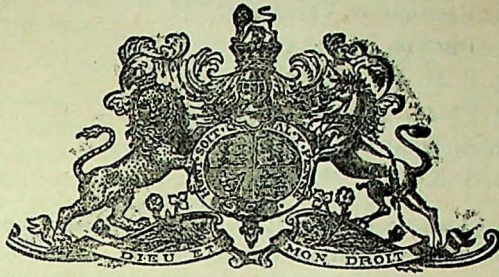


THE



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

## PART V.

### PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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

*Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACTS, 1861 and 1892."*

The Council met at the Town Hall, Bombay, on Monday the 28th March 1898, at 11 A.M.

#### PRESENT:

His Excellency the Right Honourable Lord SANDHURST, G.C.I.E., Governor of Bombay, *Presiding*.

The Honourable Mr. JOHN NUGENT, C.S.I., I. C. S.

The Honourable Sir E. CHARLES K. OLLIVANT, K.C.I.E., I. C. S.

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. W. H. CROWE, I. C. S.

The Honourable Mr. J. MONTEATH, C.S.I., M.A., I. C. S.

The Honourable Mr. DAJI ABAJI KHARE, B.A., LL.B.

The Honourable Mr. NARAYAN GANESH CHANDAVARKAR, B.A., LL.B.

The Honourable Mr. T. B. KIRKHAM.

The Honourable Mr. W. C. HUGHES, M.Inst.C.E.

The Honourable Mr. A. S. MORIARTY, I. C. S.

The Honourable Dr. BHALCHANDRA KRISHNA BHATAVADEKAR, L.M.

The Honourable Mr. GOKULDAS KAHANDAS PAREKH, B.A., LL.B.

The Honourable Meherban Sardar NARAYANRAO GOVIND *alias* BABA SAHEB, Chief of Ichalkaranji.



The Honourable Mr. FAZULBOHY VISRAM, C.I.E.  
 The Honourable Mr. DHONDO SHAMRAO GARUD, B.A.  
 The Honourable Mr. P. M. MEHTA, C.I.E., M.A.  
 The Honourable Mr. VRIJBIHUKHANDAS ATMARAM.  
 The Honourable Mr. A. WINGATE, I. C. S., C.I.E.  
 The Honourable Mr. S. B. DOIG, M.Inst.C.E.

His Excellency the PRESIDENT said—Before the business of the Council commences I wish to make a short statement upon a public matter. I do so, because I have few opportunities of speaking in public in regard to Government measures. My attention has been called to a letter signed by Mr. Roughton in a newspaper of the 25th. In regard to the complaints he makes I can assure him and others that there are no grounds whatever for them. I never said Europeans were not to be employed. Government, and I am sure, no less are the public, are most appreciative and deeply grateful for the immense and unceasing efforts that have been made by so many private gentlemen. I am well aware that the confidence their action has given to the public has been of the greatest service. Conspicuous have been the efforts of Mr. Roughton, Mr. James Macdonald, and many others too numerous to mention. I am fully confident that those efforts will in no way be relaxed, and the time of recreation which has been so unsparingly given will continue to be given in the same ungrudging way, and kindly and sympathetically used to guide matters as they are now being arranged.

#### QUESTIONS AND ANSWERS.

The Honourable Dr. BHALCHANDRA KRISHNA BHATAVADEKAR then put question No. 1 standing in his name—

(a) *Will the Government be pleased to state the reasons why the total number of places for the manufacture and sale of liquor in the Town and Island of Bombay has increased during the last quinquennium from 732 to 801?*

(b) *As also how the consumption per head of population has increased in 14 out of 18 districts of the Presidency, excluding Sind and Aden, the grand total of the quantity consumed in the whole Presidency having also increased from 2,457,541 gallons in 1891-92 to 2,722,159 gallons in 1895-96.*

The Honourable Mr. NUGENT in reply said—

(a) The figure 732 given by the honourable member appears to be the number of licenses in force in Bombay during the year 1890-91, exclusive of temporary refreshment room licenses. The total of 801 cited by him for the year 1895-96 includes 71 temporary refreshment room licenses and 730 licenses of other classes. There was, therefore, a decrease, and not an increase, in the number of permanent licenses in force within the period in question.

(b) The figures of consumption during each of the six years 1890-91 to 1895-96 were as follows:—

					Gallons.
1890-91	...	...	...	...	2,525,749
1891-92	...	...	...	...	2,457,541
1892-93	...	...	...	...	2,576,975
1893-94	...	...	...	...	2,520,439
1894-95	...	...	...	...	2,631,638
1895-96	...	...	...	...	2,722,159

The sales of the year taken by the honourable member as the first year of his period were affected by an increase in the rate of duty in Surat and by a bad season in Khândesh. The sales of the revenue years 1894-95 and 1895-96 were stimulated by a great increase in the number of Hindu marriages in the months immediately preceding the Sinhast year. Both of the years specified by the honourable member were, therefore, exceptional, and there was not a permanent increase to the extent indicated by the figures quoted by him. The gradual improvement, however, in the effectiveness of measures for preventing



illicit consumption and in the earnings of the liquor-consuming classes tends to cause an increase in licit consumption.

The Honourable Dr. BHALCHANDRA then put question No. 2--

*Will the Government be graciously pleased to direct that future editions of the annual reports of the administration of the A'bkári Department should contain a more explicit statement (instead of the stereotyped one hitherto adopted—vide paragraph 73 of the report for 1893-94, paragraph 66 of the report for 1894-95 and paragraph 66 of that for 1895-96), showing the number of occasions on which the wishes of the local residents in the neighbourhood of a proposed new liquor-shop had been consulted and the number of times the wishes of the people had been respected or over-ruled, and in the latter case on what grounds?*

The Honourable Mr. NUGENT in reply said--

The A'bkári Administration Reports show that the local residents are now consulted in all cases, and Government have no reason to believe that in any case the opinion of the bulk of the residents is over-ruled or disregarded. There is, therefore, no need for the details suggested by the honourable member.

The Honourable Dr. BHALCHANDRA then put question No. 3—

*Will the Government be pleased to consider the advisability of preventing the sale of intoxicating liquor to persons under 15 years of age, whether accompanied by their parents and guardians or not?*

The Honourable Mr. NUGENT in reply said—

Great practical difficulties would be involved in enforcing a prohibition of the kind suggested by the honourable member. Shopkeepers have seldom, if ever, the means of ascertaining the exact age of purchasers, and most of the consumers of liquor in this country are probably ignorant of their own age. It would be unjustifiable to attach a penalty to acts regarding which there is no certainty whether they do or do not transgress the law or conditions of a license. Government will gladly consider any suggestion by the adoption of which the consumption of intoxicating liquor by young persons would be legitimately discouraged, but for the attainment of this result public opinion must mainly be depended on.

The Honourable Dr. BHALCHANDRA then put question No. 4—

*Has the attention of the Government been drawn to page 12, paragraph 40, of the report on the administration of the A'bkári Department in the Bombay Presidency for 1895-96, in which it is stated "the fact that 1895-96 was the last year of the contract may be regarded as" one of "the chief causes of the increased sales" of country spirits in Ahmednagar, Poona and Dhárwar?*

*With reference to the above statement will the Government be pleased to state—*

(a) *If the contractor was justified in pushing the sale as he seems to have done according to the terms of the contract?*

(b) *If he was not justified in forcing the sale, has any notice been taken of his action?*

(c) *If none has been taken, is it intended to warn this and other contractors with a view to the prevention of forced sales in future?*

The Honourable Mr. NUGENT in reply said—

There is a statement in the A'bkári report for 1895-96 to the effect mentioned in the honourable member's question. In order to check consumption Government impose as high a duty as can be realized without stimulating illicit practices, and the contractor has to charge a price which will cover that duty and all charges and yield some profit. Provided the terms of the contract are adhered to, a contractor is justified in managing his business in the manner which, he thinks, is most advantageous to himself.

The Honourable Mr. GOKULNAS KAHANDAS PAREKH then put question No. 1 standing in his name—

(a) *Are Government aware that in some districts the agriculturists find at present much difficulty in the disposal of their agricultural produce?*



(b) Will Government be so pleased as to extend the time for the payment of the instalments of the Government land revenue which have become due?

The Honourable Mr. NUGENT in reply said—

(a) Government have received no reports to the effect of the statement of the honourable member, but are aware that the restrictions imposed under the Epidemic Diseases Act on free communication with various towns must to some extent interfere with the free movement and disposal of produce.

(b) In any cases in which agriculturists experience difficulty in disposing of their produce, Collectors have, subject to the sanction of the Commissioner, power to fix such dates for the payment of the instalments as they may deem expedient, and they will exercise the power, if sufficient reason exists. Special orders from Government are not needed.

The Honourable Mr. PAREKH then put Question No. 2—

(a) Are Government aware that, notwithstanding the directions in paragraph 49 of the instructions issued by them for the guidance of district and other officers in matters of plague administration travellers coming from uninfected areas with certificates from local authorities that they were during the ten preceding consecutive days continuously within uninfected areas, and who bear no suspicious symptoms, are subjected to detention and disinfection?

(b) Is this done because in the course of their travelling they come in contact with passengers from infected areas and are exposed to infection?

(c) If the answers to the preceding parts of this question be in the affirmative, will Government be pleased to direct that the Railway Administrations should provide separate carriages for passengers who are not liable to detention and disinfection from those that are occupied by passengers who are so liable?

His Excellency the PRESIDENT in reply said—

Government are not aware of any such disregard of their instructions. Government desire that it should be widely known that travellers who can satisfy the authorities that they come from uninfected areas are not liable to detention.

The Honourable Mr. PAREKH then put Question No. 3—

(a) Will Government be pleased to authorize the district plague authorities in the mofussil to issue special passes similar to those that used to be issued by the Bombay Plague Committee, and direct that the same effect be given to them?

(b) Will Government be pleased to direct special arrangements to be made at all detention camps for the custody and protection of valuable properties of travellers who are detained under the plague rules?

His Excellency the PRESIDENT in reply said—

(a) District plague authorities include Patels of villages, and Government cannot recognise their certificates as of equal value with those of the Bombay Plague Committee. Government are not aware of any case in which the pass of a Collector has been disregarded at any Government detention camp.

(b) Government have heard no complaints of loss of property, and have no reason to believe that the arrangements made by the local officers have failed to protect property.

The Honourable Mr. PAREKH then put Question No. 4—

Will Government be so pleased as to place on the Council Table the reports about the expenditure incurred on wells and tanks used for irrigational purposes and the contributions from the people to this expenditure that they might have received in reference to parts 2 and 3 of question No. 2 asked by me at the last meeting of the Council?

The Honourable Sir CHARLES OLLIVANT replied—

The reports have not yet been received.

The Honourable Mr. PAREKH then put Question No. 5—

Will Government be so pleased as to place on the Council Table any information that they might have received about the closing of the Jejuri School in consequence of



*the pecuniary embarrassment of the Municipality, and the steps taken to open a new school there, in reference to question No. 4\* asked by me at the last meeting of the Council?*

His Excellency the PRESIDENT in reply said—

The answer to the first part of the question No. 4 referred to is in the affirmative, and to the second part in the negative. The provincial contribution of Rs. 376 hitherto granted to the school remains available whenever the Municipality are in a position to resume the duty of maintaining it.

The Honourable Mr. PAREKH then put Question No. 6—

*Will Government be pleased to state whether they made any enquiries that the letter received by one of the nurses at Poona purporting to be under the signature of one of the Nátu brokers really bore his signature, and whether the Nátus were asked any question about the signature on the said letter and, if so, what replies were received from them?*

His Excellency the PRESIDENT in reply said—

Enquiries of the nature indicated in the question have not been made.

The Honourable Mr. NARAYEN GANESH CHANDAVARKAR then put question No. 1 standing in his name:—

(a) *Has the attention of Government been drawn to the judgment of Her Majesty's High Court of Judicature at Bombay in the case of Imperatrix vs. Bapuji Nandlal (Criminal Application for Revision No. 19 of 1898, decided on the 17th of February 1898)?*

(b) *Will Government be pleased to enquire if the said Bapuji Nandlal was tried and sentenced by Mr. Becherlal Jivanlal, First Class Magistrate, Kaira, to two months' rigorous imprisonment for the same offence for which he had been previously tried before Mr. DeSouza, First Class Magistrate, Kaira?*

The Honourable Sir CHARLES OLLIVANT in reply said—

The case alluded to has not previously been brought to the notice of Government, but enquiry will now be made as desired by the honourable member.

The Honourable Mr. DAJI ABAJI KHARE then put question No. 1 standing in his name—

*Is it a fact that the Mamlatdár of Belgaum Taluka has issued orders to the village officers to treat any death in the village as a plague death and to compulsorily remove and segregate out of the village inmates of the house in which any death might occur for ten days?*

His Excellency the PRESIDENT in reply said—

The complaint is not quite accurate. The Collector of Belgaum on 26th January last issued an order that in villages within 15 miles of Belgaum Town, where the mortality was unusually high, deaths should be treated as plague deaths. The Assistant Collector reported that the order was leading to hardship in one village, and the Collector modified the circular so as to include only plague deaths or deaths for which no cause could be assigned and, therefore, suspected to be plague. The change was made a little more than a fortnight after the order complained of was issued.

#### PAPERS PRESENTED TO THE COUNCIL.

(1) Report of the Select Committee appointed to consider Bill No. I of 1898 (a Bill for the improvement of City of Bombay and to provide space for its future expansion).

(2) Statement† referred to in the reply to question No. 3 put by the Honourable Mr. Dhondo Shamrao Garud at the meeting of the Legislative Council held on the 14th February 1898.

† See Appendix A.

(3) Reply‡ to questions 1 to 8 put by the Honourable Ráo Bahádur Ranchodlal Chotalal at the meeting of the Legislative Council held on the 14th February 1898.

‡ See Appendix B.

\* Is it true that the Jejuri Municipality has, in consequence of its pecuniary embarrassment, been obliged to close its Vernacular School? If such is the case, have Government been pleased to take steps to open a school in the place of the one which has been closed?



**BILL No. I OF 1898: A BILL FOR THE IMPROVEMENT OF THE CITY OF BOMBAY AND TO PROVIDE SPACE FOR ITS FUTURE EXPANSION.**

His Excellency the President moves the second reading of the Bill for the Improvement of the City of Bombay and to provide space for its future expansion.

His Excellency the PRESIDENT formally moved the second reading of the Bill for the Improvement of the City of Bombay and to provide space for its future expansion.

The Honourable Mr. GOKULDAS KAHANDAS PAREKH said—Your Excellency,—I have to make a few observations at this stage of the Bill. The Bill has come considerably improved from the Select Committee. There are some parts of the Bill, in reference to which I feel strong objections, and I will take your Excellency's permission to address myself on them.

I proceed first to the power of the Board in connection with the acquisition of lands for street improvements, and for building houses for the poor. As things stand, under the Bill the Board would have power to acquire by compulsory process, not only lands required for the purposes of any improvement but those which may be affected by the execution of any scheme. There is no restriction as to the extent of the lands to be so acquired, but the Board, if it so likes, can take all the lands of a whole street. Considering the importance of the improvement schemes, I do not at all wish that the owners of property should derive any improper advantage at the expense of the Board. I do approve of the provisions contained in Section 43, Clause 6, laying down the special principles for the assessment of compensation in such cases. But the Board ought not to acquire compulsorily more lands than they absolutely require for useful objects. They should not obtain lands for the purpose of reselling to the same owners or others at considerable profit, or for the purpose of making profitable investments. I am aware of the argument, that the owners of houses in the street get the benefit of the improvements made by the Board; but my answer to that is, let there be some other way of obtaining equable contribution from persons whose properties are benefited. Under the provision as it exists, one would get all the benefit of the improvement without any loss, another with a slight loss, and the third man may suffer more loss than benefit from the carrying out of the scheme; if the Board has this power, it may be expected that there would be a good deal of underhand work to induce it not to take certain lands and to take others. The effect of this sort of underhand work would be very demoralising, and the temptations to its use should be avoided as much as possible.

In connection with the schemes, I wish that there should be greater safeguards against the Boards entering into ill-advised schemes. I may take it that ordinarily the Board will do its duties properly and there will not be any cases of ill-advised schemes sent up by the Board for sanction, and that Government will be able to discover whether a scheme is good or bad. But who can say how the Act may be worked many years afterwards? When the Corporation or more than 50 per cent. of the people representing the property, the subject of the scheme, object to it and demand an enquiry, it is but fair that there should be an enquiry, and the materials on which the sanction is to be granted should be more fully placed before Government. Under the English law the confirming authority has an enquiry made before making the provisional order, and after the provisional order, there is a further enquiry when there is opposition before a Parliamentary Committee; when there are objections from influential quarters the chances of mistakes should be minimised by having a full enquiry.

I next proceed to the provisions about the determination of compensation for lands compulsorily acquired. My first objection is about the constitution of the tribunal to determine this. This Tribunal is to consist of a judicial officer and two assessors, one appointed by Government and one by the Corporation. Now this tribunal is very properly constituted for determining matters of dispute that may arise between the Board on one hand and Government or the Corporation on the other, or between Government and the Corporation, but it will not be a proper one between the Board on one side and a private party on the other. Our experience of compensation cases shows that a Government assessor thinks it his duty to award as little as possible to the claimant; but even if you take him to be as indifferent as the judicial officer, there is the assessor of the Corporation whose interest is evidently against the claimant. So there is on the Corporation a person who has to protect the interest of the Board, while the claimant's interest is not



at all represented. Such a tribunal will not be regarded as a fair one and is not likely to inspire the people with confidence. The other matter, which I disapprove, is the restriction of the right of appeal. Under the Land Acquisition Act, all orders of the original Courts are appealable, whether they relate to the amount of compensation, the right of any particular party to receive it, or the question of its apportionment between different persons. As provided by the Bill, there would be no appeal whatever on the question of amount, however big the amount, and however great the difference between the amount claimed and the amount awarded; and in case of disputes about the right to the compensation, there is no appeal except when the amount exceeds Rs. 5,000. There is no provision for appeal even when there is a difference of opinion among the members of the tribunal. The reason for this procedure may be that there may not be any delay; but when the question of large rights is considered, expedition is not the matter for consideration. The most important thing is to provide a procedure in which there may be the least risk of mistakes, and to have tribunals in which the public would have the greatest confidence. Sometimes the circumstance that there is an appeal ensures better and a more careful trial of a cause. I should suggest that if these disputes go to the High Court, as under the Land Acquisition Act, the Judges may give them precedence as to commercial causes, and there would not likely be much risk of delay.

In the present condition of business, it is not likely that the present number of Judges could not be able to take up this work, or that it would obstruct other business; but even if the business is too large for the present number of Judges, one more Judge may be added temporarily for the trial of these cases. Then I may suggest that matters up to Rs. 5,000, may go to the Small Causes Court with the usual right of appeal, and matters involving larger sums may be sent to the High Court. My next suggestion would be to have a special Judge with two assessors, one appointed by the Board and the other by the claimants or the body of claimants affected by a particular scheme, and to make a concurrent decision final. The third alternative is of a special Judge with the usual right of appeal under the law.

