better to publish an abstract of the accounts, together with the auditors' report, in the same way as they do in Calcutta.

His Excellency the PRESIDENT—I think it would be much better to leave out the provision from the end of the 31st line down to, and including, the word "payment" in line 49.

The Honourable Colonel KENNEDY—But that would debar the public from having access to all the doings of the auditors. There may be many questions in reference to contracts or payments which the public would be interested in.

The amendment suggested by His Excellency the President was agreed to.

The Honourable the ADVOCATE-GENERAL—In line 56, I would like some provision to be made for the publication of the accounts of the Trust, as well as the auditors' report. This, as I have said, is the custom in Calcutta. I have here the Administration Report of the Calcutta Commissioners for 1871-72, and there are no less than 38 pages of auditors' report and abstract of accounts in it.

The Honourable Colonel KENNEDY—There is nothing in the Calcutta Act providing for that being done.

The Honourable the ADVOCATE-GENERAL—But I am not speaking of the Calcutta Act, I am speaking of the Calcutta practice, which appears to be very good.

The Honourable Colonel KENNEDY—Then the same might be done in Bombay.

The Honourable the ADVOCATE-GENERAL—Still, there can be no objection to inserting a provision of this description in this section.

The Honourable Colonel KENNEDY—I have no objections.

The Honourable the ADVOCATE-GENERAL proposed that from and after line 55, the section should read as follows—"be published, together with an abstract of the said accounts, in the *Bombay Government Gazette*.

The amendment was agreed to, and the section as amended by His Excellency the President and the Honourable the Advocate-General was agreed to, and stands part of the Bill.

Renewal of the discussion of the question respecting the relative powers of the Trustees and the Customs Officers.

His Excellency the PRESIDENT—Section 56 brings us back to the discussion which was commenced yesterday and to the subject which I brought to the notice of the Council. The end of the section reads—"until such scale of tolls, dues, rents, rates, and charges, as aforesaid, shall be framed and approved and published, the fees leviable under Bombay Act V. of 1870, and under the Consolidated Customs Act (Act VI. of 1863), so far as the same relates to the levy of fees on goods stored in the Customs bonded warehouse, shall continue to be levied on behalf of the Trustees." I should like to set matters right with the Council as to a part of that discussion; because I think that it may be held that I was setting up my own judgment in regard to the position of this Trust, and as to its power in various matters, rather in opposition to the views of the Government of India, as expressed in the correspondence which has passed. That being so, I have taken the trouble to look at the earlier portions of the correspondence, to see how far what I have said was open to that objection, and I find that on 1st February 1869, Sir Seymour FitzGerald, then, possibly, seeing his way to the purchase of the Elphinstone property, and, probably, fully alive to all the difficulties and anxiety and trouble which would be involved in writing to the Government of India, said—"As regards the administration of the estate, if it be acquired by Government, His Excellency in Council would propose that it should be conducted by a Board of members to be selected by Government, and to be composed of prominent public servants and influential members of the mercantile community." The Council will observe that the word Board is there used. That went to the Government of India, and they

assented to the purchase of the property in this manner—"The constitution of the Board of management or commissioners is left entirely for the consideration of the Bombay Government, subject to the general conditions expressed in the memorandum. An essential matter is that Government shall have complete financial control over their operations, and they are not to be liable to be brought into collision, by reason of their being invested by powers which shall go beyond what is requisite, to enable them satisfactorily to discharge all the needful executive duties of the managing body. They will, in fact, be an administrative Trust, strictly subordinate to the Government in all essentials; but will receive ample powers for the proper performance of the business entrusted to them." That letter was accompanied with the proposed terms for the purchase by Government of the estate, and the fifth of these terms says—"The whole of the foreshore of the Bombay Harbour, within the limits thought desirable by the Bombay Government, and so far as it is the property of the Government, and all the wharves, &c., the property of the Government within the same limits, excluding any portions specially required for public administrative purposes, may be made over to the Board for administration." And the last condition but one reads—"The Board will hold the property made over to it for administration as trustees by the Government; and the powers given to the Board under the Act which constitutes it, shall be so limited as to prevent the Board from taking up a position of hostility or of opposition to the Government; or from attempting to exercise any rights or make any claims in opposition to the orders or decisions of Government." And further on, as the correspondence advances, I find in one of the letters that the terms applied by Government to the proposed body was Board, or Trust, or Commissioners. Therefore, I consider my views as to this corporate body and its proprietary rights, to be in no manner at variance with the original view of the Government of India. But, by some means or other, these proprietary rights grew up, and, so, we have to encounter these objectionable parts of the Bill. The next question was with regard to the bonded warehouse, and as to how far the Government of India had been consulted or could be aware of the proposal respecting the transfer of that warehouse, and all the things connected with it, from the Government to the new Trust, and I have already pointed out that the Government of India proposed to transfer "the whole foreshore of the Bombay Harbour, so far as it was the property of Government, including all wharves, &c." Colonel Trevor, writing afterwards on the 21st June, says—"It is proposed to vest in it all the properties of the Government bordering on that foreshore," and, then, gives a list in which the Apollo Bunder Warehouse is put down among other items and valued at Rs. 5,50,000. Nowhere can I find any other reference to this bonded warehouse, till we come to the 26th para., where there is this—"Besides these two great sources of revenue, there is the income of the property to be taken from Government, referred to in the 6th paragraph of this letter, and the receipts for the goods stored in the Apollo Bonded Warehouse, estimated at about Rs. 30,000 per annum." So far as I can make out, though I am quite open to correction, I can find nothing in the correspondence to show that the Government of India were informed of the change proposed to be made in this department, or that they were in any way prepared to depart from the reservation of excluding portions specially reserved for public administrative purposes. I, therefore, assume that this is property which they required for public administrative purposes, and, I think, it should so remain.

The Honourable Colonel KENNEDY—Do I understand His Excellency's proposal to be to reserve to the Customs authorities all the powers which they now possess over the bonded warehouse?

His Excellency the PRESIDENT—Yes, and also as to its management.

The Honourable Colonel KENNEDY—I have not the slightest objection. They may have that power still under the Consolidated Customs Act.

His Excellency the PRESIDENT—No, the fees and dues and rents are to be managed by the Trust, according to this section.

The Honourable Colonel KENNEDY—Yes, just as would be the case with any other private bonded warehouse, which they might license.

The Honourable Mr. BYTHELL said he had not been present on the previous day when His Excellency had made his remarks on this subject; so that, perhaps, he might be allowed to ask what were His Excellency's reasons for objecting to the change.

His Excellency the PRESIDENT—My objection was to giving a body constituted like this any control, direct or indirect, over a great property like the bonded warehouse, which is one of the chief means of collecting the Customs revenue. I object to the regulating of anything connected with this establishment passing out of the hands of the Government.

After a few remarks by other members, His Excellency added—I am altogether against entangling the Customs in any way with such a body.

The Honourable Mr. BYTHELL—I understand that His Excellency is averse to allowing the Port Trust to interfere with any portion of the property required for Government administrative purposes; but, with regard to that, I would say, though I am open to correction, that the same objection would apply to any Commissioner of Customs, under the Consolidated Customs' Act, licensing any private warehouse as a bonded warehouse. Section 73 of that Act gives the Commissioner of Customs the power to which I have alluded, and it appears to me that the Commissioner of Customs might license the bonded warehouses of the Trustees just as he would do those of others. I remember that some years ago a very large building in Colaba was specially erected with the idea of furnishing bonded warehouses, and I believe that at that time the Commissioner of Customs expressed his willingness, in accordance with the terms of the Act, to allow that building to be used for that purpose. I understand it is contemplated that the Port Trust should at some future time, either by erecting piers or building docks, undertake the discharge of any ship's cargo and, therefore, it would be almost imperative for the Port Trustees to erect bonded warehouses, in order to give the necessary accommodation, improve their property, and increase their revenue. Even were this Council to say that His Excellency's objection should hold in the case of the Apollo Bonded Warehouse, I think it would apply equally to any warehouses which the Port Trust might erect in future.

His Excellency the PRESIDENT—But can the honourable member give me any reason for the transfer of this public property to the management of the Trustees?

The Honourable Mr. BYTHELL—I was about to do so, Your Excellency. I believe that if the Port Trust had the management of these warehouses, and the delivery and receipt of goods, subject, of course, to the Customs' officers, there need be no fear that Her Majesty's revenues would be defrauded, but, on the contrary, the revenue would be greatly increased, since, I believe, the Trustees could make better use of these warehouses than the Customs authorities do. At the present time, so far as I am concerned, and many other merchants in Bombay can say the same thing, I would not leave my goods in the bonded warehouses, simply because the restrictions regarding delivery are so stringent that they positively make goods unsaleable. I can state as a fact that dealers, if they can buy goods stored in a private warehouse at the same price as goods stored in the Customs' bonded warehouse, prefer to purchase the former; and almost every European merchant who imports Manchester goods, although there is an import duty of 5 per cent on these, prefers to pay the duty and store goods in his own godowns. I think if the Apollo Bonded Warehouse were made a private property and licensed as any other private warehouse, there would be no danger whatever to the Government revenues. The Customs Department would still manage to exercise the greatest supervision, as regards the collection of revenue, while the Port Trust might grant increased facilities to the merchants of Bombay.

The Honourable Colonel KENNEDY—I may also remark that if the Apollo Bonded Warehouse is made a private property, it will simply be reverting to what it was originally, when it was held as a bonded warehouse, under the management of a private company.

His Excellency the PRESIDENT—It is reasonable to suppose that Government had some very good reasons for making the purchase.

His Excellency the PRESIDENT—We have now elicited from the Honourable Mr. Bythell that one of the great objects to be gained by the transfer of these premises to the Trust will be, what he terms, "a relaxation of the stringency of the present rules." Of course, we can all understand what that means. Since I have come here, I do not recollect having heard any representations as to the unfair stringency of the rules, or as to the way in which the Government warehouses are conducted. If there had been complaints, Government would have inquired into them; because it is the duty of the Customs Department to grant every facility to merchants and traders consistent with the due protection of the revenues. I am not the more disposed to agree to the change, because there is a desire for a relaxation of the rules, or for giving greater facilities as it has been termed; it only confirms me in my view of its inexpediency. With these remarks, I leave the matter in the hands of the Council.

The Honourable Mr. BYTHELL said he inadvertently used a wrong term when he said the rules to be relaxed. Merchants did not wish the rules for securing the safety of Her Majesty's revenue to be relaxed; all they wanted was that men who went to the ware-

house to take delivery of goods should not have to dance attendance on the Customs officials for an hour or two before they could get delivery. There was no doubt that under the administration of Mr. Reid many of these drawbacks had been remedied, but for many years previously, if any person wanted any business done at the Customs House, which it would take any reasonable man a few minutes to do, he had often to wait several hours. That was his own experience, and he thought that with that experience they should raise their voices aginst the bonded warehouses remaining in the hands of the Customs officials. It could not add to the safety of the revenue in any way to treat the mercantile community in that kind of way. They did not want the rules relaxed, but they wanted more promptitude.