Finally, I say this Act is not like one which defines an offence or lays down procedure, where the whole thing is over as soon as a good Act is passed. Here in this Act the difficulties commence on its passing. A most perfect Act on paper may be a failure if not properly worked. While notwithstanding defects in the Act, they may not be felt if it is properly carried out. The Act has an exceedingly wide scope, its working would require unbounded energy, remarkable skill in the devising of schemes, caution and calculation and the great power of keeping effective control and supervision over the subordinates. It is only then that the Act has a chance of success. If mistakes are made in the selection of men, and if there are not right men in right places, there may be a huge failure; and such a failure would be worse than no commencement, as it may launch us in heavy debts, and the failure may deter our successors in taking up any scheme of improvement.

The Honourable Mr. PHEROZESHAH MERWANJI MEHTA said—Your Excellency, the Bill before the Council involves operations and transactions of such serious magnitude, and is pregnant with possibilities of such far-reaching and momentous consequences to the welfare, progress and development of the City that I do not think any apology is needed for venturing to take up the time of the Council with observations on its object and reasons, its principles and main features. My Lord, this Bill may be said to raise the curtain on the fourth Act of the drama of the local administration of the City. The first Act closed with the passing of Act II of 1865. Up till then, the management of local affairs was carried on under the direct control or supervision of Government assisted by small Boards composed mainly of Government officers, a state of things for which many people even now sigh as in all ages people have sighed for a golden age which exists only in imaginations inflamed by prejudice and for which there is no warrant in history. The system ended in gross financial mismanagement and at the end of 1864 in disastrous failure; and so grave was the condition of the city in point of health and sanitation that Government felt the necessity of a more organized effort, and Act II of 1865 placed the Municipal affairs of the city in the hands of a Government official called the Municipal Commissioner, assisted and controlled by the Bench of Justices, who were to have the power of the purse by controlling the annual Budget. Another experiment still fondly cherished by some people had thus its day. The result was that the Municipal Commissioner went his way regardless of the Bench, and six years of the Arthur Crawford régime



ended in financial ruin, though not unrelieved by marked improvement in the sanitary conservancy of the city. I do not know if there is any honourable member at this Board who remembers the sensation that was created in this very Durbar room when Mr. Hamilton Maxwell, as Chairman of the Finance Committee, announced that the Municipality was bankrupt. The curtain then rose on the third Act of the drama, and the legislation of 1872 inaugurated the system of an elected Corporation, a Town Council and an Executive Commissioner, a system which I had some little hand in suggesting, and which exists up to the present day. The Act of 1872 was appointed so to say only on probation; it was confirmed in 1878, and was improved and enlarged on the same lines in 1888, Act III of which year is the Act which now governs the Municipal administration of the City. Almost exactly ten years after the present Act in force was finally considered in this Council, the curtain now rises upon the opening of the fourth Act.

The question naturally arises why this further unfolding of the drama has become necessary. Is it because the progress of the third Act has landed us in as abortive a result or as dismal a failure as the periods before and after 1865?

For some time it has been dinned passionately in our ears that the legislation of 1888 has proved as faulty and imperfect as the corporate body, to which it entrusted large powers and resources, has been found grossly and shamefully unequal to its task. Now, my Lord, is there any truth in this indictment? The most serious fault found with the Act relates to the restriction contained in Section 348, by which certain provisions for sanitary structure were confined to sites previously unbuilt upon, and to absence of measures for preventing overcrowding. But the reasons for restricting Section 348—which was amended at the instance of one of the most thoughtful and enlightened members this Council ever had—have not been understood. To have applied the new provisions for structure in Section 348 to sites previously built upon would have prevented hundreds of house-owners from rebuilding their houses up to the very last moment, and the city would have had a far larger number of old dilapidated and patched up houses against houses improved at least to a certain extent by rebuilding, though not in the best manner possible. As to overcrowding, the Act has provided in Section 378 ample powers for dealing with buildings unfit for human habitation, and in Section 379 with the evils and dangers of overcrowded dwellings. But then it is said that if these sections were not properly worked, it only proves again the gross incompetence and apathy of the Corporation. People who talk like this show that they have never studied the legislation which they criticize. The working of Sections 378 and 379 is not vested in the Corporation but has been deliberately left to the independent responsibility of the Commissioner with the help of Courts of law. I was sorry to see that the other day a late Municipal Commissioner, in the debate on Mr. Birdwood's interesting and excellent paper on the plague in Bombay, inveigh against the Corporation for dilatory and unenlightened action in the matter of drainage and house-connection. Now what are the facts? The Corporation yielded only too easily to the introduction of systems of drainage and house-connection, accepting the opinion of their experts against its own misgivings as to how far the systems had been made suitable to tropical conditions and the habits of the people. In the debate to which I have referred, Mr. Baldwin Latham, who was engaged to report on our system, confesses that "He knew Bombay very well, having carefully examined every portion of it, and he must say it was a misfortune that the early sanitary works there were not designed in a better way. European rules had been applied to Indian towns which, in his judgment, having regard to certain circumstances connected with the population, were not sufficient for the purpose." It is in this non-adaptability of European expert knowledge that the explanation of the much-abused action of the Corporation lies. The case of house-connections is in point. The system based on European precedents hastily introduced had to be ultimately revised, and the Corporation acted wisely, and not obstructively, in insisting upon such revision and in compelling Mr. Acworth to submit to it. In the same way, there is an outcry about neglect of subsoil drainage. It is curious that Mr. Cassels, who steered the Act of 1865 through the Council, then made the same complaint against a similar extravagant waste of Vehár water as is now made against Vehár, Tulsi and Tánsa combined, and the increase of malignant fever in the town in consequence. Well, Bombay proved a pretty healthy town for several years after the waste of Vehár water was allowed to run riot. But here again a remarkable fact is oozing out. It is said that a small sub-committee appointed recently of three of the best European and one Native expert in Bombay to investigate the subject, is finding



from the experiments carried out by it that the level of subsoil water in the city is lower instead of being higher than before. I do not refer to this for the purpose of recommending or justifying any inaction in dealing with subsoil drainage.

I only want to show that the grave problems that come before the Corporation present difficulties and complications which demand careful and cautious consideration. The truth is that, as your Lordship has gracefully testified in your letter to that body, the Corporation has done useful and valuable work in a variety of directions during the twenty-five years that have elapsed since the Act of 1872 inaugurated local self-government in this city. The present Bill has become necessary, not because there has been any failure in its work or the performance of its duties, but because a time has now come in the development of this city as in the case of all other great cities which, growing up unmethodically at hazard, have suddenly found themselves outgrowing their capacities and their requirements. Though the great fire of London of 1667 gave it a splendid opportunity of getting rid of its wooden houses and its narrow alleys, even so recently as 1890, when it amended and consolidated the Acts for housing the working classes, there were 300,000 inhabitants living in slums in a condition which Professor Huxley declared to be inferior to that of West African savages, and it was generally admitted that "the dens inhabited by the poorer section of the working classes dwelling in London were a disgrace to humanity and a dishonour to that enlightened and opulent city." The condition of a great portion of Paris was not much better till half of it was rebuilt by Baron Hausmann so recently as the time of the third Napoleon. We have now to do for Bombay the work which was done in these and other great cities of civilized Europe none too early. In London the great fire, in Paris the exigencies of an Imperial *régime*, in Lisbon the great earthquake supplied the propelling force. We are set in motion by the dire pestilence that is so mercilessly ravaging the city. Your Excellency's Government deserves no little credit for seizing the right psychological moment with promptitude and thoroughness by bringing in the Bill now before the Council. I have said, my Lord, that it is a measure of grave magnitude; I may add that it is not a little bold and ambitious in its procedure. I refer to this feature, not to discredit it, but to point out the necessity of safeguarding its enterprise as carefully as possible. At the first reading of the Bill I referred to the Glasgow Improvement Trust Acts, which embodied full plans and details of the improvements contemplated. But it was pointed out that the present Bill was modelled on the Statute of 1890 for the housing of the working classes, and that that Act left the areas of improvement and reconstruction to be settled afterwards. But it must be remembered that under the Statute of 1890 no improvement scheme, even after being sanctioned upon an official representation by a Secretary of State or the Local Government Board, could be carried out without a special confirming Act of Parliament, so that each scheme had to prepare its full plans and details and estimates before the Legislature allowed it to be carried out. In this Bill there is no such safeguard provided, and it is therefore most essential to see that the constitution of the new Board to be created is such as to guard against recklessness and to devise limitations of its powers and resources so as to provide against extravagant and ambitious expenditure.

I ventured to state at the first reading the view I took of the constitution of the new Trust. To my mind it approximates substantially with the Joint Committee contemplated by the Municipal Act for special work. I should have wished that in view of the fact that the Corporation will raise and supply the greater portion of the funds required, they had a larger representation on the Board. The Bill as amended in Select Committee reduces its comparative representation lower than in the original Bill, and I shall move an amendment to rectify that state of things as far as possible. The main objects of the Bill are to improve and reconstruct unhealthy areas, to open up the city by forming new streets, and to provide dwellings for the poorer classes. Reclamation, I am assured and understand, is not one of the principal objects, but it is introduced with the view of supplementing the resources for carrying them out. But the sanction for a reclamation scheme stands in an essentially different position from the sanction to an improvement scheme. With regard to the latter, Government occupies the position of a disinterested party; with regard to a reclamation scheme, it is a directly interested party. It gains by the success of a reclamation scheme: it loses nothing by its failure, and may even gain something. Under these circumstances some provision should be devised for saving Government from marring its reputation for justice and infallibility in an incautious moment. I propose to suggest an amendment for that purpose. With regard to the



provisions for initiating schemes for the improvement of unhealthy areas and for the formation of new streets, they seem to me to be practically sufficient and satisfactory with the addition of the Corporation in the list of moving authorities. They are borrowed and closely adapted with necessary changes from the corresponding sections of the English Act of 1890 for the housing of the working classes. The Select Committee has amended this part of the Bill by giving the Corporation a direct opportunity of considering and criticizing every improvement and reclamation scheme. I trust that the Corporation will view this as one of their most important functions and fully utilize the opportunity of carefully studying and commenting upon every scheme, with the aid of a strong expert committee. The inclusion of police accommodation schemes seems at first sight to be somewhat outside the main object of the Bill. But I cannot think that there is serious objection to entrusting the Board with the work of housing the police, for it cannot be denied that it would be a great advantage to the city to have the rank and file of the police located and housed in proper quarters. The money required for it could be raised by a loan which would be paid off by a rental based upon the amount of interest and sinking fund. With the addition of the clause for vesting the police buildings which might be thus constructed in the Corporation, the interests of that body are well safeguarded. It will have secured substantial buildings for the city for the small addition to the rental in the shape of sinking fund instalments for a period of 60 years.

We now come to the resources placed at the disposal of the Board. For a long time it cannot hope to meet the interest on the loans required for carrying out its work from the returns of its own operations. As Bombay is a city in which many imperial interests are centered, it is only just and right that the necessary funds to meet the deficiency should be contributed from the imperial as well as the local exchequer. This principle is recognized in the Bill; but I cannot help saying that the division of the burden is not what it ought to be. The share of Government is principally confined to the income which the Board might make from the rental of certain Government properties for 99 years after paying them interest at 3 per cent. on their values. These are principally properties which ought always to have belonged to the city as soon as local burdens were placed upon it. It is too late in the day, however, to make a claim based simply on bare equity and justice not clothed in legal garb. But with regard to two properties, I cannot help saying that the Government might have shown greater liberality: I refer to the Kennedy Sea Face and Chaupati properties, aggregating a valuation of nearly 21 lakhs. I do not know if many members of this Council are aware of the history of the acquisition of these properties by Government. Both these properties were acquired by Government from the wreckage of the famous Back Bay Reclamation Company without the expenditure of a single rupee, while they cost the unhappy shareholders of this city over eighty lakhs of rupees. The right to reclaim the foreshore was given to the company on condition of its giving Government about 400 acres out of the reclaimed land. After sinking an enormous capital, the company found it impossible to carry out their project, but there was the condition with Government, and it could only save itself by making over to Government the area reclaimed by them—now the Kennedy Sea Face—and various properties they had purchased in Chaupati and Malabar Hill for several lakhs of rupees for getting material for reclamation. Surely properties built up with the money of the city and acquired from it in such a manner might well be given back to the city on an occasion like the present. Though I feel as if I were leading a desperately forlorn hope, I would still appeal for the good offices of your Excellency's Government to get these properties as a free gift to the city to be used either as open spaces or building sites.

The second resource placed at the disposal of the Board takes the shape of a speculation in reclamation. It is in some trepidation and with some doubt that I join in consenting to its acceptance. But the calculations on which it is based appear hopeful and the reclamation, if successful, will also serve to provide healthy and valuable building sites in the expansion of the city within itself. The rest of the burden for carrying out the work of the Board is laid on the shoulders of the Corporation. As it is at present entered in the Bill, I do not know how to describe it. Besides the return from the Municipal properties devolving on the Board on the same terms as the Government properties, it is said that the Corporation will have to contribute a sum equal to a charge of two per cent. on the rateable value of all lands and buildings in the city. This will bring over 5 lakhs of rupees a year according to this year's returns: the amount will probably continue to grow in the future as it has done in the past. Whatever the increase, I am



content that the city should contribute this definite two per cent. But is it really two per cent. in the Bill? Section 63 is certainly definite; it talks in a most firm and decided manner of "a lump sum not exceeding two per cent. on the rateable value of all buildings and lands in the city." Such emphatic words relieve you of all sense of uneasiness and you glow with a sense of assurance made doubly sure. But alas, you approach Section 70 and on the gate thereof is an inscription which reads, "All hope abandon, ye who enter here." The boundary line of a lump sum not exceeding two per cent. dissolves into thin air, and in the benevolent and euphemistic Tudor fashion you are let in for any per cent. not exceeding, it is true, but not exceeding "the liabilities of the Board"! I know the soothing unguents which are administered to induce you to swallow this gilded pill; it is said to be only a sop to the ignorance of the people from whom loans are to be extracted; only this and nothing more. But I must say this is not business. If you give an unlimited power, you must calculate the consequences of doing so. I confess that I cannot contemplate with any amount of equanimity the laying of an unlimited burden on the rate-payers of the city. I am strongly of opinion that the only prudent course is to fix the per cent. without any means of tampering with it, and let the Board thus clearly realize that it must cut its coat accordingly, and that it must proceed at such a rate only as the percentage given to it will enable it to do.

This is all the more essential when we remember the difference between this Bill and the English Acts on which it is otherwise based, as I have pointed out above. There is not the slightest idea given in the Bill as to the works the Board might embark on and the money that they might cost. Under the English Acts, the extent of the liability could be ascertained before Parliament is asked to confirm any scheme. It may be said that calculations have been made which show that two per cent. would suffice. But the calculations could only be necessarily based upon certain assumptions as to what should be undertaken from time to time. But neither the assumptions nor calculations would be in the least degree binding on the Board, and the Corporation could be compelled to dance to any tune the Board might call for. My Lord, I cannot but view with the greatest concern the imposition of this unlimited liability on the Corporation, and I trust the Council will take into their most serious consideration this part of the Bill. With this exception, I must confess that the Bill comes out in an improved and satisfactory condition from the hands of the Select Committee, though there are some minor points on which I have amendments to propose. I feel bound to say that this satisfactory result is in no small measure due to the chairman selected by your Excellency for the committee. Our deliberations owe much to his intimate knowledge of everything concerning the city, while his clear grasp of facts and his liberal and sympathetic attitude to all argument and contentions were eminently conducive to a satisfactory discussion and settlement of all disputed questions. But however satisfactory this Bill may be made in Council, let us all bear one thing in mind, that its successful working will mainly depend upon the watchful, reasonable and judicious co-operation of Government, the Corporation and the public. So worked, I hope and pray, that it may succeed in making the city which we love and of which we are so proud, as healthy as it is beautiful, for the benefit of its poorest as of its richest citizens. Such a result, my Lord, would raise a perpetual monument to the anxious sympathy and farseeing solicitude for the welfare and resuscitation of this city which were so conspicuously illustrated in your Excellency's speech the other day in the Town Hall.

The Honourable Dr. BHALCHANDRA KRISHNA BHATAWADEKAR said—Your Excellency,—It is a matter for satisfaction that the important measure before the Council has undergone considerable change for the better during its progress through the Select Committee. I am particularly gratified to find that the several important points in the Bill as originally drafted, to which I ventured to draw the attention of the Council at the first reading as requiring some modifications in the directions I then indicated, have received due consideration at the hands of the Select Committee.

I do not propose to dwell on this occasion on the principle of the Bill or the work which has been performed by the Corporation. I have already alluded to it in my remarks on the first reading of the Bill. As my friend, the Honourable Mr. Mehta, has already spoken so eloquently and forcibly, I will not take the time of the Council. I will, therefore, address myself to some important points. One of the points which I mentioned at the first reading was with reference to the constitution of the new Trust.



I then urged that one important interest, *viz.*, the Mill-owners' Association, for reasons I then stated, should have a direct representation on the Trust. I am glad to say that the suggestion has been favourably considered by the Select Committee. In its report, the Committee recommended "that there should be an additional elected Trustee to be returned by the Mill-owners' Association." In view of the important interests which the Mill-owners' Association will represent, I venture to hope that this recommendation of the Select Committee will meet with the approval of the Council. I still believe that the constitution of the Trust would have given more satisfaction to the Corporation if, along with this addition, the Select Committee had seen its way to recommend an additional Trustee to be elected by that body. Another point which I then raised was with regard to the fixing of the maximum and minimum salary of the Chairman and the remuneration to the Trustees. These points also have received favourable consideration. The maximum salary of the Chairman has been fixed at Rs. 3,000 per month. The point with regard to the fixing of the minimum has been left open. I hope the amendment of the Honourable Mr. Mehta, suggesting the minimum at Rs. 2,000, will be accepted. As regards remuneration to the Trustees, I may be permitted to remark that there is an entire departure from the principle embodied in the present Port Trust and Municipal Acts. It was proposed in the original Bill to give each Trustee a fee of Rs. 30 for every special meeting of the Board and Rs. 15 for each Committee meeting, on the ground that the Trustees will be all business men and will not be able to afford time to attend these meetings unless adequate remuneration was given. I do not consider this a sufficient ground, because business men offer their services and their valuable time to the city, not from any mercenary motives but purely from a sense of loyalty to citizenship and public duty. I was opposed to the retention of these provisions on the Select Committee, but as a compromise that the remuneration to a Trustee should not in any one month exceed Rs. 200 was arrived at, I acquiesced in their retention.