His Excellency the PRESIDENT—If the honourable gentleman makes a representation on that subject the Government will be bound to take notice of it.

The Honourable Mr. TUCKER—Since I spoke on the subject yesterday I have carefully looked over the Consolidated Customs Act, and I have no doubt that if this Bill is passed in the shape in which it is now before us, the Commissioner of Customs will still have complete control over every warehouse which may be transferred by this Act to the Corporation. To prevent any doubt upon that point, there would be no difficulty in adding some words to Section 95 to say that nothing in this Act is intended to interfere with that control. But there is another question which, I think, wants our consideration—at all events the Executive Government must look to it—and that is, the Commissioner of Customs says it is absolutely necessary that there should be a Government bonded warehouse, as distinct from private warehouses licensed by the Commissioner of Customs. He says that by certain Sections of the Act, I think Sections 52 and 56, it is necessary that the goods referred to in those sections should be kept in a Government warehouse. Such warehouses are denominated in England the Queen's warehouses, and Mr. Reid maintains that there should be in Bombay a warehouse, or at least a portion of the warehouse, kept apart for this purpose, so that one of the consequences of our giving this warehouse over to the Trust, will be the necessity for building another warehouse to keep these special goods in, unless we can make an addition to this Bill, binding the Trust to make over a portion of the building to the Chief Officer of Customs for that purpose. This, certainly, is a consideration which must be taken into account. With regard to the other matter His Excellency mentioned, I think the correspondence he has read shows pretty clearly what were the views of the Government of Bombay and the Government of India when they were in correspondence as to the constitution of this body, *viz.*, not the creation of a Corporation composed of a body of private men, but the forming of a board of administration, subordinate to the Government. How that idea has been departed from I am unable to say ; but according to the form which we have adopted in this Bill, it appears that the intention is the creation of a separate Corporation with certain powers, and, unless the whole Bill is recast into a new shape, I do not see how we can carry out the change which His Excellency proposes.

Here His Excellency the PRESIDENT remarked that such a thing was not necessary.

The Honourable Mr. TUCKER continued—The enactment could be framed in another way, but it would depart from the leading principles of this Bill. I think therefore as the matter has gone so far, and the Government of India have approved of this measure generally, it would be advisable to continue this Bill and to make the additions to Section 95 which I shall be prepared to suggest hereafter. I may say there is another addition required which I would direct attention to, and that is, that as the owners of private warehouses are now liable to penalties under the Customs Act, if they do not act according to the rules imposed upon them by the Customs Department, and as these Trustees when they become the owners of this warehouse will have similar conditions imposed upon them, it will be necessary to designate some one, either the chairman or secretary, who will be held to be the person responsible under those clauses of the Customs Act, so that there will be no difficulty experienced by the Customs officials in dealing with the Trust, in case of any breach of the law. With those additions, I am inclined to think it might be advisable to leave things as they are. If this were a new matter for consideration, I should be disinclined to make over this bonded warehouse to the Trust at all, and to do simply as His Excellency has suggested, assigning to them the annual revenues. If His Excellency thinks it necessary, we can do this by remitting the Bill to the Select Committee and adding the Honourable the Advocate-General to the Committee.

The Honourable Mr. BYTHELL pointed out that the present warehouse was very large and a part of it could be set apart as a Queen's warehouse. It, he added, was a matter

of notoriety that the warehouse had not been much made use of lately by merchants, and, probably, if they adopted the suggestion to set apart a portion as a Queen's warehouse, there would be no objection to the remaining portion being handed over to the Trust.

The Honourable Mr. TUCKER—I have no objection to that; but there must be a certain portion set aside as a Queen's warehouse.

The Honourable Mr. BYTHELL—And as regards the constitution, I fancy the reason why we have drifted into this form, is that Calcutta has set us the example by establishing a body corporate, and we have merely done the same thing.

His Excellency the PRESIDENT replied in the negative and said—I was very anxious to meet the wishes of those advocates of the Bill in respect of the capital account difficulty, which was mentioned yesterday, and also to hand over to the Trust the entire net revenue; and I was therefore in hopes that a clause something to this effect, and coming after the one conferring the property upon the Trust, might have been agreed to—"Nothing in the preceding or in any other section of this Act contained shall be construed to confer upon the said Trustees any power to control, or interfere with, the management of the Customs bonded warehouse, or the rates payable on goods deposited therein, which shall continue to be regulated according to the provisions of Act No. VI. of 1863; provided that Government shall cause the Trustees to be furnished annually with a statement of the sums received during the previous years, as the rates of such warehouse, and of the sums expended for the management and repair of the said warehouse and the collection of such rates. And the Government shall cause the surplus of the sums so received, after payment of the expenses aforesaid, to be paid to the said Trustees for the purposes of their Trust."