Considerable modifications in the Bill have been suggested by the Committee in regard to the sections bearing on the operations of the Board. The most important of these modifications is the provision that the Corporation should be furnished with a copy of every proposal in connection with improvement, reclamation, street and police accommodation schemes. This will enable the Corporation to be in constant touch with the operations of the Board, and is calculated to establish friendly relations between the two bodies. This will also afford an opportunity to the Corporation of making any representation to Government before the latter accord final sanction. Another modification recommended is that the Commissioner is bound to take action on a Resolution of the Corporation as on a complaint from three Justices, twelve rate-payers, &c. In regard to reclamations both the public and the Corporation are very diffident as to their ultimate success. The Honourable Mr. Mehta, therefore, suggested, and I concurred in the suggestion, that in order to ensure the greatest possible caution in proceeding with those schemes, Government should not sanction any such scheme proposed by the Board but disapproved by the Corporation before it is submitted to an independent Committee of experts to be appointed half by the Government and half by the Corporation. I am sorry the majority of the Committee did not see their way to adopt this suggestion. I venture to hope it will meet with better reception in the Council.

As regards police accommodation scheme the Select Committee have simplified the wording of Section 40 and after carefully considering the equity of the measure have proposed that all police accommodation provided by the Board in the execution of a scheme shall, after the expiration of the first lease during the period of which the capital debt will be liquidated by annual payments by way of rent, vest in the Corporation to be used for the same purpose and subject only to such rent as will suffice to pay for maintenance charges and rates and taxes. In the original Bill it was proposed that after the expiration of the lease the buildings will vest in the Government. The claim of the Corporation having been fully considered, I entirely withdraw my objection on the point. The provisions in regard to the schedules of landed estates have been to a certain extent modified, and the schedules also have been amended to that extent. A provision has been added empowering the Corporation to prolong the period of exemption from interest of 3 per cent. per annum beyond the tenth year or from such subsequent period as may be approved by the Government of India. A further provision has been added that the Flats shall in no case be built upon, and no capital value shall be assessed in respect of them.



It was the financial provisions of the Bill that had excited the greatest amount of adverse comment, and it is pleasing to note that the comment has borne good fruit. The Bill has emerged from the Select Committee in quite an altered form with respect to that point. There have been many alterations and modifications. On the question of title to property and division of profits some sections have been re-drafted and others have been newly introduced. Section 63, which was very complicated, vague, and difficult to understand, has been completely re-drafted so as to make it clear that what the Corporation have to pay is 2 per cent. on the rateable value of all taxable properties in the city, the contribution being enhanced in the case of ordinary property rates derived from areas occupied by the Board by any increase which may accrue from the rateable value of the property. The section, as it is drafted, is much more intelligible and is calculated to minimize friction between the two bodies. In case of any dispute between them the deciding authority, as recommended by the Committee, will be the Tribunal and not the Government as proposed in the original Bill. There has been a difference of opinion amongst the members of the Select Committee with regard to the retention or elimination of Sections 70, 71 and 72, which impose on the Corporation and, through that body, on the city, a contingent liability in the event of default on the part of the Board. The majority of the Committee were in favour of retention on the grounds mentioned in the report, but the minority consisting of my friend, the Honourable Mr. Mehta and myself, hold that they should be eliminated. The omission in our opinion will conduce to careful and cautious administration of the resources at the disposal of the Board. The majority, on the other hand, think that their retention is essential to the financial success of the Board's operations, and that it will serve as a guarantee to intending investors. In our judgment the annual Municipal contribution ought to be a sufficient guarantee. There is no necessity for further guarantee of the nature proposed. On the contrary there will be a tendency on the part of the Board to be extravagant in view of the belief that there are special resources to fall back upon in the event of difficulties.

There are several amendments of which the Honourable Mr. Mehta has given notice. To my mind they are eminently reasonable, and I trust that they will commend themselves to the approval of the Council. The late Mr. Telang on a similar occasion said: "Like Oliver Twist we must always ask for more, and I am sure the Government will be pleased to grant more."

In conclusion, my Lord, I cannot resume my seat without giving expression to my cordial obligations to the Honourable Sir Charles Ollivant, for the invariable courtesy and kindness with which he treated us during the proceedings of the Select Committee. He showed a remarkable readiness to receive our suggestions, and was uniformly fair and impartial to all the interests concerned. I am glad I was not a false prophet when I said on the last occasion that the interests of the Corporation and the city were in safe hands, for my anticipations have been fully realized, and no member of the Select Committee has shown more anxiety to do justice to the Corporation than the Chairman of that Committee. When the Bill is passed into an Act, and when Bombay is improved under its action, healthy Bombay will be a standing monument to your Lordship's sympathy, statesmanship and resourceful anxiety for the welfare of this great city.

The Honourable Mr. T. B. KIRKHAM said—Your Excellency,—I do not propose to occupy the time of the Council more than for a few moments, but there is one thing which I think ought to be said on the second reading of this important Bill, and I desire to say it as it may otherwise remain unsaid. I cordially approve of the Bill and support it with the greatest pleasure, believing as I do that it is based on thoroughly sound lines, and that a measure of this kind is absolutely inevitable. I do not think that anything better has been proposed in any direction, and the Bill in itself appears to offer large opportunities for modification and adjustment as its working develops in order that any unforeseen circumstances may be dealt with. But the reason why I rose to speak is that I do not find in the Bill, nor in the report of the Select Committee, nor in the exhaustive speech of my friend, the Honourable Mr. Mehta, any reference to primary education or to buildings for primary schools. When the honourable member of Government in charge of the Bill spoke in the debate on the first reading he defended particular sections with the argument that if we remove large bodies of people from one portion of the city to another we must necessarily provide for police accommodation. The argument is absolutely unanswerable, and similarly in a civilized city provision ought also to be made for adequate primary school buildings. I therefore feel to a certain extent disappointed



that in the general measures laid down for the improvement of the city, nothing specific appears about primary school buildings which must be regarded as a most important want in connection with the city. I only, therefore, wish to say that I hope that the members of the Joint Schools Committee, who are charged with the administration of the school fund of the city, and the members of the Corporation upon whom rests the statutory duty to provide adequate accommodation for primary schools in the city, and the members of the new Trust itself, when it comes into existence, will not forget the claims of the people to good school buildings. I hope that as each scheme comes before these various bodies they will see that a site is set apart for a good school building as a matter of course in each particular locality as arranged for, in order that the scandal to which your Excellency's attention in the early part of your administration was directed may be avoided in the renovated city of the future. I hope that primary school buildings,—large, airy, and wholesome school buildings—in which the children of the city are to be educated will not be overlooked.

The Honourable Sir CHARLES OLLIVANT said—It must be within your experience, your Excellency, more than it is within mine, that in more important assemblies than this a measure is occasionally brought forward which commands the support of all parties and receives the benevolent approval of the leader of the opposition, and notwithstanding that, the same leader of the opposition will afterwards proceed to point out matters of detail needing correction, so that, in fact, he may convince the members of his own party and his constituents that, good as the measure is, if it had only been left in his hands it might have been made better. Another experience your Excellency must also have met with is that occasionally amendments are suggested in one place with the comfortable conviction behind them that they are sure to be rejected elsewhere, and I cannot but think that in some of the suggestions made to-day there is somewhat of the same feeling underlying them. Of course it is extremely gratifying to me that upon all sides there is the admission that the Bill is improved through the deliberations of the Select Committee, and I wish to tender my personal acknowledgments to all the speakers for the cordial way in which they have spoken of my labours on that Committee. I must, however, warn your Excellency against the danger attaching to these encomiums. The members of the Corporation are, after getting all they wanted out of the Select Committee, preparing to attack your Excellency in the hope that the President of the Council may prove as compliant as the Chairman of the Select Committee. I could not but be amused when I heard that it was too late to make a claim based upon equity and justice not clothed in legal garb. I thought the pockets of the Government had been rifled, for there was hardly anything left beyond a mere subsistence of money, and in this situation it would be useless to appeal to the Courts, for there would be little chance of obtaining a decree. Coming from general observations to particulars, I notice that Mr. Gokuldas considers that the powers of acquisition should be limited to lands, which are immediately necessary for the work of improvement or sanitation, and should not apply to the acquisition of other lands benefited by the scheme, because they merely mean profit to the Board. I thought that was an argument which was thrashed out in the Corporation of Bombay at least ten years ago. I am quite certain that neither the Corporation of Bombay nor the great body of the rate-payers would support Mr. Gokuldas in this matter, because if the profits of some of these improvements were to go into the hands of the proprietor who accidentally happened to have his house near the land improved, the result would only be that the burden falling upon the rate-payers would be very much larger than under the provisions of this Bill.

There was an allusion from the same honourable member to the necessity of further safeguards being provided on the principle that is found in some corresponding English Acts. It must be remembered that here there is a special body created for carrying out these schemes, and that no single scheme can be accepted until the public have been made aware of it. The Corporation under the amendments proposed by the Select Committee will have an opportunity of discussing it, and finally the scheme in all its details with estimates attached will have to be approved by the Government. I have seen already in some quarters the fear expressed that the safeguards are even too many and are likely to clog and delay the action of the Board. I think that the safeguards provided are necessary, but I am of opinion that further safeguards in the way of appointing a Committee to report on the action of what is a Special Committee would cause delay likely to defeat the objects of this Bill. Then as regards the special tribunal and the right of appeal. These



matters were discussed in the Select Committee, and I think the provisions of the measures in these respects are in some respects the most important in the whole Bill. Already we know in Bombay what a tremendous delay can attach to the acquisition of land. I need only mention one instance. When I was Municipal Commissioner a scheme was proposed for making a road from Naorojee Estate to Elphinstone Bridge, communicating with the Docks. I believe that that scheme is now very much as I left it, and nobody is to be blamed for the delay. The delay is entirely due to the difficulty in acquiring land and the lengthy procedure in the Courts. When I was Municipal Commissioner I laid before Government and the Corporation a scheme for such a tribunal. I said I thought the President should be a judicial officer, and of the assessors one should be appointed by Government and the other represent the parties whose land was being acquired. That is what Mr. Gokuldas recommends, but when you come to consider how the third member is to be selected you find yourself in difficulties, as you want a permanent board which will gain experience in this class of cases. I think the Bill as now drafted ensures to the persons, whose lands will be acquired, the certainty that their interests will not be ignored. I think we may trust—indeed it is always recognised—the Government to be fair, and I think the Council may rest assured that the Corporation will take care that a person qualified to act with a judicial temperament will be appointed on their part, and the Government will do the same. It would defeat the object of this section in avoiding delay if we were to say that there should be an appeal either to the High Court or the Small Causes Court. I was rather amused to hear that the action of the Select Committee in providing for a direct representative of the Mill-owners' Association was made an argument for increasing the number of representatives which should be returned by the Corporation. In the Select Committee it was not even suggested, I think, that another representative should be given to the Corporation simply because an addition of one was made to the number of members of the Trust on account of the Mill-owners' Association; on the contrary the feeling there was whether it was desirable that we should have a Board with so many members, and should we not omit one of the representatives provided for in the original Bill. Eventually we came to the conclusion that we could stand the number at fourteen. Now, if I understand the Honourable Mr. Mehta, it is that the total number should be increased to 15 in order that the Corporation may be secured against this formidable antagonist.

The Honourable Mr. MEHTA—That is not my proposal.

The Honourable Sir CHARLES OLLIVANT—We will consider that when we come to the amendments. I need not refer to the Honourable Mr. Kirkham's speech. The matter came before Government in the later stage, and I should strongly object to the Board diverting its funds to providing lands or houses for the poor schools. It is an object which finds no place in the Bill, and which would probably be absolutely illegal.

The Honourable Mr. KIRKHAM—I did not mean that any funds should be diverted, but that in the framing of schemes consideration should be given to the necessity for accommodation for primary schools. The arrangements for funds would be another matter, and that is provided for in the Municipal Act.

The Honourable Sir CHARLES OLLIVANT—We have already had to face, late in the day, provision for police accommodation, and in doing so we had to consider a charge which was jointly shared by the Government and the Municipality. If this suggestion had been made at an earlier stage I do not think we could possibly have advised that any further provision should be made for setting aside lands or buildings for schools. Those upon whom the responsibility rests for providing such buildings will avail themselves of the opportunities created by the development of Bombay in consequence of the labours of this Board. One of the first things we have to consider is that time is short, and I do not propose to offer any further remarks except this, that if by any reference to the Select Committee's amendments I could have given greater assistance or shown any greater courtesy to the Council, I would have made those remarks; but I am a stranger to procedure here, and I believe that it is not usual in submitting Select Committee's reports to make any remarks. I should have been very sorry to have taken away from the value of the Select Committee's report, which was signed by the whole Committee, by making observations which were only my personal remarks, and what was said in the report exactly expresses what the Select Committee has done in amending this Bill.

His Excellency the PRESIDENT then put the motion that the Bill be read a second time.



Bill read a second time. This was agreed to, and the Bill was read a second time.

Consideration in detail. The Council then proceeded to consider the Bill in detail.

The preamble was postponed.

The Honourable Mr. MORIARTY moved that for sub-section (2) of Section 1 the following be substituted:—

“(2) Nothing in this Act shall be deemed to affect the provisions of the Indian Telegraph Act, 1885, or the Indian Railways Act, 1890.”

The honourable member said—This amendment like most of the others I have given notice to propose is formal in character, and it will only be necessary in very few cases to trouble the Council with any explanation concerning them.

The amendment was agreed to.

The Honourable Mr. MORIARTY then moved that in Section 2, line 32, after “53” to insert “53A,” and in line 36 for the words “in the Land Acquisition Act, 1894,” to substitute the words “in sub-section (1) of Section 43 of this Act”.

The amendments were agreed to.

Section 3 was agreed to.

The Honourable Mr. MORIARTY then moved that in Section 4, line 10, the words “or Acting Collector” be *deleted*. He said that under the General Clauses Act the word “Collector” includes any officer acting in that capacity, and that therefore the words “or Acting Collector” were unnecessary in the Bill.

The amendment was agreed to.

The Honourable Mr. MEHTA then moved the following two amendments:—

In Section 4, lines 1 and 4, to *substitute* the word “thirteen” for “fourteen,” and “six” for “seven,” and in Section 5, lines 7, 8 and 9, to *omit* the words “one by the Trustees of the Port of Bombay (hereinafter called the Port Trustees).”

He said—I may state that the object of these amendments, which stand in my name, is to take away the right of representation which is given to the Port Trust. My honourable friend, Sir Charles Ollivant, is mistaken in thinking that I proposed in the Select Committee that an additional member should be given to the Corporation. What I proposed was that the original number of members should be retained, but that the appointment of one member which was given to the Port Trust should be taken away from that body and given to the Mill-owners' Association. And that is what I propose now. I can state very shortly the reasons for this proposal. I have more than once pointed out that in my opinion the representation given to the Corporation on the new Board should be as large as possible. The amendment made in the Select Committee has the contrary result. The increase of members from 13 to 14, while the number of appointments given to the Corporation remains the same, reduces its status in this respect by reducing the proportion between its nominees and those appointed by Government and other bodies. My second reason is that the Port Trust is not a body constituted in such a way as to make it eligible for a privilege like this. It is a small body composed of 13 members elected and nominated, but in which after all Government has the preponderant voice. To give one appointment to the Port Trust is therefore equivalent to giving Government another nomination. The Port Trust is representative really of Government and not of the trade and commerce of Bombay as is sometimes rather loftily said. Besides, the trade and commerce of Bombay will be amply represented by the Chamber of Commerce, the Mill-owners' Association and the Corporation. It is all very well to say that the Port Trust contributes largely to the Municipal revenue, so do the other rate-payers, and still no direct representation is given to them. To my mind the Port Trust, as it is constituted, is an ineligible body for this purpose, and the real meaning of giving them an appointment is practically to place one more nomination in the hands of Government, who contribute proportionately much less as against the Corporation who really find the bulk of the funds with which the new Trust is to carry on their work. It is for these reasons I commend my amendment to the acceptance of the Council.

The Honourable Mr. W. C. HUGHES said—The Council will not be surprised to hear that I am not in favour of the Mill-owners' Association being given representation in pre-



ference to the Port Trustees. Without making invidious comparisons I may mention that the net rateable value of the Port Trust properties is Rs. 22½ lakhs, or 50 per cent. more than the total rateable value of all the mill properties taken together, which is 14½ lakhs. At 2 per cent. the mills represented by the Association will contribute Rs. 21,000 per annum to the revenues of the Trust, while the Port Trustees will at the same rate contribute over Rs. 40,000 per annum. The Port Trustees are a public body constituted under an Act. Their sole interest is the general welfare of the trade of the Port, and I venture to claim that they represent the local interests of the trade in a wider sense than even the Chamber of Commerce represents them, because they are brought into the most intimate relations with every branch of the trade—not only with that carried on by the large European firms chiefly at the docks, but, also, through the three native gentlemen who are members of the Board and through their officers, with that which is in the hands of native merchants, and is carried on at the bunders as well as at the docks. I am glad to think that not only are our relations with the native merchants most intimate, but also that we enjoy their confidence in no restricted degree. Again, the Port Trustees are large landlords. Their tenants are very numerous and embrace every class from the occupants of temporary huts on outlying properties to the owners of the substantial residential buildings at Mody Bay and on the Apollo Reclamation. I believe I am right in saying that in Calcutta it is proposed to give the Port Commissioners the right of representation on what we here call the Standing Committee. However that may be, I think that it will be a misfortune if the Chairman of the Port Trust, whoever he may be, is not a member of the new Trust. I take it for granted that the Port Trust representative will be the Chairman and I hope these amendments will meet with the same fate at the hands of this Council that they met with at the hands of the Select Committee.

The Honourable Dr. BHALCHANDRA said—My Lord,—I am the guilty party who misled the Honourable Sir Charles Ollivant and not Mr. Mehta. I suggested at the Select Committee that an additional representative should be granted to the Corporation, but as I received no support I did not press it. I was for an additional representative for the Mill-owners' Association and not for substitution in place of a member of the Port Trust. I did not expect to find any support in the Council to an amendment for an additional representative by the Corporation and hence I did not propose any.

The Honourable Sir CHARLES OLLIVANT said—I agree with the Honourable Mr. Hughes that the Port Trust should be represented, because I think that the Board should be distinctly largely representative of the commerce of Bombay. I also wish to observe that as regards the question of the proportionate representation of the Corporation I do not think that the seat given to the Mill-owners' Association is in any way likely to lessen the ratio of the representation of the Corporation. I find that of the three members of this Council who represented the Corporation on the Select Committee, two were connected with the mill industry of the city. I think it is highly probable that when the Mill-owners' Association does return a direct representative to the new Board that representative may turn out to be a member of the Corporation. There is one other remark to be made and that is that when they retain in their hands the appointment of three Trustees, Government will first have to consider the interests of the city by the appointment of the necessary number of experts, and secondly, it will be their duty to redress inequalities. However good the Corporation may be, I think its most doughty champions will not be prepared to assent that it can be depended upon to return representatives of the various sections of the community, and there may be occasions on which it will be of paramount importance for Government to rectify any mistake of that kind by nominating a member of a community that has not found representation through the Corporation. I am not attaching any blame to the Corporation for this, but I say from experience that such a thing as this has happened, and that Government have had to redress such inequalities in the case of the Standing Committee. The same thing happened at the Justices' election the other day. Therefore it must not be assumed that because there are three nominees to be appointed by Government that they will be in all cases the direct representatives of Government.

The Honourable Mr. MEHTA—My friend the Honourable Mr. Hughes has let the cat out of the bag as to what the representation of the Port Trust really means. In the first part of his speech he spoke of the value of the interest committed to the Trust and of its high rateable value, but after all it came out that the real reason for giving it a representa-



tive is that it is desirable that the Chairman of the Port Trust should be a member of the Board. Seeing that the Chairman of the Trust is appointed by Government and is a Government officer, why should he not be one of the three nominees of Government to the new Board? What Mr. Hughes has said bears out my statement that the change that has been made in the number of the members of the Trust really puts a larger number of nominations in the hands of Government than appears at first sight.

The amendments were then put to the vote and lost.

Sections 6 and 7 were agreed to.

The Honourable Mr. MORIARTY then moved that in Section 8, line 14, after the word "Corporation" to *insert* the word "or".

The amendment was agreed to.

Sections 9, 10 and 11 were agreed to.

The Honourable Mr. MORIARTY then moved that in Section 12, line 6, for the word "three" to *substitute* the word "four".

The amendment was agreed to.

The Honourable Mr. MEHTA then moved that the following be substituted for sub-section (1) of Section 12:—

"The Chairman shall be from time to time appointed by the Governor in Council for a renewable period of three years: Provided that he may be removed from office by the Governor in Council at any time, if it shall appear to the Governor in Council that he is incapable of performing the duties of his office, or he has been guilty of any misconduct or neglect which renders his removal expedient."

He said—The section as it stands provides that the Chairman shall hold office during the pleasure of Government. I quite agree that the appointment of the Chairman should be in the hands of Government. But I think that it is very important that the Act itself should show that this officer is to be a permanent officer and that he is not one who should be changed from time to time according to the exigencies of the public service. It is practically upon the experience and knowledge of the Chairman that the success of the Board's operations will depend to a large extent. He should be an officer who has an intimate knowledge of the city. It may be said, and I know it is an argument that is often used by Government officials, that no doubt Government will take care that these considerations are borne in mind when making the appointment. I am not prepared to say that Government will fail to do this under ordinary circumstances, but I still think that the intention of the Legislature as to whether the office should be a permanent one should be set forth in the Bill itself. To do so will not unduly tie the hands of Government. There is the example of the Municipal Act which provides that the Municipal Commissioner, whose appointment is vested in Government, shall hold office for a specified period. Even then, within my own experience, I have known three Municipal Commissioners changed within a period of three months, to meet the exigencies of the public service. The result of frequent changes like this has been that the officers appointed for a short time have had no opportunity of doing really good service for the Corporation. Now I desire to have some provision in this Act whereby such a state of things may be rendered as difficult as possible, provided always that any officer appointed and found unsuitable may be removed. The provision in the Municipal Act, similar to the one I now move, has not tied the hands of the Government in any way in making the appointment. My amendment will not prevent Government from using their officers who may be appointed as Chairman for other work should the exigencies of the public service require it, but it will serve as a legislative reminder that the officer should be connected with the Board as long as possible. As to the latter part of my amendment, I have only inserted it because of the proposed fixing of the period of appointment for three years. If Government object to it, as being unnecessary when the Chairman is a Government official, I shall have no hesitation in removing it altogether, but it seems to me desirable that in an extreme case of incapacity or misconduct the Act should give the power to Government to cancel the appointment. It is with the object of securing some amount of continuity in the office that I move this amendment.

The Honourable Mr. HUGHES suggested that instead of the words "renewable period of three years" the words "for a period of not less than three years" be inserted.

The Honourable Mr. MEHTA said he saw no objection to the alteration.



The Honourable Sir CHARLES OLLIVANT—I have no objection to the amendment except this, that Government could not compel an officer to remain three years as Chairman if he did not wish so to remain. Is Government to extract from him a contract?

The Honourable Mr. MEHTA—The Chairman will not be bound to stay for three years. Sir Charles Ollivant is aware that the Municipal Commissioner can go away before his time is up.

The Honourable Sir CHARLES OLLIVANT—I know that he does go away (a laugh).

The Honourable Mr. MEHTA—If he does go away and is allowed by Government to do so, that shows it is not illegal.

The Honourable Mr. MORIARTY suggested the use of the word "Government" in substitution of the words "Governor in Council" where they occurred in the amendment so as to harmonize with the wording adopted throughout the Bill.

The Honourable Sir CHARLES OLLIVANT suggested the substitution of the words "has shown himself unsuited" in place of the words "is incapable of performing the duties of".

Sub-section (1) of Section 12 as finally agreed to then stood as follows:—

"The Chairman shall be from time to time appointed by Government for a period of not less than three years: provided that he may be removed from office by Government at any time, if it shall appear to Government that he has shown himself unsuitable for the office, or that he has been guilty of any misconduct or neglect which renders his removal expedient."

The Honourable Mr. MORIARTY then moved that in Section 13, line 9, after the word "Corporation" to *insert* the word "or".

The amendment was agreed to.

The Honourable Mr. MORIARTY then moved that in Section 14 to *delete* lines 1 to 3 and in place thereof to *substitute* the words "a person shall be disqualified to become a Trustee who".

The amendment was agreed to, the word "be" being substituted for the word "become".

Section 15 was agreed to.

The Honourable Mr. MEHTA then moved the following amendment in Section 16, lines 3 and 6:—

"To *add* after 'Rs. 3,000' the words 'and not less than Rs. 2,000,' and after the word 'determine,' to *add* 'in return whereof he shall devote his whole time and attention to the duties of his office as prescribed in this Act, or in any other enactment for the time being in force.'"

He said—As the Bill originally stood, the salary of the Chairman was to be such as Government might from time to time determine. But in Select Committee a maximum of Rs. 3,000 was fixed, and a strong desire was expressed that the minimum should also be inserted. But the reason given for not doing so seemed to me at the time plausible, but on further consideration I think it ought not to prevail. The reason given was that for the first few months of the Board's existence it might not be necessary to have a full-time officer, and that it would be wasteful and extravagant to pay during that period any minimum such as it would be possible to fix in the Act, for in that case the Chairman would be paid the full salary without doing the full work. It strikes me however that there will be a great deal of work ready to the hands of the Chairman as soon as he is appointed. It is of the utmost importance that he should at the very first gain a full knowledge of the requirements of the city, to be utilised in the future work of the Board; and that knowledge can only be acquired by the first Chairman devoting himself as a full-time officer to the work of going through the city and seeing what its requirements are. Although the Board may only enter upon a single improvement scheme at a time it will be of the utmost importance for it to be in possession of facts as to the requirements of other areas and parts of the city besides those affected by the schemes first carried out. The relation between one scheme and a subsequent one, or a subsequent number of schemes, will always have to be borne in mind. It is therefore clear that many questions demanding close study will have to be gone into in the earlier stages of the Board's existence. Supposing the argument by which a fixing of the minimum salary



is sought to be avoided is a good one, it will at best only be applicable for a few months, while this Act is to last not a few months only but many years—certainly 60 years, and probably 99 years; if not longer. What we have to do is to provide for the working of the provisions of the Bill for this long period. Therefore it seems to me that not only the maximum but also the minimum salary should be fixed. It is essential that the officer appointed Chairman of this Board should be an experienced and able man of some standing, and there should be no temptation in times of what are called the exigencies of the public service to appoint an officer who could be remunerated by a comparatively small salary. It should be distinctly provided in the Bill that the Chairman should be a full-time officer; and for the reasons I have mentioned his minimum salary should be fixed.

The Honourable Sir CHARLES OLLIVANT—I think that this matter is a reasonable one for discussion, but at the same time I am not disposed to advocate or support the change. It seems to me that Government would not wish to minimise the value of their patronage by giving a smaller sum as a salary than the minimum which might be expected for an office the maximum salary of which is Rs. 3,000. Moreover, let us suppose that Mr. Mehta could be induced to accept the Chairmanship of the new Board,—we should under an amendment like this be deprived of his services in this Council, and he would cease to be a member of the Corporation where his knowledge and experience are so beneficial. Therefore I think it is highly undesirable that the Chairman of the new Board should be entirely precluded from discharging any other public duty. The question of minimum salary is a smaller matter altogether. But it seems to me that the fixing of a minimum salary would not be economical in view of the small work that could be done at first. Supposing the Bill is passed next month. We should then be on the eve of the monsoon before the Board could be brought into existence, and altogether six months would elapse before any improvement work could be taken in hand. It seems to me a great pity to tie the hands of Government, and to needlessly increase the cost of the initiation of the Trust by saying that you must appoint a man who is not to have less than Rs. 2,000 a month. Supposing we get an officer who is able for a short time to carry on the duties in addition to those of his present appointment, Government will be able to pay him so much for this duty and so much for that duty if his hands are not tied in the way proposed. It seems to me that there is no advantage to be gained by fixing the minimum. Government are well aware that a good officer must be appointed to perform the important duties of Chairman of the Board, and it is not likely that they would offer a ridiculously low salary. Perhaps, however, if the part of the amendment stating the minimum salary is allowed to stand, Mr. Mehta will not adhere to the other part of the amendment as to the Chairman devoting his whole time to the office. I think it desirable that he should be a member of the Corporation.

The Honourable Mr. MEHTA—I will point out that the difficulty to which the honourable member refers can be met by putting in the Bill a section similar to that in the Municipal Act which makes the services of the Municipal Commissioner available for certain public purposes. He can serve on the Port Trust and does as a matter of fact have a seat thereon. The meaning of the amendment is not that the Chairman should not be eligible for temporary work of public usefulness, but that he should be precluded from accepting any regular public office other than that of Chairman of the Trust. He should not be a pluralist. It is suggested by the honourable member that for some time he might carry on the duties of two different offices; but it seems to me that ought to be avoided as much as possible even though in the first two or three months there would not be much work to be done. Important work will have to be done in the very first instance in organising the lines on which the Board has to work; and it seems to me that this duty, together with the duty of enquiring into the needs of the city, will require the services of a full-time officer. With regard to the minimum I do not say that Government would be likely to appoint a man of low standing because he would take a lower salary than a more competent officer. But one knows that sometimes in the pressure of the exigencies of the public service Government might be inclined to come down a little lower with the salary than would be compatible with the appointment of a man of some standing and experience. The officer appointed should be a man deserving of a good salary. I, therefore, think that the minimum should not be less than Rs. 2,000 and that the officer should devote his full time to the work, barring, of course, membership of public bodies such as is provided for in the case of the Municipal Commissioner in the Municipal Act.



The Honourable Sir CHARLES OLLIVANT—If the amendment is accepted it will require to be re-drafted and I would therefore suggest, your Excellency, that its consideration be postponed to a later stage.

Consideration of the amendment was accordingly postponed.

On the motion of the Honourable Mr. MORIARTY the following amendments in Sections 18 and 19 were agreed to:—

Section 18, line 20, for the word “conditions” to *substitute* the word “provisions.”

Section 18, lines 21, 25, 30, 43, 49, 56 and 61, to *delete* the word “that.”

Section 19, line 17, to *delete* the word “by”; and to transpose lines 10 to 20 of Section 20 from that section so as to become sub-section (3) of Section 19.

Sections 20 and 21 were agreed to.

The Honourable Mr. MORIARTY then moved that in line 25 of Section 22, for the word “limits” to *substitute* the word “limit.”

The amendment was agreed to.

Section 23 was agreed to.

The Honourable Mr. G. K. PAREKH then moved that in Section 24, line 16, to *insert* between “within” and “the area” the words “the ward comprising.”

He said—As the section now stands it is only the Justices who are residing within the area in reference to which the complaint is to be made, that have authority to make the representation. This is hard. A Justice, who resides in the immediate neighbourhood, would have no authority to make it. If the provision remains unaltered, there would be practically no power in the Justices to make the representation, and the clause would remain inoperative. In the next clause all the ratepayers within the ward have the power and the same power should be given to the Justices residing within the whole ward. It should not be confined to those residing within the particular area. Under the corresponding section of the English Act, Justices for the district have a right to make the representation; it is not confined to the Justices dwelling or living, or acting within the particular area complained of. A ward is the smallest part of the city which is recognised by law.

The Honourable Sir CHARLES OLLIVANT—I have no objection to offer to the amendment.

The amendment was accordingly agreed to.

The Honourable Mr. PAREKH then moved the following further amendment in Section 24, *viz.*, in line 22, to *insert* between “within” and “the ward” the words “or holding property liable to the payment of such tax within”.

He said—The amendment is proposed with the object that owners of rateable property in a ward, though not residing in the particular area, should have a right to complain. As the Bill stands, it is only the residents in the ward that have a right to complain. There is no reason why persons holding property in the area or its neighbourhood should be excluded from making a complaint, while a person residing in any house in the ward has that power. Owners of property have their interests affected, and it is only right that they should have a voice in moving the Board to take action.

The Honourable Sir CHARLES OLLIVANT—I am not prepared to assent to this amendment. I think that the Bill already enumerates a sufficient number of persons or bodies by whom complaint can be made. The Select Committee has given the Corporation that right in addition to the other parties mentioned in the original Bill. I do not think it desirable that people having a pecuniary interest at stake, holding property in the particular locality the value of which would be enhanced by the improvements, should have the power to move the Board. If they have cause to complain of insanitary surroundings let them come forward and complain in the way already provided by law. I do not see that they should be able to get a scheme of improvement started merely in their own pecuniary interests.



The amendment was rejected.

On the motion of the Honourable Mr. MORIARTY, the following amendments in Section 25 were agreed to :—

Line 19, to *delete* the words “the” and “of”.

Line 23, to *delete* the word “low-lying”.

The Honourable Mr. PAREKH then moved the following amendments in Section 25 :—

(i) For line 8 to *substitute* the following :

“is expedient, or such inclusion is necessary for making the scheme efficient for sanitary purposes.”

(ii) In the same section to *substitute* for clause (a) of sub-section (1) the following :

“(a) The acquisition by compulsory process of any land which will, in the opinion of the Board, be necessary for the execution of the scheme.

(aa) The acquisition otherwise than by compulsory process of any land which will, in the opinion of the Board, be necessary for, or affected by, the execution of the scheme.”

(iii) In the same section to *omit* the last eight words.

He said—My object in proposing these amendments is that where it is a question of exclusion it may be a matter of expediency ; but where it becomes a question of including an area which does not ordinarily come within the scope of the Bill, it ought to be made on the ground that it is necessary for sanitary purposes. I may also draw your Excellency's attention to the fact that this is the wording of the English Act. With reference to the other amendment I need not add anything to the remarks I made on the motion for second reading.

The Honourable Sir CHARLES OLLIVANT—In opposing these amendments I will follow the example of the honourable member by referring to the remarks I made on the second reading which will enable him to understand why I cannot agree to the amendments.

The amendments were rejected.

Sections 25 and 26 of the Bill were then agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 27 were agreed to :—

Lines 14 and 15, for the words “the period specified in the next sub-section” to *substitute* the words “thirty days from the date of receipt thereof”; and line 30, for the word “month” to *substitute* the words “thirty days”.

The Honourable Mr. MEHTA then moved that in sub-section (1) of Section 27 to *insert* after the words “particulars of the scheme” the words—“(including full estimates of the cost).”

He said—This amendment refers to the notification which is to be issued by the Board, and published as well as sent to the Corporation, regarding improvement schemes it is proposed to undertake. I would ask your Lordship to observe that in the Select Committee a change was made whereby such estimates are required in respect to reclamation schemes, and I now propose that a like provision be inserted in regard to improvement schemes, and street-formation schemes. It was a very desirable change to make in the one case, and it should also be made in the other cases. I do not ask that the words “and anticipated profits” should be inserted in this section, as they have been inserted in the section dealing with reclamations, as such an estimate cannot very readily be formed in regard to an improvement scheme. But I do think that estimates of the cost should be given if the Corporation and the public are to judge of the financial aspects of the scheme. The Corporation cannot fully criticise a scheme if it is unacquainted with the estimated cost, and the information ought to be given.

The Honourable Mr. HUGHES—To my mind the position of the Corporation in regard to the schemes will be the same as that of the general public and the ratepayers. Reclamations stand on a different footing to street schemes and improvements, and there is no objection to making public the estimate of cost in regard to them ; there is no question of grant of compensation or of purchase of property so far as they are concerned.



It is otherwise in the case of improvements, and it seems to me not at all desirable to publish the estimates in regard to them. The Act provides that when a scheme goes to Government for sanction it shall be accompanied by estimates, and it seems to me that this is a sufficient check against the Board undertaking works beyond its financial powers.

The Honourable Sir CHARLES OLLIVANT—It seems to me that the success of an improvement scheme would be militated against if plans and estimates were prematurely disclosed. It would also be a means of giving persons whose property would be affected by the scheme opportunities of learning in advance the intentions of the Board. It is perfectly clear from the Bill that at the date of the notification the scheme will be incomplete. It is only after the Board have heard what various people have had to say about, after they have received the views of the Corporation, and of interested parties, that they will take up the scheme and submit it to Government with complete plans and estimates. I should be glad if I could see my way to let the Corporation have the full information desired, but I do not think this is practicable. I think the section as altered by the Select Committee should be adhered to.

The Honourable Mr. MEHTA—While I quite appreciate the strength of the arguments about not disclosing full estimates advanced by the Honourable Mr. Hughes and the honourable member in charge of the Bill, I would ask whether it can be assumed that when the estimates have been prepared by the Board they will not be known by the interested parties? Every house-owner will have a notification that his house is to be taken up, and it seems to me that he will soon learn after receiving such a notification what is the approximate value placed upon his property by the Board. I am very doubtful, speaking from a long experience, whether these things do not become known to people who want to know them. It must also be remembered that without estimates the Corporation will not be in a position to criticise the schemes the Board propose to undertake. How can the Corporation know that the carrying out of a particular scheme is compatible with the ordinary resources of the Board being sufficient, unless some particulars as to cost are furnished. They will never know whether the two per cent. limit is likely to be overstepped or not, unless some idea of the approximate cost of the schemes is forthcoming.

The Honourable Mr. HUGHES—The annual Budget will contain estimates of income and expenditure, and Government sanction will be required before any heavy liability is incurred.