The Honourable the ADVOCATE-GENERAL—It seems to me that unless some special provisions are made in this Act, this bonded warehouse, whenever it passes into the possession of the Port Trust, will become a private warehouse and will be subject to the regulations of the Consolidated Customs' Act, regarding private warehouses. If this is the case, a two-fold difficulty occurs to me. In the first place, His Excellency considers it undesirable that the control of this bonded warehouse should be given over to the Port Trust, and thinks that the Trustees should be in the same position as owners of private warehouses; and, in the second place, if that warehouse is so made over, there will be no Queen's warehouse left in Bombay, in which the Commissioner of Customs can store such goods as he is bound to store there under the 52nd and following sections of the Customs Act. So far as His Excellency's object is concerned, one method occurs to me which would obviate the difficulty, although possibly it would not meet the Honourable Mr. Bythell's wishes; and that is to put a clause into this Act declaring these bonded warehouses which are to be made over to the Trust to be public warehouses within the meaning of the Consolidated Customs' Act; by the 71st and 72nd sections of which they would be placed under the custody of an officer appointed by the Customs, and the Customs' authorities would have power not only to arrange as to the particular place in which any particular goods should be kept, but also to fix the terms upon which goods should be deposited therein.

The Honourable Mr. BYTHELL—At the very most, only a small part of this large warehouse could be used as a Queen's warehouse, and I would not like to see the larger portion of it that would still remain placed under the management of the Customs' authorities.

The Honourable Mr. NARAYAN—It ought not to be forgotten that as the Bill stands at present it vests the whole of the property in the Trustees, and makes them responsible for the whole of the amount it debits them with. It might not, therefore, be fair to take this part of their property from them and use it as a Queen's warehouse.

The Honourable Colonel KENNEDY—But the Trustees are not to pay interest upon the Apollo Bonded Warehouse.

The Honourable Mr. NARAYAN—Nevertheless, Rs. 5,50,000 is to be paid back to Government for it by the Trust; while a portion of it will be used for a Government warehouse.

The Honourable Mr. TUCKER—There will be no injustice done by reserving a portion of this warehouse for the purpose of the Customs' Act; because the income derived therefrom will be given to the Trustees.

The Honourable Mr. FORBES—But I suppose that the Trustees might consider that they would derive a larger income from these warehouses if they were entirely under their own control. I believe that the value of the property will be considerably depreciated if it remains under the Customs' management as at present.

The Honourable Mr. NARAYAN enquired if this proposal were carried out, would the Trustees still be debited with the full value of the warehouse?

The Honourable Colonel KENNEDY having answered in the affirmative,

His Excellency the PRESIDENT said—I do not see why this should be so. I am aware that we are coming into the discussion of these points at a rather late period of the transactions and that, as it were, we are the unfortunate victims of the desperate struggle made by the Bombay Government to get this Trust into a solvent condition. For this reason, I believe, everything was gathered together to make a show of assets. This Corporation has come into existence nobody knows how, and I believe that this Apollo Bonded Warehouse came in as an "etcetera." It is by these proceedings that we are landed in our present difficulties.

The Honourable Mr. TUCKER—With reference to what has been said by some honourable members, I would remark that it does not follow that the Trustees as private owners of a warehouse would necessarily be licensed by the Chief Commissioner of Customs, and therefore there is nothing in this Bill which gives them any right to insist upon having licensed warehouses. Of course, there is no doubt that the Chief Commissioner of Customs would let the Trustees have licences, so long as they conformed to the Consolidated Customs Act; but, nevertheless, I think it right that the position of matters here should be understood.

After some further discussion, the Honourable Mr. TUCKER remarked—The Commissioner of Customs objects to this part of the section—"Provided that it shall be lawful for the Trustees to land, ship, or tranship goods between vessels in the harbour of Bombay and the wharves or bunders, and to make such charges in respect thereof, as they shall think fit, without the sanction of Government." He considers that by giving them this full latitude they would be given power to break certain of the provisions of the Consolidated Customs' Act.

The Honourable Colonel KENNEDY—That was certainly never intended. All that was desired by the Select Committee was that the Trustees might be enabled to undertake muccadum's business.

The Honourable Mr. TUCKER—There are certain circumstances under which people are not allowed to tranship under the Customs' Act. Therefore, some provision must be made that this section shall not interfere with any of the Customs' regulations or laws.

The Honourable the ADVOCATE-GENERAL said the difficulty raised would be avoided by inserting the words in the Proviso "subject to the provisions of any law for the time being in force."

This amendment was agreed to.

His Excellency the PRESIDENT—Just to test the feeling of the Council, I propose that from "and under" down to "warehouse" in the 31st, 32nd, 33rd, 34th and 35th lines, be omitted. I propose this as a mere matter of form, intending, when the time comes, to insert the following section after the section vesting the titles in the Trust—"Anything in the preceding section hereof to the contrary notwithstanding, the Apollo Bonded Warehouse shall, for the purposes of Act No. VI. of 1863, be deemed to be a public warehouse," &c.

The Honourable Mr. NARAYAN—I thought that His Excellency's proposal at first was to set aside a portion of the warehouse as a public warehouse.

His Excellency the PRESIDENT—That was never my suggestion.

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

Ayes—2	*Noes*—9
His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE.	The Honourable H. P. ST. G. TUCKER.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable A. ROGERS.
	The Honourable the ADVOCATE-GENERAL.
	The Honourable MUNGULDASS NUTHOOBHOY.
	The Honourable COLONEL M. K. KENNEDY.
	The Honourable Sir JAMSETJEE JEJEEBHOY.
	The Honourable J. A. FORBES.
	The Honourable NARAYAN VASUDEVJEE.
	The Honourable J. K. BYTHELL.