The Honourable Mr. MEHTA—The Budget will not give details, and will not show the liabilities incurred by the adoption of any particular scheme. How can the Corporation criticise the scheme on the basis of a desire that the two per cent. limit should not be overstepped, unless it has some information as to its financial aspects? It seems to me that having admitted the right of the Corporation to express its opinion upon each scheme when notified, that right should not be restricted by a refusal to place before the Corporation the financial features of the scheme.

The amendment was put to the vote and lost.

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 28 were agreed to:—

Line 8, for the words "referred to in" to *substitute* the words "received under";

Line 35, after the word "notification" to *insert* the words "relating to the land";

Line 38, for the word "lands" to *substitute* the word "land";

Line 39, to *delete* the words "of which the whole or any part is"; and

Line 41, to *delete* the words "the line of".

The following amendment, of which notice had been given by the Honourable Mr. PAREKH, was, with the permission of His Excellency the President, withdrawn by the honourable member:—

To *add* the following after Section 28:

"28A. Government may give or withhold its sanction to the scheme, provided, however, that Government shall, on a requisition of the Corporation or of persons



whose names appear in the Commissioner's Assessment Book as primarily liable for the payment of the property-taxes leviable under the Municipal Act on lands and buildings within the area comprised in the scheme, and the aggregate amount of whose liability is not less than a moiety of the property-taxes for which the whole of the area comprised in the scheme and the buildings thereon are liable, shall appoint a Committee, of which two members are to be appointed by Government and two by the Corporation to hold local investigation, to receive evidence and to report about the scheme; and Government shall take into consideration the Committee's report before deciding whether to give or not to give the sanction."

At this stage the Council adjourned for half an hour.

On the motion of the Honourable Mr. MORIARTY, the following amendments in Section 29 were agreed to :—

Line 30, to *delete* the words "or modify";  
 Line 35, " " "or modified";  
 Line 37, " " "or modified";  
 Line 42, " " "or modified";  
 Line 43, " " "or modified";  
 Line 50, " word "or";  
 Line 51, " " "modified";  
 Line 52, " words "or modified".

On the motion of the Honourable Mr. MORIARTY, the following amendment in Section 30 was agreed to :—

Line 11, to *delete* the words "or re-arrange."

The following amendment, of which notice had been given by the Honourable Mr. PAREKH, was, with His Excellency's permission, withdrawn :—

"In Section 31 to make amendments corresponding with those proposed in respect of Section 25."

Sections 31, 32, and 33 were agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 34 were agreed to :—

Line 12, to *delete* the word "of";

Line 16, after the word "if" to *insert* the words "in respect of any reclamation at Colába"; and

Line 18, to *delete* the words "at Colába".

Section 35 of the Bill was agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendment in Section 36 was agreed to :—

Lines 6 and 7, for the words "referred to in" to *substitute* the words "received under."

Section 35 was agreed to.

The Honourable Mr. METHA then moved that the following proviso be added at the end of Section 36, namely,—

"Provided, however, that Government shall, on a requisition of the Corporation in that behalf made any time before sanction is given, appoint a Committee, of which two members shall be nominated by Government and two by the Corporation, to report on such scheme within such time as Government may prescribe, and Government shall take into consideration the Committee's Report before deciding whether or not to give sanction."

He said—In asking the Council to accept this amendment I would point out that Government stands in a very different position in regard to the sanction of improvement schemes to what it does in regard to sanction of reclamation schemes. It cannot be denied that Government is an interested party so far as the reclamations are concerned. Government has to be paid the capital charges thereon, and the property will be revested at the end of the period for which the Board is to enjoy the profits minus the three per cent.



It loses nothing if the reclamation fails; in fact it gains something as it takes over every abandoned portion. Therefore it seems to me that Government stand in a different position in regard to the reclamations to what they do in regard to the improvements. I do not say that Government are likely to go wrong ordinarily, but it is human nature when you are interested in a scheme to take a more hopeful view as to its prosperity than you otherwise would. The Legislature ought in my opinion to provide some safeguard against this. I do not suggest that a power of veto should be given to the Corporation although it is the body which has to find the funds. I am a modest man in that respect and do not like to ask too much. Therefore I suggest that something should be done by which the judgment of Government should be vindicated before it comes to a final decision. If the Corporation is against the reclamation scheme and the Government take a different view, the Corporation should be entitled to ask this much—a deliberate consideration of the scheme at the hands of an expert Committee, to be appointed, two by Government and two by the Corporation. It should report on the scheme and Government should consider the report before coming to a final decision. The only objection I have heard to this proposal is that you are not likely to get an expert Committee of that sort in Bombay, because they would be either Government officers, or officers of the Board, or of the Port Trust. But I think we may assume, Sir, that in this matter the officers of the Port Trust might be taken as impartial, and could be appointed by the Corporation, while Government could appoint its own officers. Besides, surely, there would be no difficulty in a city like Bombay in finding independent experts. My proposal would not frustrate the reclamation schemes and would not cause unnecessary delay. It is admitted that the reclamations are not essential parts of the improvement of the city. They only find a place in the Bill for the purpose of enabling the Board to supplement its resources. Surely as this is the case, when a difference of opinion between Government and the Corporation occurs, a little delay would not be objectionable, and would not prejudice the real work for which the Board is called into existence. It seems to me that my amendment is a reasonable one and I trust it will meet with the approbation of Government themselves.

The Honourable Sir CHARLES OLLIVANT said—This amendment seems to be designed for the benevolent purpose of making sure that Government will not yield to self-interested motives when it takes the view of the Board as to the desirability of a reclamation scheme. It is to be remembered that the initiative rests not with Government but with the Board. If Government were so keenly anxious for the reclamations they would not be likely to hand over this power to the Board but would keep it in their own hands. It is quite certain that no one will more critically examine the reclamation proposals of the Board than the Government of India for one reason, and the Government of Bombay for another. It is only after this critical examination has taken place, and after the Corporation has had every opportunity to express its opinion that Government will come to a final conclusion. Mr. Mehta has referred to an objection raised to this proposal in the Select Committee, namely, that a sufficiency of expert opinion will not be available for a Committee to be formed. I may assure the honourable member that Government will give their sanction to no reclamation scheme until it has been reported upon by their chief engineering advisers. No doubt the Corporation will also desire to ascertain the opinion of its engineering advisers. Under these circumstances it cannot be said that schemes will be adopted until they have undergone the most careful scrutiny at the hand of experts. I hope my honourable friend will further remember that on the Board itself experts will find a place. Under these circumstances I must adhere to the view taken by the Select Committee.

The Honourable Mr. MEHTA—With regard to the initiation of reclamation schemes by the Board, my honourable friend seems to forget that the majority of the Board will be Government nominees, so that the Board may take a somewhat lenient view of the prospect of reclamation schemes. As to the scrutiny of the Government of India, it will not be directed to the scheme itself, but only to the question as to how far it affects the interests of the military service. All they will see is whether it is to take a particular form or another form, so that military property may not be affected in any way. It seems to me hardly any time would be lost in considering a scheme even if my proposal were adopted, because Government might specify the time in which the Committee is to make its report. The amendment does not leave matters in such a way as to entail indefinite delay. Another thing is that Government, as I have said, would be really interested in the reclamation scheme and just as the placing of the Kennedy Sea-face in the schedule of properties that



are not to be built upon is a safeguard against future attempts to derive any income therefrom, it seems to me that some check is absolutely essential in the case of the reclamation schemes also. In this matter I would ask your Excellency to have a vote taken.

The Council then divided—

*Ayes.*

The Honourable Meherban Narayanrao Govind, Chief of Ichalkaranji.  
The Honourable Mr. Garud.  
The Honourable Mr. Parekh.  
The Honourable Mr. Bhalchandra Krishna.  
The Honourable Mr. Chandavarkar.  
The Honourable Mr. Khare.  
The Honourable Mr. Mehta.

*Noes.*

The Honourable Mr. Monteath.  
The Honourable Mr. Kirkham.  
The Honourable Mr. Moriarty.  
The Honourable Mr. Vrijbhukhandas Atmaram.  
The Honourable Mr. Doig.  
The Honourable Mr. Wingate.  
The Honourable Mr. Fazulbhoy Visram.  
The Honourable Mr. Hughes.  
The Honourable Mr. Crowe.  
The Honourable the Advocate General.  
The Honourable Sir Charles Ollivant.  
The Honourable Mr. Nugent.  
His Excellency the President.

The amendment was therefore lost.

On the motion of the Honourable Mr. MORIARTY, the following amendments in Section 37 were agreed to:—

Line 5, before the word "Government" to *insert* the words "either the Government of India or"; and

Line 10, to *delete* the words "by Government", and for the word "and" to *substitute* the word "or".

Sections 38 and 39 of the Bill were agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 40 were agreed to:—

Line 54, after the word "resumed" to *insert* the words "or taken possession of";

Line 55, to *delete* the word "either";

Line 57, for the figure "(2)" to *substitute* the figure "(3)"; and for the words "as the case may be" to *substitute* the word "respectively";

Lines 58 to 60, for the words "any land or buildings comprised in a Police Accommodation Scheme" to *substitute* the words "the building and the land forming the site thereof";

Line 63, for the words "such premises" to *substitute* the words "the building and the land"; and

Lines 66 and 67, for the words "such premises" to *substitute* the words "the building and the land".

On the motion of the Honourable Mr. MORIARTY, the following amendment in Section 40A was agreed to:—

Lines 14 and 15, for the words "as hereinafter provided" to *substitute* the words "to the provisions of sub-section (2) of Section 41".

The Honourable Mr. MORIARTY then moved that for Section 40B to *substitute* the following:—

"40B. The provisions of Sections 289 to 329, both inclusive, of the Municipal Act shall, so far as may be consistent with the tenour of this Act, apply to streets or parts thereof which may become vested in the Board under this Act, during such periods as the same shall respectively remain so vested, and, for the purposes of this Act, the several municipal authorities referred to in any of the said sections of the



said Act shall, respectively, mean the Board who, in respect of any streets or parts of streets so vested, may alone exercise and perform all or any of the powers and functions which by any of the said sections might have been exercised or performed by any municipal authority either with or without the sanction, authority or approval of any other municipal authority. The expression "Municipal officer or servant occurring in any of the said sections of the said Act shall mean officer or servant of the Board."

The amendment was agreed to.

The Honourable Mr. MORIARTY asked permission to withdraw the amendments to Section 40C, of which he had given notice, and to substitute in their place the following amendment of Section 40C, *viz.*, for Section 40C, to *substitute* the following :—

"40C. The provisions of Section 334 of the Municipal Act shall, so far as may be consistent with the tenour of this Act, apply to any streets or parts thereof which may become vested in the Board under this Act, during such periods as the same may, respectively, remain so vested, and, for the purposes of this Act, the expression 'Commissioner' occurring in the said section of the Municipal Act shall mean the Board, who, during such periods as aforesaid, shall alone exercise and perform all or any of the powers and functions which might, under the said section of the said Act, have been exercised or performed by the Commissioner; and the expression 'Municipal fund' shall mean the funds of the Board."

The amendment was agreed to.

The Honourable Mr. MORIARTY then moved that for Section 40D to *substitute* the following :—

"40D. The provisions of Sections 3, 4, 10, 11, 12, 13, 14, 15, 27, 28 and 29 of the Bombay Tramways Act, 1874, shall, so far as may be consistent with the tenour of this Act, apply to public streets or parts thereof which may become vested in the Board under this Act, during such periods as the same shall, respectively, remain so vested, and for the purposes of this Act, the expressions 'Municipal Commissioner,' 'Commissioner' and 'Corporation' occurring in any of the said sections of the said Act shall mean, respectively, the Board, and the expressions 'Executive Engineer of the said Corporation' and 'Executive Engineer' shall mean, respectively, the Engineer of the Board."

The amendment was agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 41 were agreed to :—

Lines 37 and 38, after the word "thereof" to *insert* the words "and should be provided by the Board"; and after the word "been" to *insert* the word "so" and to *delete* the words "by the Board";

Line 39, after the word "vest" to *insert* the words "or re-vest as the case may be"; and

Line 52, for the word "thereafter" to *substitute* the word "thereupon"; and to *delete* the word "said."

On the motion of the Honourable Mr. MORIARTY the following amendment in Section 42 was agreed to :—

Lines 5, 6, 11 and 12, for the word "lands" to *substitute* the word "land."

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 43 were agreed to :—

Line 34, to *delete* the word "the";

Lines 45 to 47, for the words "the Board shall be deemed to be the Local Government" to *substitute* the words "the expression 'Local Government' shall be deemed to include the Board and the words 'such locality' shall be deemed to mean the locality referred to in any such resolution";

Line 70, after the word "appeal" to *insert* the words "(hereinafter called the tribunal)";

Lines 78, 92, 107, 115, 117, 131, 132, 153, to *delete* the words "of appeal".



His Excellency the President—There are two amendments on the Agenda paper to clause (c) of sub-section (5) of Section 43, viz., those of the Honourable Messrs. Moriarty and Mehta. I think that as Mr. Mehta's amendment goes further than Mr. Moriarty's, it will be better to take it first.

The Honourable Mr. MEHTA thereupon moved the following amendment to Section 43 :—

In sub-section 5, clause (c), lines 94—95, to omit the words “(who shall be a special judicial officer),” and to insert the following clause between clauses (c) and (d) of the said sub-section :

“(c) 1.—The President shall be selected from—

1st.—Members of the Judicial Branch of the Imperial and Provincial Civil Service of not less than ten years' standing, and who shall have served as District Judge for at least three years of that period, or who have had judicial office not inferior to that of a First Class Sub-Judge or Chief Judge of the Presidency Small Causes Court for a period of not less than three years.

2nd.—Practising Barristers, Advocates, or Pleaders of the High Court of Bombay, of not less than ten years' standing.”

He said—As your Excellency will observe my amendment goes somewhat further than that standing in the name of the Honourable Mr. Moriarty. In the Select Committee it was felt that the President of the Court should be a judicial officer of some standing. It seems to me that the place where the status of the President should be defined is the act itself. It is with this view that I have suggested the amendment which I now propose. The officer presiding over this tribunal will have to do work of an important judicial character and he should be almost equal to a Judge of the High Court.

The Honourable Sir CHARLES OLLIVANT—As Chairman of the Select Committee I do not object to the proposal, for it is in accordance with the principles we desire to lay down. The question as to which amendment should be accepted lies between the Honourable Mr. Mehta and the Honourable Mr. Moriarty.

The Honourable Mr. MORIARTY—I am willing to withdraw my amendment in favour of the one which has been proposed, but I think that the ten years' standing proposed in the case of legal practitioners is too long.

The Honourable the ADVOCATE-GENERAL—If, as Mr. Mehta suggests, the President of the Court is to have a status equal to that of a High Court Judge, he should have the salary of a High Court Judge.

The Honourable Mr. MEHTA—I think so, too.

The Honourable the ADVOCATE-GENERAL—I agree with Mr. Moriarty that ten years' standing is rather too much. A man of ten years' standing may have a large practice in Bombay as an Advocate or Pleader, and it would be difficult to get him to leave work in the High Court for one of these appointments. I would suggest eight years as the minimum.

The Honourable Mr. MEHTA—As I have told your Excellency I am always ready for a compromise. I will put the period at eight years as the Honourable Advocate-General suggests.

The Honourable Mr. MORIARTY then withdrew his amendment in favour of that of the Honourable Mr. Mehta, and the latter as altered at the instance of the Honourable the Advocate-General was carried.

The Honourable Mr. MORIARTY—It has been deemed advisable to give the President power to make rules regarding the conduct of business in his Court, and the appointment of officers and servants in the Court, and also that these officers should be under the same regulations as regards leave and allowances as the servants of the Board. I would therefore propose the following amendments to Section 43 :—

At line 167, insert the following :

(1) Subject to the sanction of Government, the President of the tribunal shall have power—



(i) to appoint such clerks and other officers or servants as may be necessary for carrying on the business of the tribunal and to fix their salaries, which shall be paid accordingly by the Board; and

(ii) to make rules for the conduct of the business of the tribunal, provided that such rules are not repugnant to the provisions of the Code of Civil Procedure; and such rules shall come into force on receiving the sanction of Government.

He said—The regulations made by the Board under Section 81 would be deemed to apply to the officers and servants appointed by the President of the Tribunal under this clause as if they had been appointed by the Board, provided always that the power to dismiss or to grant leave should be exercised by the said President.

The Honourable Sir CHARLES OLLIVANT—I am quite sure that if the amendments now proposed had been before the Select Committee they would have been accepted. It will be very convenient, Your Excellency, for the President of the Court to have power to make rules as to the procedure of the Court, regarding the inspection of documents by parties and so on. It is also desirable that the appointment of clerks and others required for the Court establishment should rest with the President of the Tribunal, rather than with the Chairman of the Board. It is, however, only reasonable that such officers of the Court should be under the same rules as regards leave and allowances as the servants of the Board. There is only one point that I wish to mention in regard to the resolution proposed, and that is, whether there is anything in its terms which would debar the President of the tribunal from appointing persons already in the judicial service of Government, inasmuch as such persons are subject to the rules of Government and the High Court respecting leave and allowances.

The Honourable Mr. MEHTA—I am not quite clear about the latter portion of the amendment, and do not know whether this procedure need be laid down in the Bill. I do not see why the officers and servants of the Court should be put on the same footing as the servants of the Board as to leave and allowances. The tribunal may have no work for weeks or months together, and the appointments might be temporary, in which case they would be given too many privileges. I think that further time ought to be given for the consideration of this amendment.

The Honourable Mr. MORIARTY—It is to be assumed that the rules to be framed by the President of the Tribunal will distinguish between the temporary officers and servants of the tribunal, and the permanent officers and servants.

The Honourable Mr. MEHTA—But the tribunal itself may not be required to sit except occasionally. I would suggest to Your Excellency that this amendment be left out for the present and considered at some future time.

The Honourable Mr. MORIARTY—I see no objection to that.

The Honourable Sir CHARLES OLLIVANT—I also think that that will be the best course. We do not know at present what work the tribunal will have to perform. It depends upon the number of properties the Trust may take up at one time. If they are taking up only a single property, the Chief Judge of the Small Causes Court could provide a temporary staff for the tribunal. But when they are taking up several properties at a time the Court may have to sit three days a week for a period of six months, and then some official establishment must be placed at their disposal. But in the event of the subordinate staff being obtained temporarily from the Small Causes Court or other Government office, we can make provision in the proposed new sub-sections to exclude such servants of Government from the operation of the rules that are to apply to the servants of the tribunal. The chief purpose of the amendment is, that such servants should be appointed by the servants of the tribunal and not by the Chairman of the Board.

Consideration of the amendment was postponed.

The Honourable Mr. MEHTA moved the following amendment in Section 43:—

In sub-section (5), clause (k), lines 160 to 166, to omit all words after the words "of the tribunal."

He said—I was desirous in Select Committee to amend this section in this respect, but afterwards came to the conclusion that it might stand as it is framed. On further



consideration, however, I think that it imposes an undesirable limitation on the right of appeal. Under it there is absolutely no appeal even if the sum is Rs. 5,000 or more excepting as to the right of any particular person or persons to receive compensations awarded, or the apportionment of the compensation among the persons interested. In the beginning of this work the tribunal will lay down its own rules as to compensation, and if the clause remains as it stands, there will be no appeal to a higher authority as to the legality and justice of the principles upon which the awards are to be given. If there is an appeal, mistakes will be pointed out, and the principles upon which compensation is awarded will be fixed and sustained by the authority of the High Court, and after that the work of the tribunal will become easy. It will know the principles laid down, and supported by the High Court, and will work smoothly. It seems to me, therefore, that the appeals ought not to be restricted in the way the Bill contemplates. Large numbers of people will have their rights of property interfered with, and it is of great importance that some confidence should be given to the public as to the principles of compensation laid down by the tribunal by making those principles subject to the revision of the High Court. If the right of appeal is given it will inspire confidence. I am quite willing, if Government desire, that the appeal should be limited to cases in which the award is Rs. 5,000 and upwards.

The Honourable Sir CHARLES OLLIVANT—I am afraid I cannot support the amendment. We do not want a lot of litigation by permitting appeals where they are not really called for. It seems to me that the previous amendment which we have accepted providing that the judicial officer who is to be President of the Court shall be a man of considerable standing, is a safeguard against the lack of confidence in the tribunal which Mr. Mehta fears. Government will take care on their part that the assessor they appoint shall be a man entitled to public confidence, and I am sure that the Corporation will be careful on their part in regard to the assessor they appoint. It seems to me, therefore, that we may rely upon the assessors to see that justice is done.

The Honourable Mr. MEHTA—While I quite admit that the Judge of the tribunal will be an officer of high judicial standing, I do not see why his decision should not be subject to appeal. It is to be remembered that the decision of even a single High Court Judge is subject to appeal. I am quite prepared to accept a proposal that a minimum limit of amount should be fixed for a case to be eligible for appeal. I see that in the English Act the amount is £1,000, but the point of main importance is that there should be some higher tribunal who would fix the principles upon which the tribunal should go in doing its work.

The Honourable Mr. HUGHES—The English Act provides for an appeal because the award is made by a single arbitrator.

The Honourable Mr. MEHTA—The Honourable Mr. Hughes at one time thought there was no appeal at all, but I am glad he now admits there is an appeal.

The Honourable Mr. PAREKH—It is only where there is an arbitration that an appeal is allowed in the English Act.

The Honourable Sir CHARLES OLLIVANT—I think we might permit of appeals, in the sense of allowing a case to be stated for a point of law. In that way fixed principles to go upon would be laid down.

The Honourable Mr. MEHTA—That had already occurred to me also. Such a provision existed in the Small Causes Court Act, before it was last amended, in cases of suits for Rs. 2,000 and upwards. But I do not think that the suggestion of the honourable member meets all the requirements of the present case.

The Honourable the ADVOCATE-GENERAL—I would suggest that the words be left out, and the amount in respect to which appeals will lie be raised to ten thousand rupees, such appeals only to be made on the leave of the President.

The Honourable Mr. MEHTA—When I speak of the leave of the Court, I mean the leave of the High Court. The parties would have to apply to the High Court before an appeal could be granted.

The Honourable the ADVOCATE-GENERAL—It always seems to me unsatisfactory for a Court which knows nothing about a case to be asked to grant leave to appeal in regard to it. At best it only hears an *ex-parte* statement.

The Honourable Mr. MEHTA—The method serves to prevent appeals unless there is a real grievance. The parties know that they must have a good case before they go to



the High Court, and they are not likely to incur needless expense by making applications for leave to appeal that would not have any chance of being sustained.

The Honourable Sir CHARLES OLLIVANT—I would suggest, Your Excellency, that the discussion of this point should be postponed till to-morrow. We shall then have time to consider how far we can go in the direction of Mr. Mehta's amendment.

Consideration of the amendment was thereupon postponed.

On the motion of the Honourable Mr. MORIARTY the following amendment in clause (d) of sub-section (6) of Section 43 was agreed to :—

In line 296 after the word "notification" to insert the words "relating to the land or building."

The Honourable Mr. MEHTA then moved the following further amendment in clause (d) of sub-section (6) of Section 43 :—

In line 300 to omit all words after the words 'land or building' and to substitute in their place the following :

"The Court may, if it thinks fit, take the rent of the land or building to be not greater than the rent shown in the latest return so made."

He said—This amendment is in regard to the way in which compensation is to be determined. The section as it stands provides that when the owner of the land or building has, after the passing of this Act and within twenty-four months preceding the date of the publication of a notification under Sections 27, 32 or 39, made a return under Section 155 of the Municipal Act of the rent of the land or building, the rent of the land or building shall not in any such case be deemed to be greater than the rent shown in the latest return so made. Now it is to the last part of this sub-section that I object. It will be seen that when a man goes up for compensation he is to be bound down to the declaration he has previously made. In the discussion in the Select Committee the Chairman was disposed to be very hard, and said that when people had made a false declaration to the Municipality they must suffer the consequences of their dishonesty. That is a very intelligible position as to persons who have been fraudulent and dishonest; but, my Lord, we know there are certain acts which are not considered by people as being so heinous as some others. Smuggling is of course illegal, but in public opinion a man has not committed any very great crime if he smuggles in some dutiable article to avoid paying duty. One argument which I will advance is, that we must not tie down a man too strictly because in a moment of weakness he has done what is wrong in a matter of this kind. But beyond this argument, based on the frailty of human nature, there is a stronger argument to which I would direct the attention of my honourable friend, and it is this that the basis of the rateable value of a property in the assessment books of the Municipality is not the declared rental, but the rental which the property is supposed to be worth. Section 154 of the Municipal Act provides that the rateable value is to be determined by the amount of the annual rent at which the property may reasonably be expected to let from year to year. The actual rent therefore does not necessarily form the basis upon which the rateable value is fixed. That must be adjusted by the Assessor who has to determine what would be a reasonable rent for any property. When a man represents the actual rent as something less than what the property might reasonably be expected to yield, his declaration as to rent does not necessarily determine the rateable value. It also frequently happens that a man wishes to let his property to a friend or relative at a lower rent than he could obtain if it was let to a person having no particular claims to his consideration. Such cases are not unfrequent, and yet under the Bill now before us no account is taken of them, and if a man has made an honest declaration of the rent he is receiving, he will only be paid compensation upon that rental and not upon the rental it is really worth. Under these circumstances the Bill ought not to say that the declared rental is in all cases to be taken as the real rental obtainable. Of course there are other cases in which a man states the rental to be something less than he actually receives. My amendment would meet both cases, as it would leave it to the discretion of the tribunal to say whether under all circumstances the declared rental should be the basis of compensation or no. I therefore trust that my amendment will be accepted.

The Honourable Sir CHARLES OLLIVANT—When this Bill was referred to a Select Committee, it was said that I should watch carefully the interests of the Corporation,



and I desire to maintain this reputation. I am aware that the Corporation has suffered a great deal from incorrect representations as to the rental of properties. I know from my experience that when the Corporation requires a return of the rental of properties for assessment purposes they get very different figures to those which are supplied when properties are required to be taken for public purposes. Mr. Mehta raised this question in the Select Committee, and I thought we had met his views by putting in the proviso that declarations of rental are only to be taken as a guide to the tribunal when they have been made after the passing of the Act. We therefore take no cognisance of the sins of the past, and if any property owner suffers from having made a fraudulent return it will not be without opportunities of knowing the consequences that may be involved. I quite admit that owners may sometimes let their property at rentals somewhat less than what they might reasonably be expected to fetch, and therefore I should suggest that the words to which Mr. Mehta objects be retained, but that they be qualified by the addition of the words "save for reasons to be shown to the satisfaction of the Tribunal." If this proviso is inserted, it will be for the owners who have let properties below their proper values to prove to the satisfaction of the Court that they have done so for special reasons. I do think that in the majority of cases a person ought to be bound to the rent he has himself declared he receives. The spirit of the Honourable Mr. Mehta's amendment will be met by the insertion of some such words as I have now suggested.

The Honourable Mr. MEHTA—Practically it comes round to the same thing. But I still think that the form I propose is the form which is better suited for purposes of this sort. It will be seen that my amendment leaves the question to the discretion of the Court. We are really both agreed as to the principle of the amendment, and it seems to me that the question now is what is the best form in which it should be put. Mr. Moriarty will be able to tell us whether this should be put as an exception, or as a positive direction for the tribunal. The phrase "the Court may if it thinks fit" do such and such a thing is one with which we are familiar in Acts dealing with the procedure of the Courts.

The Honourable Sir CHARLES OLLIVANT—If we omit clause D altogether, the Court will still have the power to do what is suggested under the other provisions of the section.

The Honourable Mr. MEHTA—I am willing to meet my honourable friend. If he proposes to omit clause D, I am quite prepared to accept the suggestion.

The Honourable Sir CHARLES OLLIVANT—I am not disposed to eliminate the clause. I was simply pointing out that if Mr. Mehta's amendment is carried its practical effect would be to make the clause inoperative.

The Honourable Mr. MEHTA—It would not be so. All my amendment does is to leave the question to the discretion of the Court. If there is satisfactory evidence that the rental is higher than the declared value, and that the case is not of such fraud as to require severe treatment, my amendment would enable it to take that into account in making the award.

The Honourable the ADVOCATE-GENERAL—I understand that the idea of the Honourable Sir Charles Ollivant is that the declared rental should be taken as the basis of compensation except for causes shown. It seems to me that if Mr. Mehta accepts the proposal of the honourable member in charge of the Bill, his intention in proposing the amendment will be met.

The Honourable Sir CHARLES OLLIVANT—I certainly cannot accept Mr. Mehta's amendment as it stands. The returns of rental should be the basis of compensation, but I am prepared to admit that the tribunal should have discretion not to take it as the basis if there are reasons shown for not doing so. It is for that reason I have proposed the insertion of these words.

The Honourable Mr. MEHTA—I do not care for the wording of Sir C. Ollivant's compromise, but I have no desire to divide the Council and will therefore accept his proposal.

On the motion of the Honourable Sir CHARLES OLLIVANT the following amendment in clause (d) of sub-section (b) of Section 43 was then agreed to :—

In line 302, to insert after the words "such case" the words, "save as the Court may otherwise direct."

The Honourable Mr. PAREKH withdrew the following amendment to Section 43, of which he had given notice :—



For clause 5, sub-sections (a) to (h), to *substitute* the following :—

“For the purposes of this Chapter a Judge shall be specially appointed to perform the functions of the Court under the said Act; such Judge shall be appointed by Government for a term of one year and shall be eligible for re-appointment, and it shall be lawful for Government, if it think fit, to remove for inability or misbehaviour or other good or sufficient cause such Judge; and when a vacancy in the office occurs, Government shall appoint a proper person to it : Government shall fix the salary of the Judge, and this salary and the cost of any special clerical or other establishments which shall be necessary shall be paid by the Board.”

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 44A were agreed to :—

Line 36, for the word “when” to *substitute* the word “whenever”; and line 52 to *delete* the words “of appeal.”

Section 45 of the Bill was agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendment in Section 46, line 1, was agreed to :—

For the words “consent of Government” to *substitute* the words “sanction of the Government of India.”

Sections 47, 48, 49, 50 and 51 of the Bill were agreed to.

The Honourable Mr. MEHTA then moved the following amendment to Section 52 :—

Line 9, to *omit* all words after “under Section 45.”

He said—The words which I propose should be eliminated give to the Board power to mortgage the lands and properties of the Trust in security for temporary advances from a Bank. Admittedly, my Lord, the advances from a Bank would be temporary in character and therefore the Bank would not be running any great risk. It sometimes happens that the conditions of the money market are not propitious for raising a loan and putting it on the market. Under this section power is given to the Board to meet such a state of affairs by obtaining temporary advances from the Bank. That is the object of the section, and I do not see why we need go beyond that by giving the Board the power of mortgage proposed in the latter part of the section. Such advances are made to the Municipality for a limited time without any security whatever. Supposing security is required in the case of the new Board, it will be supplied in the loans to be subsequently raised. The Board has the power under the present Bill to take its own debentures, and to defer issuing the loan to the public until the proper time. These debentures would form the most ample security for the Bank to hold, until the loan is placed on the public market, when moneys would be forthcoming to repay the advances. Under the section as it stands, you may for a loan which lasts for a very short time have to go to the expense of preparing, engrossing and stamping a deed of mortgage, and other necessary documents. The section puts great temptation in the way of the Board to spend beyond its means, knowing that it can mortgage its properties for accommodation to any extent. It seems to me that no power of this kind should be given. The Board will have the fullest means of obtaining credit upon the debentures it holds in its own hands, and it seems to me undesirable and unnecessary in view of that fact to give the Board power to mortgage its properties. I trust therefore that this amendment will be carried.

The Honourable Mr. VRIJBUKHANDAS ATMARAM said—Your Excellency, it appears to me that to disallow to the Board the power to grant mortgages to the extent of any loans sanctioned by Government would not be advisable; for, I fear that if no such power is given to the Board, its operations are likely to be a great deal hampered on certain emergent occasions, as the Banks have no power to advance money beyond a limited extent on personal credit, and as, when the money market is tight, it would be scarcely prudent to float the required loan. At such times, the power contemplated by the section would help the Board to tide over the difficulty. Further, it is not easy to see why the power in question need be seriously objected to, when it is remembered that if the operations of the Board had devolved on the Corporation itself, the latter body could have, in virtue of Section 108 of the City of Bombay Municipal Act, availed itself of the facility which the present amendment proposes to deny to the Board.



Section 108 of the City of Bombay Municipal Act (Bombay Act III of 1888) reads thus :—

“(1) The Corporation may borrow or re-borrow any such sum as aforesaid from any person other than the Secretary of State for India in Council, on the security of any immoveable property belonging to them, or proposed to be acquired by them under this Act or of all the taxes, or of any tax which they are authorized to levy for the purposes of this Act or of all or any of those securities.

(2) And for the purpose of securing the repayment of any sum so borrowed, with interest thereon, they may mortgage to the person, by or on behalf of whom such sum is advanced, any such immoveable property or tax.”

If such is the power with which the Corporation itself is invested, one fails to see why the Board should be divested of it.

The Honourable Sir CHARLES OLLIVANT said—This question was raised in Select Committee. I hold in my hand letters from two Banks in Bombay, stating that they consider it essential that the Trust should have power to make mortgages as security for advances. One of the letters states that a letter under the seal of the Board stating that it will give the security of such and such property when applying for the loan would be sufficient, and that the expense of preparing a deed of mortgage need not be incurred. At the same time I do think that there should be some additional safeguard on this power of the Board, and I therefore propose that after the word “may” in line 10, the words “with the sanction of Government” be inserted. This will limit the Board’s power to grant mortgages by requiring the previous sanction of Government.

The Honourable Mr. MEHTA—That would safeguard to a certain extent the exercise of the power of mortgage. I will therefore accept the modification proposed by the honourable member.

The amendment proposed by the Honourable Sir Charles Ollivant was carried.

The Honourable Mr. MORIARTY moved the following amendment in Section 53 :—

Line 12, to *substitute* a comma for the full stop and after the word “plans” to *add* the words “subject, in the case of the lands specified in Schedule C, to the right therein reserved of temporary occupation by Government of certain premises.”

The Honourable Mr. MEHTA—It seems to me that this amendment ought not to be inserted, as it curtails and modifies the vestment of the lands in the Trust.

The Honourable Mr. MORIARTY—The reservation only applies to the Government Mews. It is the Hornby Row plot described at page 75.

The Honourable Mr. MEHTA—If that is the case, why not specify the plot in the amendment.

The Honourable Mr. MORIARTY thereupon altered his amendment to read as follows :—

To *substitute* a comma for the full stop and after the word “plans” to *add* the words “subject, in the case of the lands specified as plot 12 in Schedule C, to the right therein reserved of temporary occupation by Government.”

The amendment was carried.

On the motion of the Honourable Mr. MORIARTY the following further amendments to Section 53 were agreed to :—

Line 56, after the word “period” to *insert* the words “of thirty years” ;

Line 67, for the letter “(b)” to *substitute* the letter “(c)” ;

Line 77, after the word “last” to *insert* the word “preceding” ;

Line 105, for the words “shall vest in the Board” to *substitute* the words “shall, subject to the provisions of this section, remain so vested” ;

Line 138, for the words “not being” to *substitute* the words “other than” ; and

Line 145, for the word “may” to *substitute* the word “shall” .

The Honourable Mr. MEHTA moved that in sub-section (2) of Section 53, line 15, after the words “Flats” to *add* the words “for which no capital value shall be charged.”



He said—Your Lordship will find on reference to the report of the Select Committee that it was intended that no capital value should be assessed in respect to the Flats, and my amendment is moved with a view to this being specifically mentioned in the Bill. I know that in the schedule no capital is placed against the Flats, but I think it desirable that this should be mentioned in the section itself. I trust Your Lordship will permit me to take this opportunity to express my acknowledgments of the way in which this matter has been dealt with by Government. The vexed question between Government and the Corporation has now been settled in a manner by which justice has been done to the equitable claims of the Corporation. I am very grateful to Your Lordship's Government for the settlement that has been arrived at.

The Honourable the ADVOCATE-GENERAL—I would suggest that the portion of the Flats for which no capital value is to be charged be specified.

The Honourable Mr. MEHTA—It is the whole of the Flats for which no capital charge is to be made.

The Honourable Sir CHARLES OLLIVANT—You must remember that the area of the Flats is very large. It seems to me that this is not the part of the Bill where this amendment should be inserted.

The Honourable Mr. MEHTA—I shall be quite content if these words are introduced elsewhere so long as they are inserted.

The Honourable Sir CHARLES OLLIVANT—I would ask the honourable member to refer to Section 9, which seems to me the most suitable place for inserting this provision. The Flats can there be specifically excluded from the capital debts due by the Board to the Secretary of State.

The Honourable Mr. MEHTA—Very well, I shall be content if in the schedule words are inserted opposite the entry of the Flats that no capital value is to be charged in regard to them.

Consideration of the amendment was then postponed.

The Honourable Mr. MEHTA then moved that in sub-section (2) of Section 53, lines 17 and 18, after the words "any building of a permanent character" to add the words "the intention being that the said lands shall be for ever open spaces, and shall be reserved for the recreation of the public."

He said—This amendment also refers to the Flats. There is nothing in the Bill now to show that these Flats are to remain as open spaces for the recreation of the people. The liberality of Your Excellency's Government in settling the question of the Flats has gone as far as that and it seems to me that it should find expression in the Bill itself. It is absolutely impossible to put any habitable building upon these Flats and I think the use to which they could be put for many years to come will only be that of a public park, which in years to come might be made upon some portion of them. If these words are inserted they will clearly show that Flats are made over for the perpetual benefit of the city.