The amendment was therefore lost.

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

The Honourable the ADVOCATE-GENERAL moved that the words in Section 57 after "until" in line 10 should be omitted, and the following substituted—"other officers shall be appointed under the provisions of this Act."

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

Should the Trustees, foreseeing a deficiency in income, proceed to increase dues without being told to do so by Government.

His Excellency the PRESIDENT—I do not agree with the terms of a part of Section 58, and if there is any deficiency foreseen in the estimated income of the Trustees, I cannot understand why they should wait until they are told by Government before they proceed to meet the deficiency, by increasing the tolls, rates, dues, or charges for the time being in force. Why should the odium of increasing these charges be thrown upon Government?

The Honourable Mr. FORBES—I think there is some reason why the section should remain as it stands, so far as His Excellency's objection is concerned. I do not think that the Trustees, whenever they anticipate that their revenue will not meet the payment of interest to the Secretary of State, should have power at once to raise the tolls and dues upon ships. A year or half year may be a particularly bad one commercially, and, in such a case, it would be better for the Trustees to wait for a time and see what turn the tide of trade was taking. In order to meet the difficulty without having recourse to an increase of charges on the Trade, they might reduce their establishments and the expense of their arrangements, or stop works, or they might be able to negotiate with Government as to what payments they should be called upon to pay. In no part of the world are tolls and charges on the Trade of a Port liable to such ups and downs as they will be in Bombay if these Trustees are to alter them, or be compelled to alter them whenever a deficiency in income is anticipated.

The Honourable Mr. TUCKER thought it would be better to allow the section to remain as it was, because Government must assume the right to see that the trade of the port should not be injured by undue taxation. Increasing tolls, rates, dues, and charges was not, he considered, a power which should be left entirely with the Trustees.

The Honourable Colonel KENNEDY—I think it must be an essential principle of this Bill that the Trust shall pay its way, and it ought to be imperative that they should increase their rates in the prospect of a deficiency.

The Honourable Mr. NARAYAN thought that in the case of the port suffering from a cyclone, provision might be made whereby Government, as an exceptional case, might give the Trustees time to meet liabilities.

The Honourable Mr. BYTHELL objected to the Trustees being compelled by Government to raise their rates summarily, because such a course might seriously injure the trade of the port. For instance, shipowners at home would prefer sending a vessel to other ports than Bombay, unless at higher rates of freight, if they saw that the regulation of charges there was so uncertain that it was possible the rates might be quite different when vessels arrived from what they were when they sailed. He thought the Trustees ought to be allowed to provide for any deficit in an exceptionally bad year during the next succeeding year, and not be compelled to raise the port dues in the middle of the season before they really could ascertain whether there would or would not be a deficiency.

The Honourable Colonel KENNEDY thought that if the Council agreed to the Honourable Mr. Bythell's views, a dangerous element would be introduced into the arrangements which had been made for the government of the Trustees, to whom the way would be opened to come forward with statements about the decline of the trade of the port as an excuse to get rid of their annual obligations. The Honourable Mr. Forbes had dropped some remarks indicating that he believed there would be a diminution of revenue whenever the Trustees assume charge of the Trust property; but he, the honourable speaker, held a contrary opinion and believed there would be an increase of revenue.

The Honourable Mr. FORBES—I think the trading community will be placed in an unfavorable position if we retain this section as it is; and I think that the Trustees should only be called upon to raise the charges on trade in order to meet the claims that may be due to creditors *other* than the Secretary of State, instead of, as the section now says, "to the Secretary of State for India in Council, and to other creditors." I think that Government have already ample powers to protect themselves, with regard to this Trust and it would only be in the case of the revenue being likely to fall short of a sum sufficient to pay the interest of the money raised on debentures, or other debts to the public, that I could approve of the Trustees being permitted to raise the dues or tolls and other charges upon ships and upon the trade of the Port. If it were supposed that the Trustees would not be able to pay, in any one year, the interest required to be paid to the Secretary of State, they then could enter into negotiations with Government, which, if circumstances were fairly put before it, would not, I think, object to some arrangements

being come to whereby the trade of Bombay would not be subjected to enhanced charges. I think it would be extremely unfortunate for this city if, as shipping diminished in the harbour, dues upon them should be increased, and I would point out that the only way in which the revenues of the Trust are likely to decline, is in consequence of the general trade of the port declining and the number of ships falling off. I have looked at the correspondence which has passed between the Government of India and the Government of Bombay, and it appears to me that the Government of India have no wish to increase the burdens on the trade of Bombay, and I have gathered that the local Government would be equally averse to such a course.

His Excellency the PRESIDENT remarked that it appeared to him the Honourable Mr. Forbes desired to give protection to creditors who did not at present exist, and to take away security from the only creditor that did exist, the Government.

The Honourable Mr. FORBES—That particular creditor is very well secured, and to raise the interest on the debt due to him the port of Bombay is already burdened with an increased annual payment of £ 25,000 a year in the shape of the new Bunder Fees.

The Honourable the ADVOCATE-GENERAL—I think it would be departing from the principle upon which this Council has hitherto dealt with the Bill if we agreed to what the Honourable Mr. Forbes has suggested. A bargain has been made with the Government of India which we must respect, and I do not think that we could ever succeed in getting the Secretary of State to forego his interests in the manner proposed. I agree with the Honourable Mr. Bythell that it would be very undesirable, indeed, if this section operated as a means of driving away vessels from the port, because of the uncertainty that might prevail regarding rates; but, for that same reason, I think it will give the port a better chance if the onus of increasing the rates were cast on Government, as they are by this section, instead of on the Trustees. I could not vote for the Honourable Mr. Forbes' amendment; but I should be prepared to meet him to a certain extent by proposing in the 27th line the insertion of a few words that would make an increase of rates necessary only in the very last resource. I would propose that the increase should only be allowed after every possible retrenchment had been made.