The Honourable Sir CHARLES OLLIVANT—I trust the honourable member will withdraw this proposal. I assure him that for many years to come there will be no chance of the Flats being used for purposes of recreation. Although in the distant future some portion of the Flats may be appropriated for this purpose, I do not think there ought to be anything in the Act to prevent the Board letting the Flats, say for agricultural purposes, which is the best way for utilising them, for at least the next thirty years. The Flats, as handed over to this Board, extend along the banks of the outfall stormwater drain as far as the Warli sluices, and part of this land is used for public purposes by the Municipality. There should be nothing in the Act to prevent the Board from obtaining revenue from the Flats.

The Honourable Mr. MEHTA—What is to become of these Flats after the Board has ceased to exist? That is the point I wish to have determined. Your Lordship will remember that in the Bill as first introduced the Flats were included in the first part of Schedule C in the list of areas which were to remain as open spaces for ever. But in the Select Committee the first and second parts of Schedule C have been put together, for certain reasons not connected with the disposal of the Flats, and the ultimate determination of the various properties is left for future determination. Therefore under the Bill as originally presented the Board would have had no power to build or in any way



encroach upon these lands, the intention being that they should remain open spaces for ever, whereas under the Bill as amended there is no such restriction. All I ask is that the original intention of the Bill, which the Select Committee did not intend to alter, should be restored. The Flats should be dealt with as contemplated in the original Bill. They were intended in the Bill for the perpetual use of the public.

The Honourable Mr. HUGHES—If you refer to page 41 you will see that the original draft gave the Board power to let the Flats or any part thereof for cultivation or for the storage of goods and to permit the erection of temporary structures thereon for any purpose other than that of human habitation. Under the amendment of the honourable member this power would cease.

The Honourable Mr. MEHTA—I am quite ready that the words, “except that the Board may let them for storing goods or for purposes of cultivation” should be inserted, to restore the meaning of the Bill as originally drafted in its entirety.

The Honourable the ADVOCATE-GENERAL—But that would not be compatible with the wording of your amendment—that these lands “shall be for ever open spaces, and shall be reserved for the recreation of the public.”

The Honourable Mr. MEHTA—Yes, it would be subject to the limitation that they may be used for storing goods and for agricultural purposes.

The Honourable the ADVOCATE-GENERAL—But your amendment is unnecessary, because the Bill only empowers the Board to erect temporary structures on the flats.

The Honourable Mr. MEHTA—If my amendment is unnecessary, why was similar wording necessary in the original Bill? The point I am driving at is this: It should be clear that the Flats are given in perpetual trust for the city as was stated in the Select Committee. As the Bill stands this is not clear. I shall be quite satisfied if it is responsibly stated that the present wording effects the object I have in view in the amendment.

The Honourable Sir CHARLES OLLIVANT—It is clear that what the Honourable Mr. Mehta really has in view is the insertion of a proviso dedicating the Flats for ever to the public. He is trying by a side wind to bring in some security that the Flats shall never be other than public property. If the honourable member desires that there should be a vesting clause, he should move one, and I rather wonder that he has not given notice of one. The section gives the Board power to let the land for temporary purposes only and every one knows that for many years to come the Flats must remain open spaces. The lands specified in Schedule C are vested in the Board for the benefit of the public, but the Bill maintains a judicious silence as to the ultimate use to which the properties are to be put. If the honourable member desires a vesting clause to be inserted he should have proposed an amendment to that effect. I am not sure that we should have any great objection to it.

The Honourable Mr. MEHTA—I was under the impression that Government were going to propose a vesting clause, otherwise I would have given notice of one.

The Honourable Sir CHARLES OLLIVANT—Leaving all questions of this kind on one side and dealing with the section as it stands, I should be the first to propose some alteration if I thought that anything was to be gained by the change. I take it that this section gives the Board a very desirable power in stating that the Flats may be used for temporary purposes, for many years to come cultivation will be the best thing that can be done with the Flats. It is the only way in which the soil can be sweetened. What we want to guard against, and what the section guards against, is the erection of permanent structures upon the Flats. Until fresh legislation may be introduced many years hence suitable to the occasion, the Flats must remain what the Honourable Mr. Mehta says they should remain, open spaces, and therefore I do not see the need for the change suggested.

The Honourable Mr. MEHTA—What I desire is, that it should be made clear that the Flats are given to the city, and it seems to me that this is the best section for the purpose of making this clear. It provides, in regard to the Kennedy Seaface and other properties in the same category, that they shall remain open spaces when it is decided not to build upon them. I think that the same provision as that made in regard to the Kennedy Sea-face for its dedication to the public should be made respecting the Flats,



which were included in the first part of Schedule C originally and were intended to be treated in the same way as the other properties in it.

The Honourable Sir CHARLES OLLIVANT—As long as the Board continues to exist this section will impose upon it the duty of keeping the Flats unbuilt upon, save for temporary purposes. I think no one would be rash to prophesy what the future of the Flats will be a hundred years hence. Until then they will remain open spaces. The case of the Kennedy Sea-face is different. It lies between the sea and the crowded parts of the city, and there can be no question as to the desirability of keeping it or some portion of it an open space for ever. Under these circumstances I prefer to leave the section as it stands.

The Honourable Mr. MEHTA—If the honourable member will accept a reversionary clause in which it will be clear that the Flats would revert to the Corporation after the Board has ceased to exist, I would not press my amendment at all. As it is, we do not know if they are finally given to the city or not. On the face of it they are so given and they were certainly intended to be so treated in the Select Committee. But I ask that the Bill should plainly show whether after ninety-nine years they will go to the city, or whether they are going to be taken over by Government. I should like to know what is the real decision of the Government on this point. If I get an assurance that the city will have the reversionary right to the Flats I will not press my amendment.

The Honourable Sir CHARLES OLLIVANT—My answer to the enquiry of the honourable member is that the question has never been considered by Government and therefore there is no decision upon it.

On the amendment being put the Council divided :—

*Ayes.*

The Chief of Ichalkaranji.  
The Honourable Mr. Garud.  
The Honourable Mr. Vrijbhukhandas.  
The Honourable Mr. Parekh.  
The Honourable Dr. Bhalchandra.  
The Honourable Mr. Chandavarkar.  
The Honourable Mr. Khare.  
The Honourable Mr. Mehta.

*Noes.*

The Honourable Mr. Monteath.  
The Honourable Mr. Kirkham.  
The Honourable Mr. Moriarty.  
The Honourable Mr. Hughes.  
The Honourable Mr. Crowe.  
The Honourable Mr. Doig.  
The Honourable the Advocate General.  
The Honourable Sir Charles Ollivant.  
The Honourable Mr. Nugent.  
His Excellency the President.

The amendment was therefore lost.

The Honourable Mr. MEHTA then moved the following further amendment to Section 53 :—

In sub-section (3), line 65, to *add* after the words "temporary purpose," the following words :

"not injuriously affecting the dedication of the said lands for the purposes of public health and recreation."

He said—The Council will observe that this amendment has reference to the experience the city has had regarding the Kennedy Sea-face. The clause as it stands gives Government the power to occupy any part of the sea-face for any temporary purpose. In other words it will give the Government power to erect Remount stables there, and as this will injuriously effect the value of the lands for the purposes of public health and recreation I have moved this amendment. In spite of the complaints made year after year, and in spite of the promises of Government themselves these remount stables are erected year after year. I do not wish to use strong language as to the action of Government in this matter, but I will say this that if the unfortunate Corporation had done anything of this sort, and had persisted in doing it year after year in spite of reasonable remonstrances from the public and Government, I think that both Government and the public would have cried out, and very properly too, that the Corporation was acting in a manner amounting to a public scandal. Of course the same thing cannot be said of Government, but we can say that these stables are most injurious to the health of the city, and that it is to be regretted that they are erected year by year, in spite of the



admission of Government that placing them on the Kennedy Sea-face is not a proper thing to do. The Board will have to pay the capital value of the Kennedy Sea-face, and therefore the city is entitled to ask that the temporary purposes for which Government are to be allowed to use them will not be of such a character as to be injurious to the public health. The amendment I have moved would form a most wholesome proviso in view of past experience which absolutely precludes the usual plea put forward on such occasions that Government should be trusted not to do anything unreasonable.

The Honourable Sir CHARLES OLLIVANT—All I can say is that as deputies for the Government of India we humbly accept the chastisement that the honourable member has inflicted, and nevertheless oppose the amendment.

The amendment was withdrawn.

The Honourable Mr. MEHTA then proposed the following further amendments in Section 53 :—

In sub-section (6), line 107, to *add* after the words "Schedules C and D," the words "except those appropriated to the purpose mentioned in clause (a) of sub-section (3)" and to *add* after the words "the whole" in line 110, the words "except as aforesaid."

The Honourable Sir CHARLES OLLIVANT—We accept the *se* amendments.

The amendments were carried.

The Honourable Mr. MORIARTY—In consequence of the amendments that have been carried one of my amendments that has been passed, Serial No. 43, will not be required. I beg to move that the following amendment to Section 53, line 105, may be withdrawn :—

For the words "shall vest in the Board" to *substitute* the words "shall, subject to the provisions of this section, remain so vested."

The amendment was thereupon by leave withdrawn.

On the motion of the Honourable Mr. MORIARTY the following amendment in Section 53A was agreed to :—

Line 185, for the words "not being" to *substitute* the words "other than."

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 54 were agreed to :—

Line 4, after the figures "53A (1)" to *insert* the word "respectively".

Lines 6 and 7, for the words "this section" to *substitute* the words "the said sections".

Line 8, for the words "Schedule C and in Schedule D" to *substitute* the words "Schedules C and D".

The Honourable Mr. MEHTA then moved that in Section 54, after the words "Schedule C" wherever occurring, the words "except those mentioned in Section 53 (2) and appropriated for the purpose mentioned in the clause (a) of sub-section 3 of the same section" be *added*.

He said—My object in moving this amendment is the same as that in view in the amendment to Section 53 which I moved, and which has been accepted by Government. It is perfectly clear that this section ought not to apply to lands which are to remain as open spaces.

The Honourable Sir CHARLES OLLIVANT—We will accept this amendment also.

The amendment was carried.

Sections 55, 56 and 57 were agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendment in Section 58 was agreed to :—

Lines 11 and 12, to *delete* the words in brackets; and at the end of the section to *add* a paragraph as follows :—

"An appeal shall lie from the determination of the Collector under this section to the Tribunal".

The Honourable Mr. MORIARTY then moved the following amendments in Section 59 :—



Line 8, after "Schedule C" to *substitute* comma for semicolon, and to *add* the words "subject, however, to any reduction of capital debt made under sub-section (7) of Section 53 and Section 58."

Lines 19 to 21, to *delete* the words in brackets; and to *add* a paragraph at the end of clause (a) as follows:—

"An appeal shall lie from the determination of the Collector under this section to the Tribunal".

Line 26, after "Schedule D" to *substitute* comma for full stop, and to *add* the words "subject, however, to any reduction of capital debt made under sub-section (7) of Section 53 and Section 58, and exclusive of the value of any land revesting in the Corporation under sub-section (3) of Section 41".

The Honourable Sir CHARLES OLLIVANT—I would point out to the Honourable Mr. Mehta that this is the section dealing with the liabilities of the Board for its capital debts to the Secretary of State and the Corporation. He has expressed the opinion during the debate that the safeguards in regard to the non-liability for the Flats are not sufficient, and this is the time to make remarks thereon if he considers it necessary to do so.

The Honourable Mr. MEHTA—The legal advisers of Government may place the safeguard I have proposed in any part of the Bill they think most suitable.

The Honourable Sir CHARLES OLLIVANT—Does not the section meet the case as it stands?

The Honourable Mr. MEHTA—I should like to have it a little clearer.

The Honourable the ADVOCATE GENERAL—Section 53 vests the lands in the Board specified in Schedules C and D, while Section 59 shows that the capital debts are only due as regards the amounts specified in Schedule C and Schedule D, and no amount is specified in Schedule C as to the Flats.

The Honourable Mr. MEHTA—I should have preferred something clearer in the Bill than this. When it is a matter of inference as to the interpretation of an Act, it is very often argued that if the Legislature intended a particular thing, it could have said so expressly. These matters are not always so evident to other people as they are to the framers of legislation. May I suggest that in the margin of the Schedule opposite the entry of the Flats, it should be stated that no capital value is to be charged in regard to them?

The Honourable Sir CHARLES OLLIVANT—We will consider that when we come to that part in the Bill.

The amendments on being put were carried.

The Honourable Mr. MEHTA moved the following amendments in Section 59A (1) (ii) and (2):—

Lines 29 and 50, to omit the words "save as provided in Section 69 (3) (ii) (b)."

He said—These amendments are of a technical character. Section 69 (3) (ii) (b) provides that the net credit balance, if it exceed the aggregate amount paid by the Commissioner to the Board, shall be applied "in or towards payment to the Secretary of State for India in Council of a sum which if paid annually and invested at 3 per cent. would in 60 years from the date of the first of such payments liquidate the capital debt due by the Board on account of the value as determined under Sections 59 and 59A (i) and (ii) of any land specified in Schedule C which may have been appropriated as an open space." This exception in Section 59A appears to me to be quite unnecessary, and they might mislead people into thinking there was some recovery to be made of the interest on the value of these open spaces. That is the only reason why I wish these words to be omitted from the section.

The Honourable Sir CHARLES OLLIVANT—I can assure the honourable member that these words are only there to make assurance doubly sure in the direction he intends. the capital debt in regard to the lands referred to in this part of the section is to be said in instalments, and no interest is to run. On the contrary, as each instalment is paid towards the redemption of the capital debt, interest will accrue thereon, and such interest will go towards diminishing the total capital value. We are therefore advised



that these words ought to be retained here so as to make it clear that no interest whatever is to be charged on the capital debt in respect to these lands.

The Honourable Mr. MEHTA—If that is the view of the legal advisers of Government, I will withdraw the amendment.

The amendment was by leave withdrawn.

The Honourable Mr. MEHTA next moved that in sub-section (3) of Section 59A, line 56, after the words "such date" to add the words "not less than ten years."

He said—Section 59 (3) provides that interest at the rate of 3 per cent. per annum shall be paid upon the properties specified in Section 53 (3) which have been built upon, and that the interest shall commence "from such date subsequent to the date of sanction to the appropriation as Government shall determine." Your Excellency will remember that in the case of all other properties which are vested in the Board, the payment of interest is deferred for a period of ten years, or such further time as the Government of India on the one part or the Corporation on the other part may determine. It seems to me that this should also apply to the open spaces named in Section 53. They will not yield revenue any sooner than the other properties, and the same time should be allowed before interest runs thereon. The object of my amendment is that the principle applied to the other properties in Schedule C should be applied to these.

The Honourable Mr. HUGHES—It seems to me that Government might meet the Honourable Mr. Mehta's views by providing that the interest should not accrue until ten years after the date of the notification referred to in Section 10.

The Honourable Mr. MEHTA—Ten years after the notification would not meet the case. In the case of the other properties vested in the Board, there is a period of ten years given after the notification, but the Board has power to begin leasing those properties immediately after the notification. But in regard to these properties a decision as to their disposal may not be arrived at for twenty or thirty years after the Board has come into existence. If the question whether any part of these properties shall be built upon is not settled for twenty years or more, you give the Board no time to lease the land before interest becomes due, while in every other case ten years' time is given. My amendment only carries out the principle contained in the previous sections of the Bill.

The Honourable Sir CHARLES OLLIVANT—I see some reason in the amendment that was not present in my mind before. I would, therefore, suggest that we postpone consideration of the subject.

Consideration of the amendment was thereupon postponed.

On the motion of the Honourable Mr. MORIARTY the following amendments in Section 60 were agreed to—

Line 11, for the word "described" to substitute the words "in Schedule C referred to";

Line 13, for the word "described" to substitute the words "in the said schedule referred to"; and

Line 14, to delete the words "in Schedule C."

The Honourable Mr. MEHTA then moved that in Section 61 to omit the commencement up to the words "Section 10," and to substitute therefor the words "For the first twenty years from the date when the reclamation of any area is completed in execution of a reclamation scheme"; and to omit the words at the end after "derivable from" and to substitute "such area."

He said—Under the section as it stands the Board is to enjoy the rents and profits from reclaimed land for the first thirty years of its existence, but my amendment fixes twenty years from the date when the reclamation of an area is completed as the period for which the Board should receive the rents and profits. Your Excellency will remember that in the letter announcing the intention to legislate addressed to the Corporation, it was stated that the Trust should have the enjoyment of the rents for the first twenty years. As the section now stands, it will happen in most cases that very few years of the thirty would be left for the enjoyment by the Board of rents and profits. Some time will, of course, elapse before a reclamation scheme is decided upon, and, in view of the other work to be performed by the Board, some years will perhaps go by before a scheme is carried out. You are not taking up the reclamations all at one and the same



time; they are to be tentative at first; so that ten, fifteen or twenty years hence some areas may be reclaimed and others not dealt with. The provision in the Bill to which I propose this amendment, therefore, means little or no time on which the Board could enjoy the profits. I submit that the way to put it is to limit the period to twenty years for the completion of any reclamation area, so that the Board may have some reasonable chance of enjoying the rents and profits which the Bill is supposed to confer. This seems to me the only fair and certain way of accomplishing the object in view.

The Honourable Sir CHARLES OLLIVANT—I should have preferred if the amendment had fixed the time at twenty years from the date of the scheme being sanctioned.

The Honourable Mr. MEHTA—That would give only a very short time.

The Honourable Sir CHARLES OLLIVANT—It would be in consonance with another section of the Bill which provides that, if a sanctioned scheme is not commenced within twenty years, the scheme is to be deemed to have been abandoned. The Board will thus have twenty years either to carry out the scheme without paying interest, or to abandon the scheme altogether. Of course during that time one portion of an area may be reclaimed while another portion has been left. You cannot say as to any particular spot that it is certain to be reclaimed within the period. Our difficulty is to fix the date for the payment of interest in a fair and reasonable way, and it has seemed to us that thirty years after the establishment of the Board would be a reasonable period for it to hand over the enjoyment of the rents and profits. We thought it was far better to have a date definitely fixed. Twenty years from the sanction of the scheme would, I think, meet the honourable member's views.

The Honourable Mr. MEHTA—It will only give the Board the enjoyment of the rents for a very short period, and in some cases not at all.

The Honourable Sir CHARLES OLLIVANT—But it would probably on the whole be more advantageous to the Board than to make the date thirty years after the Board comes into existence.

The Honourable Mr. MEHTA—It seems to me that the Board should be assured of twenty years' enjoyment of the rents and profits after they have begun to accrue. I would suggest that the twenty years should date from the period when the property is first leased, if that will be more acceptable to the honourable member in charge of the Bill.