The Honourable Mr. TUCKER considered the Honourable Mr. Forbes' amendment entirely out of the question; and that the course suggested by the Honourable the Advocate-General would be the most expedient to pursue.

After some further discussion,

The Honourable Mr. FORBES withdrew his amendment, and

The Honourable Mr. BYTHELL moved that the whole section should be expunged, with the view of inserting another section which would make it incumbent upon the Trustees to provide for any deficit ascertained at the end of one financial year, by some means or other during the year next succeeding.

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

Ayes—2	*Noes*—8.
The Honourable J. A. FORBES.	The Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable J. K. BYTHELL.	The Honourable H. P. St. G. TUCKER.
	The Honourable A. ROGERS.
	The Honourable the ADVOCATE-GENERAL.
	The Honourable MUNGULDASS NUTHOOBHOY.
	The Honourable COLONEL M. K. KENNEDY.
	The Honourable Sir JAMSETJEE JEJEEBHOY.
	The Honourable NARAYAN VASUDEVJEE.

The motion was therefore lost.

The Honourable the ADVOCATE-GENERAL then moved that in Section 27, between "will" and "be," the following words should be inserted—"after making all such retrenchments as may be practicable."

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

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Bombay, 16th January 1873.

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 Bombay, on Friday, the 17th January 1873, 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 ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The Bombay Port Trust Bill considered in detail.

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

In line 13 of Section 59, the words "shall be levied by the Trustees and" were inserted between "order" and "shall."

The proviso at the end of Section 60 was struck out, and the section as amended stands part of the Bill.

In line 1 of Section 63, "and" was omitted and "and charges" inserted after the word "dues."

The Honourable the ADVOCATE-GENERAL—Upon the suggestion of the Commissioner of Customs I intend to move that the money received from sales shall, in the first place, be applied to the payment of the dues and other charges which are leviable under any Act for the time being in force in relation to Customs. There is no doubt that a debt to the Crown must be discharged preferentially to other claims.

The Honourable Colonel KENNEDY considered that the expenses of sale ought to be first discharged.

His Excellency the PRESIDENT could not see why the Customs should be called upon to pay the costs of the sale, because the sale would not be by order of the Commissioner of Customs, but one merely in satisfaction of the charges of the Trustees.

The positions of clauses 1 and 2 were then altered, and in line 26, "applied" was substituted for "held," and in line 27, "upon trust for" were struck out and "to" inserted.

In line 19 of Section 65, "fifteen" was substituted for "five" on the motion of the Honourable Mr. NARAYAN VASUDEVJEE.

The Honourable the ADVOCATE-GENERAL and the Honourable Mr. BYTHELL mentioned cases to show that five days was too short a time to give a master or owner of a vessel time to make arrangements to stave off a threatened sale of his property, in order to meet the Trustees' claims upon it in respect of his default in paying tolls, dues, rates, &c., payable under the Act. The section was then agreed to, and stands part of the Bill.

The words "or against such vessel" in lines 12 and 13 of Section 66 were struck out, and the section as amended was agreed to.

The Honourable Mr. ROGERS moved that before the word "the" in line 10 of Section 68, the following words should be inserted—"or when the Chief Customs authority of the Presidency shall license any warehouse, or portion of a warehouse erected or acquired under this Act, for the reception of goods under any Act, for the regulation of duties of Customs;" and that between "Pier" and "such," in line 12, the words "or in such warehouse or portion of a warehouse" should be inserted. It was necessary, he remarked, that an officer of Customs should always have accommodation in any place set apart as a bonded warehouse.

The Honourable Mr. BYTHELL thought that the suggested alteration was not required because the Commissioner of Customs, from the power he possessed of refusing or suspending licences without assigning any reason for the action, could always make his own bargain with respect to accommodation for his officers.

After some conversation the amendments were carried.

In line 10 of Section 69, "or therein" was inserted between "thereupon" and "shall."

In line 5 of Section 70, the words "or any animal matter" were struck out.

In the first three lines of Section 73, the words "commencement of this Act" were struck out and the following words substituted—"date on which this Act shall come into operation," and in line 6 "be" was substituted for "stand."

The following words were inserted after "Bombay" in Section 74—"under Act XXII. of 1855, or any other law for the time being in force."

The Honourable Mr. NARAYAN VASUDEVJEE called attention to Section 79, which relates to the responsibilities of the Trustees, as Conservators of the Port, and remarked that it was one of great importance to the mercantile community.

The Honourable Colonel KENNEDY said the section had been taken word for word from Act XXII. of 1855.

His Excellency the PRESIDENT did not consider it quite fair that, if a vessel was damaged in consequence of some fault of the Trustees or their servants, the master or the owner of a vessel had no remedy.

The Honourable Mr. NARAYAN—They have no remedy at present against Government.

The Honourable Colonel KENNEDY—The Railway Companies are public carriers and come under the laws relating to public carriers; but the Trustees cannot come under such a law, and this section is merely meant to protect them as Conservators of the Port.

The subject dropped, and Section 79, together with Section 80, was passed, and stands part of the Bill.

The words "with the sanction of the local Government," in lines 5 and 6 of Section 81, were struck out.

The Honourable the ADVOCATE-GENERAL thought there was no necessity for retaining Section 82, relating to powers to make improvements, since, by preceding sections, general provision regarding works had been adopted, which was all that was required.

The Honourable Colonel KENNEDY agreed that other sections would cover Section 82, and the Council agreed to expunge it.

The following words—"or of any bye-law or port rule made in pursuance thereof" were inserted after the word "Act" in line 3 of Section 83.

In Section 84, "or acquired" was inserted after "constructed" in line 9, and the words, from "for regulating" to "remain," in lines 24, 25, 26, and 27 were struck out. These alterations were made to avoid the powers given to the Trustees clashing with the powers vested in the Customs authorities by the Customs Consolidated Act.

In Section 85, whereever the words "bye-law" occured "or port rule" was inserted after them.

In the last line of Section 86, "84 and 85" were struck out, and the following words substituted—"83 and 84 and any port rule made under the provision of Section 81."

In line 3 of Section 87, "or port rule" were inserted between "bye-law" and "shall."

In line 2 of Section 88, "and port rules" were inserted after "bye-laws."

Regarding Section 89 the Honorable the ADVOCATE-GENERAL thought that the precedent of the Consolidated Customs Act and the Municipal Act should be followed in this section with regard to the time that should be allowed for the institution of suits; but on the suggestion being opposed by the Honourable Mr. Bythell, Colonel Kennedy (who argued that in this matter it would be better to follow the Calcutta Act), and other members, the honourable member withdrew his objections.

The following amendments were made in Section 90:—The word "local" in line 3 was struck out. The following words were inserted in line 4 after "works"—"in the possession of or in the course of construction by." The word "of" in line 5 was struck out, and in line 6 "thereof" was omitted and "of any proposed works" substituted.

The following amendments were made in section 92—In line 7 "or for work done under the provisions of the preceding section" were inserted before "shall"; the words "if it shall think fit" were inserted after "Government" in the 9th line; and all the proviso was struck out, because of its ambiguity.

Section 93 was amended as follows:—the words "all rights of levying and recovering tolls, dues, and rates" were struck out of lines 28 and 29; the word "and" was struck out of line 34 and the following words inserted after the word "Council"—"and all rights of levying and recovering tolls, dues, rates, and charges, and all powers of every nature and kind whatsoever vested in the said Trustees under this Act shall be transferred to and vested in the local Government; Provided always that."

The Honourable Mr. TUCKER said he would like some section introduced, in which somebody or other connected with the Trust might be nominated as owner, because, as this Trust would be liable for a number of things, it would be desirable to have some responsible person to proceed against.

The Honourable the ADVOCATE-GENERAL—The Trustees would have to appear before a court of law in the same manner as other corporations do.

The Honourable Mr. TUCKER—But, as I have said, somebody must be held to be responsible.

The Honourable the ADVOCATE-GENERAL—I suppose that the person who applies for a license on behalf of the Trustees for the opening of a warehouse, would be in the same position as the secretary or manager of a company, and he would be looked to by the Customs authorities as the responsible party. The goods or chattels of a company can always be distrained.

The Honourable Mr. TUCKER—But under the Customs Act these Trustees, for certain misdemeanours, would be liable to imprisonment.

The Honourable the ADVOCATE-GENERAL—In that case the whole corporation can hardly be locked up.

The Honourable Mr. TUCKER—It is for that reason that I think somebody should be declared to be responsible.

The Honourable the ADVOCATE-GENERAL said he did not apprehend any practical difficulty would arise as to this subject.

On the motion of the Honourable the ADVOCATE-GENERAL the following section was added after Section 95:—"Nothing in this Act contained shall affect any power or authority, vested in the Chief Customs authority of the Presidency, under any law for the time being in force for the administration of Sea Customs in India."

The Council then proceeded to consider the sections upon which decisions had not been come to.

The question whether the chairman should be a salaried official first came before the Council for consideration.

Regarding Section 6, the Honourable the ADVOCATE-GENERAL was going to say that if a Chairman was appointed as executive officer and he was paid a large salary, say Rs. 3,000 a month, when the Honourable Colonel KENNEDY observed that he did not contemplate so large a sum as that.

The Honourable the ADVOCATE-GENERAL—Then say Rs. 2,000. If the Chairman is paid this amount, that will be 2½ per cent. upon the estimated revenue, which is about ten lakhs of rupees.

The Honourable Mr. BYTHELL—Only eight.

The Honourable ADVOCATE-GENERAL—Then that makes the percentage all the greater.

The Honourable Mr. TUCKER—It is clear that the Trust cannot stand that.

The Honourable the ADVOCATE-GENERAL—In Calcutta, they have a chairman, who is a high official, and a deputy chairman who is executive officer. In the Commissioners' report they speak in the highest terms of the way that arrangement works.

The chairman to be a salaried official of the Trust, and Government to settle the salary or allowances.

The Honourable Mr. TUCKER—I think a somewhat similar plan might be adopted in Bombay, where we have an officer like Mr. Ormiston, who would be willing to act as the deputy chairman of this Trust. He is now an officer in our employment and I think he would make an excellent officer for the work of the Trust, not only as an engineer but as an able man of business.

His Excellency the PRESIDENT—I think it is bad policy to discuss individuals in connection with the creation of officers generally.

The Honourable Mr. TUCKER—I merely mention Mr. Ormiston's name because he is already a highly-paid officer of ours, and one who would be willing to undertake the duties of deputy chairman.

The Honourable Colonel KENNEDY—The Trust may have heavy works to carry out, such as docks, and I think it would be extremely undesirable that the chief executive officer of the Trust should also be the engineer responsible for these works.

The Honourable Mr. BYTHELL—In the meantime, there is no possibility of any large and expensive works being undertaken, and, therefore, it would be better to leave the section as it is. I think we might leave it to the local Government to determine the salary or allowances.

The word "and" in the fifth line was omitted and "or" substituted.

It was agreed to strike out "salaried" in the Bill wherever it occurred in connection with the mention of the chairman.

On the motion of the Honourable the ADVOCATE-GENERAL the following clause was added to Section 8:—

"(8.) Provided also that as to the Customs Bonded Warehouse in Schedule C mentioned it shall be lawful for the Chief Customs authority of the Presidency to approve and appoint so much of the said Customs Bonded Warehouse as may, in the opinion of the local Government, at any time be necessary to be a public warehouse, for the reception of goods under Act VI. of 1863, and the said Trustees shall forthwith set apart, and shall maintain in good order, such portion of the said Customs Bonded Warehouse to be a public warehouse, as aforesaid; but the said Chief Customs authority shall from time to time, as the local Government may direct, pay over to the said Trustees any surplus income after payment of all charges and expenses of management, that may be derived from the use of any portion of the said Customs Bonded Warehouse, as a public warehouse, as aforesaid."

The Honourable the ADVOCATE-GENERAL gave notice that at the third reading of the Bill he would ask leave to introduce a provision, that the Trustees should provide public landing-places, which might be used by the public, free of charge.

The Honourable Colonel KENNEDY said he thought that this proposal would be quite unnecessary.

The Council then proceeded with the consideration of the schedules.

Regarding Schedule C, the Honourable Colonel KENNEDY moved that the clause of the schedule, relating to the Gun Carriage Reclamation, should be made to read thus:—"The right of levying wharfage fees, tonnage fees, rents, rates, and dues, on all goods, other than those belonging to the Bombay, Baroda, and Central India Railway Company, landed at, or stored upon the Gun Carriage Reclamation, which is bounded," &c.

This was agreed to.

The Honourable Colonel KENNEDY next brought up the subject of exemptions. As the schedule stood, the Trustees could levy rates upon troops and munitions of war landed at the Dockyard, because the Trustees were vested with the whole of the foreshore from the Custom House Bunder to the Wellington Reclamation, which included the Dockyard.

His Excellency the PRESIDENT asked the Honourable Colonel Kennedy if the Government of India had given their sanction to rates being charged for the landing of troops and munitions of war at the Dockyard.

The Honourable Colonel KENNEDY said that no such sanction had been finally and definitely obtained; but the Bill had been before the Government of India for some time, and they must have been cognizant of the powers which it was proposed to vest in the Trustees. The Select Committee upon the Bill had decided to leave the whole matter of exemptions to the decision of the full Council.

His Excellency the PRESIDENT did not think that the Trustees should have power to charge for the landing of men or munitions of war at the Dockyard, but that they should be empowered to levy charges upon commissariat stores landed there.

It was decided to omit the following (11th) paragraph of the schedule, and to make representations to the Government of India, upon the subject of making an allowance to the Trustees for the privilege of landing troops and military stores along the foreshore:—

"The foreshore from the Custom House Bunder to the Wellington Reclamation, with the right to levy wharfage or tonnage fees and other rates and dues on goods, landed at any wharves thereon or over any sea wall adjacent thereto."

In Schedule D, the following alterations were made on the motion of the Honourable Colonel Kennedy:—The 1st line was made to read thus—" The lighthouse on Dolphin Rock, with all the fittings " &c. In line 1 under the heading "Lightships, Boats, &c.," " Bombay " was substituted for " Colaba " ; and in the next line " Shannon " was omitted and " Colaba" substituted. In the 6th line, " each " was inserted after " tons." After line 12 the following became line 13—" Two spare boats for pilot schooners." The line 2, under " Miscellaneous " was omitted.

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

In Schedule F, it was agreed that the seal of the Corporation should be attached to the form of debenture.

The Honourable Colonel KENNEDY moved the following alterations in Schedule G—That the items : " Apollo Bonded Warehouse," " Custom House Godowns," should be bracketted together, under the head "Customs Bonded Warehouse;" that the figures against the item, " Balance of interest unpaid at 31st March 1871," should be, in the 2nd and 4th columns, Rs. 2,75,273-4-7 ; that the figures against " Do. do. 31st March 1872," should be in the 2nd and 4th columns Rs. 1,50,233-3-2, that in the 1st column, the following words should be struck out from the first entry; " Whatever amount may be recorded in the books of the Accountant-General, Bombay, " and that these words should be transferred to the second column and placed beneath the figures Rs. 1,50,233-3-2.

These alterations were agreed to, and the schedule stands part of the Bill.

The Council then proceeded to the consideration of the preamble, which was agreed to, and stands part of the Bill.

The first three lines of Section 1 were struck out. The definition of " vessel " was struck out, and the following definition substituted—"The word 'vessel' denotes anything made for the conveyance by water of human beings or of property.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,
Under Secretary to Government.

Bombay, 17*th January* 1873.

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