The Honourable Sir CHARLES OLLIVANT—Well, I think I should prefer the question to be deferred till to-morrow in order that an amendment may be drafted.

Consideration of the amendment was thereupon postponed.

On the motion of the Honourable Mr. MORIARTY the following verbal amendment in Section 61 was agreed to:—

To omit all words after the word "profits" in line 7, and in place thereof to substitute the words "derivable from such area, exclusive of rates on goods landed on or shipped from the foreshore."

His Excellency the PRESIDENT then adjourned the Council until noon the following day.

*By order of His Excellency the Right Honourable the Governor,*

S. L. BATCHELOR,

Secretary to the Council of the Governor of  
Bombay for making Laws and Regulations.

*Bombay, 28th March 1898.*



## APPENDICES

TO THE

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR OF BOMBAY, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS, AT BOMBAY, ON MARCH 28<sup>TH</sup>, 1898.

## APPENDIX A.

(28th March 1898.)

Statement showing the Additional Police Posts which have been established or continued since the passing of Bombay Act IV of 1890 under Section 25 (1) of the Act.

Serial No.	No. and date of Government Resolution.		Local area.	How the cost of the post was ordered to be defrayed.	REMARKS.
<b>1890.</b>					
1	5686	October 17th ...	The village of Virham taluka Khed, Poona District.	By the villagers generally.	
2	5761	„ 20th ...	The Vanjara Tanda in the village of Malkheda taluka Jámner, district Khándesh.	By the Vanjaras resident in the Tanda. See also Government Resolution No. 1482, dated 11th March 1891.	
3	5895	„ 27th ...	The city of Belgaum in the district of Belgaum.	Rateably by Hindus and Muhammadans.	
4	6659	November 29th...	The village of Chanchvel taluka Vágra, Broach District.	By the Borah inhabitants of the village.	
<b>1891.</b>					
5	220	January 14th ...	The village of Nisraia taluka Borsad, Kaira District.	Two-thirds by the Pátidár inhabitants of the village; the remaining one third by the other inhabitants irrespective of caste.	The continuance of the post for a further period of one year was sanctioned by Government Resolution No. 665, dated 4th Feb. 1892.
6	506	„ 24th ...	The village of Derwada Virangám Taluka, Ahmedabad District.	By the Girássia section of the inhabitants of the village.	
7	756	February 4th ...	The village of Uber in the Jambusar Taluka, Broach District.	The post was first established by Government Notification No. 315, dated 17th January 1888, which directed that the cost should be defrayed by the villagers. It has been continued from time to time, and the last orders sanctioning its continuance for one year from 1st February 1894 are contained in Government Resolution No. 911, dated 9th February 1894, which directed that the cost should be levied from the Koli inhabitants of the village.	The post was continued for a further period of one year by Government Resolutions Nos. 2031, dated 26th March 1895, and 5205, dated 25th July 1895, the cost being defrayed by the inhabitants generally of the village; and for a further period of two years by Government Resolutions No. 2395, dated the 31st March 1896 and No. 679, dated the 25th January 1897, the cost being defrayed as above.
8	2312	April 25th ...	The village of Guledgud in the district of Bijápúr.	By the Salis, Padsalgars, &c., and Musalmans.	
9	2422 4766	May 1st September 5th.	The village of Bankápur in the district of Dhárwár.	By the Lingáyat community of the village.	



Serial No.	No. and date of Government Resolution.	Local area.	How the cost of the post was ordered to be defrayed.	REMARKS.
		<b>1891—continued.</b>		
10	2555 May 8th ...	The villages of Pathardi and Dhamangaon, Ahmednagar District.	The post was established by Government Notification No. 4677, dated 28th August 1890, which directed that the costs should be defrayed by the villagers.	The orders of 8th May sanctioned the continuance of the post. It was further continued by Government Resolution No. 2294, dated 28th April 1892, for three months.
11	3054 June 6th ... 3840 July 18th.	The villages of Pandoli, Ras, Dehewan and Kankapura in taluka Borsad and the village of Sinjiwada in the Matar Taluka of the Kaira District.	By the inhabitants of the village, including, in the case of the villages of Dehewan and Kankapura, the Thakor's Bhayads and the Udhadars residing in those villages.	The post was continued by Government Resolution No. 3571, dated 1st July 1892, for a further period of 3 months, and by Government Resolution No. 5523, dated 7th October 1892, for 9 months more.
12	3693 July 11th ... 4373 August 17th.	The village of Halligudi in the district of Dhárwar.	By the inhabitants of the village generally.	
13	4258 .. 10th ..	The villages of Shelgaon and Sansar in the Indapur Taluka and at Sanggaon in the Baramati Petha, district Poona.	These posts were established by Government Resolution No. 3535, dated 3rd July 1890, which directed the cost to be recovered from the inhabitants of the villages named in column 3.	Government Resolution No. 4253, dated 10th August 1891, sanctioned the continuance of these posts for one year. The posts at Shelgaon and Sansar were withdrawn, but that at Sanggaon was continued for periods of one year at a time by Government Resolutions No. 5163, dated 21st September 1892, No. 4851, dated 4th August 1893, and No. 5495, dated 7th August 1894.
14	4294 .. 12th ... 5602 October 21st.	The villages of Phondsiras, Umbre and Eksai in the Malsiras Taluka, Sholapur District.	The post was first established by Government Resolution No. 3959, dated 23rd July 1890, which directed that the cost should be defrayed by the villagers.	The orders of 12th August 1891 sanctioned the continuance of the post for one year.
15	4794 September 8th...	The village of Sagaon in the Valva Taluka, Satara District.	By the inhabitants of the village generally.	
16	4884 .. 12th...	The village of Ashtagaon, taluka Kopergaon, Ahmednagar District.	Do.	
17	6256 November 25th...	The village of A'mod, taluka Anklesvar, Broach District.	Do.	... The post was continued for a further period of one year by Government Resolution No. 7457, dated 29th December 1892; and for a period of three months more by Government Resolution No. 472, dated 25th January 1894.
		<b>1892.</b>		
18	1950 April 8th ...	The village of Koparde, taluka Karad, Satara District.	By the villagers generally ...	The post was continued till 31st December 1893 by Government Resolution No. 4864, dated 4th August 1893, and for one year more by Government Resolution No. 103, dated 9th January 1894.



Serial No.	No. and date of Government Resolution.		Local area.	How the cost of the post was ordered to be defrayed.	REMARKS.
<b>1892—continued.</b>					
19	2526	May 13th	... Ajang and Wadel, táluka Málegaon, Násik District.	In the case of the village of Ajang, by all the inhabitants, and in that of the village of Wadel, by the Kunbi inhabitants only.	
20	2692	„ 20th	... The village of Pansora, táluka A'nand, district Kaira.	By the villagers generally ...	This post was continued for a further period of one year by Government Resolution No. 3516, dated 12th June 1893.
21	3618	July 4th...	... The village of Walan Budrakh, táluka Mahád, in the Kolába District.	By the villagers generally ...	The post was continued for a further period of one year by Government Resolution No. 3052, dated 18th May 1893; for another year by Government Resolution No. 4216, dated 18th June 1894, and for another year by Government Resolution No. 5138, dated 23rd July 1895.
22	4131	August 1st	... The nineteen Mával or Ghát villages of the north-west portion of the Poona District.	Two-thirds by ten of the villages and one-third by the remaining nine villages.	The continuance of the post at a reduced strength was sanctioned by Government Resolution No. 5266, dated 21st August 1893.
23	5623	October 11th	... The village of Tankária in the Broach Táluka of the Broach District.	By the Borah community of the village.	The post was continued for a further period of one year by Government Resolution No. 7007, dated 8th November 1893; up to 31st March 1895, by Government Resolution No. 222, dated the 11th January 1895, and Government Resolution No. 1776, dated 15th March 1895; and up to 31st October 1895 by Government Resolution No. 2502, dated 17th April 1895.
<b>1893.</b>					
24	556	January 25th	... The village of Karajgi, táluka Karajgi, Dhárwár District.	By the villagers generally.	
25	4245	July 11th	... The village of Sandesar in the A'nand Táluka of the Kaira District.	Do.	
26	4460	„ 19th	... 22 villages of the Akola Táluka, Ahmednagar District.	Do.	... The posts were continued in 11 villages for six months from 1st January 1895, by Government Resolution No. 418, dated 18th January 1895; were continued in 2 of them, Ekdara and Bhándardara, for a further period of six



Serial No.	No. and date of Government Resolution.	Local area.	How the cost of the post was ordered to be defrayed.	REMARKS.
1893—continued.				
27	4466 July 19th ...	The village of Lavali Otur in the Akola Táluka, Ahmednagar District.	By the villagers generally ...	months by Government Resolution No. 5529, dated the 6th August 1895. The police were discontinued at Ekdara and were wholly employed at Bhándardara by Government Resolution No. 1004, dated 6th February 1896. The post was continued in one of them (Bhándardara) till 31st December 1896 by Government Resolution No. 2362, dated the 30th March 1896; and up to the 31st December 1897 by Government Resolutions No. 28, dated the 4th January 1897, and No. 6331, dated the 30th August 1897, the cost being wholly defrayed by a rate charged on the inhabitants generally of the village, except that so much of the cost as could not be recovered from the villagers was borne by Government. The post was continued in Bhándardara for one more year by Government Resolution No. 4, dated the 3rd January 1898, the cost being defrayed by the inhabitants generally.
28	5236 August 19th ...	The village of Pal, Karád Táluka, Sátára District.	Do. ...	This post was continued for a period of one year by Government Resolution No. 6893, dated 12th October 1894; and for a further period of one year by Government Resolution No. 6928, dated the 30th September 1895.
29	7140 November 15th...	The village of Dehgám, táluka Jambusar in the district of Broach.	Do. ...	The post was continued for a period of one year by Government Resolution No. 831, dated 5th February 1895, and for a further period of six months by Government Resolution No. 8998, dated the 27th December 1895.
30	7163 November 16th...	The village of Dayadra in the Broach Táluka, Broach District.	The Borah inhabitants of the village.	



Serial No.	No. and date of Government Resolution.		Local area.	How the cost of the post was ordered to be defrayed.	REMARKS.
	<b>1894.</b>				
31	2365	April 6th ...	The Municipal District of Yeola in the Násik District.	By the section of the inhabitants of the Municipal District of Yeola liable to the payment of the house-tax.	The continuance of the post at reduced strength was sanctioned for one year by Government Resolution No. 4792, dated 11th July 1895; for a further period of six months and twenty-five days by Government Resolutions No. 2343, dated the 28th March 1896, and No. 3075, dated the 28th April 1896; and for a further period of one year and six months by Government Resolutions No. 7653, dated the 9th November 1896, and No. 8860, dated the 6th December 1897.
32	8557	December 22nd...	The town of Nandgad in the Khánápur Táluka of the Belgaum District.	By the inhabitants of the town.	The post was continued for a further period of one year by Government Resolution No. 567, dated the 22nd January 1896.
	<b>1895.</b>				
33	2139	March 30th ...	The village of Sisodra in the Ankleshvar Táluka of the Broach District.	One-half of the cost by a rate levied on the Bhil inhabitants and the Khátedár Edalji Limjibhai, and the other half by a rate levied on the Koli inhabitants of the village.	The post was continued for a further period of one year by Government Resolution No. 2431, dated 31st March 1896, and for one year more by Government Resolution No. 2104, dated the 13th March 1897.
34	8229	November 26th ...	20 villages of the Igatpuri Táluka, Násik District.	Four-fifths by twelve of the villages according to their revenue and one-fifth by the remaining eight villages according to their revenue.	The post was continued for a further period of six months by Government Resolution No. 9132, dated the 29th December 1896.
35	8231	" " ...	The village of Harkul Khurd in the Devgad Táluka, Ratnágiri District.	By the inhabitants of the village.	The post was continued for a further period of one year by Government Resolution No. 8182, dated the 30th November 1896, and for six months more by Government Resolution No. 8723, dated the 30th November 1897.
36	8599	December 11th ...	The village of Mallápur, Ron Táluka, Dhárwár District.	By the inhabitants of the village generally.	
	<b>1896.</b>				
37	1666	March 5th ...	10 villages of the Sátára District.	By the inhabitants of the villages.	
38	3696	May 26th ...	The village of Kamatgi in the Hungund Táluka, Bijápur District.	By a rate levied on the Kularchar Hatgars, the Shivachar Hatgars and the Lingayáts of the village.	The post was continued for a further period of one year by Government Resolution No. 4482, dated the 15th June 1897.



Serial No.	No. and date of Government Resolution.	Local area.	How the cost of the post was ordered to be defrayed.	REMARKS.
<b>1896—continued.</b>				
39	3937 June 6th ...	The village of Atodra in the Olpad Táluka, Surat District.	By a rate levied on the inhabitants of the village.	The post was continued for a further period of one year by Government Resolution No. 4300, dated the 5th June 1897.
40	6160 September 8th ...	25 villages of the Belgaum District.	By Government Resolution No. 8985, dated the 23rd December 1896, three-fourths of the cost was ordered, in view of the prevalence of scarcity, to be defrayed by a rate charged on the inhabitants generally of the villages, the remaining one-fourth being borne by Government.	The post was continued for a further period of one year by Government Resolution No. 6532, dated the 21st September 1897, the cost being defrayed wholly by a rate charged on the inhabitants generally of the villages.
41	6376 September 19th...	The village of Kerur in the Bádámi Táluka, Bijápur District.	By a rate charged on the Lingáyat inhabitants of the village.	
42	7691 November 11th...	The village of Bhorghar in the Ambegaon Petha, Poona District.	By a rate charged on the Koli inhabitants of the village.	The post was continued for a further period of one year by Government Resolution No. 9306, dated 21st December 1897.
43	9010 December 23rd...	The Bassoin and Máhim Tálukas of the Thána District.	By a rate charged on the inhabitants generally of the Tálukas.	
<b>1897.</b>				
44	2165 March 15th ...	The town of Karád in the Sátára District.	By Government Resolution No. 6290, dated the 28th August 1897, the cost was ordered to be defrayed wholly by a rate charged on such section of the inhabitants of the Municipal District of Karád as was liable to pay Rs. 2 and upwards as Municipal house tax, in proportion to the amount of tax paid by them.	
45	4790 June 29th ...	The local area comprised within the limits of the Poona City Municipality.	To be paid by the City Municipality of Poona from the Municipal Fund, the rate by which the cost is to be defrayed being assessed by the Municipality conformably to the directions to be hereafter issued by Government under sub-section (2) of Section 25 of the Bombay District Police Act, 1890.	
	8498 November 22nd.			
46	7625 October 19th ...	The village of Pál in the Karád Táluka, Sátára District.	By a rate charged on the inhabitants generally of the village.	
47	8545 November 23rd...	The village of Wardhanag in the Khatáv Táluka Sátára District.	Do. ...	
<b>1898.</b>				
48	1416 February 19th ...	The local area comprised within the limits of the Municipality of Sinnar.	By a rate to be assessed by the Municipality either generally on the inhabitants of the Municipal District of Sinnar, or on a particular section of the inhabitants conformably to the directions to be hereafter issued by Government.	



## APPENDIX B.

(28th March 1898).

QUESTIONS Nos. 1 TO 8 PUT BY THE HONOURABLE RA'O BAHADUR RAN-CHODLAL CHOTALAL AT THE MEET-ING OF THE LEGISLATIVE COUNCIL HELD ON THE 14TH FEBRUARY 1898.

REPLY TO QUESTIONS 1 TO 8 PUT BY THE HONOURABLE RA'O BAHADUR RAN-CHODLAL CHOTALAL.

- (1) Whether the Municipality of Bombay has power to prohibit people from overcrowding a house or room, and if so, what is the least cubical content of space allowed per head? If there is no such limit, is it not desirable that some limit should be legally fixed?
- (2) Whether all or any parts (wards?) of the City of Bombay which are overcrowded have been provided with an efficient drainage system for the removal of sullage water, and if so, what are those wards?
- (3) Have all the houses in the wards in which a line of drainage is laid been connected with it? If not, what is the number of the house connections and how many houses remain unconnected?
- (4) Are flushing tanks provided at the heads of these drainage lines? Are flushing blocks placed in the pipes near each manhole?
- (5) Are these drains flushed daily so as to ensure that no silt is left at the bottom of the pipe or drain?
- (6) What is the approximate total quantity of water supplied in Bombay daily and what is the quantity of sullage water pumped at the drainage station?
- (7) Has the level of subsoil water risen in Bombay during the last 10 years, and if so, to what extent?
- (8) Has the Shone system of drainage in which the sewage is ejected by compressed air been introduced in Bombay? If so, how many ejecting stations are working now and whether there has been any difference in the public health since the introduction of this system?

The reports received from the Municipal Commissioner are laid on the table. The subject of question No 1 is under further consideration.

No. 39668 OF 1897-98.

To

THE MUNICIPAL COMMISSIONER.

Bombay, 12th March 1898.

## MEMORANDUM.

Section 379 of Act III of 1888 deals with overcrowding. There is no limit fixed per head.

(Sd.) J. LEASK,

For Health Officer.

No. D-15556 OF 1897-98.

To

THE MUNICIPAL COMMISSIONER.

Bombay, 16th March 1898.

SIR,

I have the honour to submit herewith as a reply to question 2, a map of the Island of Bombay showing what parts have been provided with an efficient drainage system for the removal of sullage water. I am not in a position to define exactly the parts of the City which are overcrowded.



In answer to question 3, the houses in the wards in which a line of drainage is laid have not all been connected.

It is impossible to give the number of houses connected and of those unconnected in these wards, but taking the various districts delineated on the map abovementioned, the conditions are approximately as follows:—

	Houses connected.	Houses unconnected.
Colába ... ..	Half.	Half.
Fort ... ..	All.	None.
Queen's Road and Girgaum ... ..	All.	None.
1st Sewerage Section ... ..	Two-fifths.	Three-fifths.
Kámátipura ... ..	All.	None.
Umarkhádi (only recently finished) ... ..	Very few.	Nearly all.
Agripáda ... ..	All.	None.
Khambála Hill (only recently finished) ... ..	Few.	Nearly all.
Parel ... ..	Few.	Nearly all.
DeLisle Road .. ..	All.	None.

As to question 4, flushing tanks have been provided at the heads of the drainage lines of the following sewerage districts:—

(a) Fort.	(e) Umarkhádi.
(b) Colába.	(f) Khambála Hill.
(c) Marine Lines.	(g) DeLisle Road.
(d) Mázagaon.	(h) Parel.

With reference to the second portion of this question, I beg to state that most of the lines of pipe sewer are provided with flap-pipes at each manhole, which flap-pipes serve the purpose of the flushing blocks alluded to.

As to question 5, it would be impossible to flush all drains daily, but all are flushed frequently. They are inspected periodically, and when such inspection discloses that there is silt in the drains, the silt is removed by flushing or otherwise.

As to question 6, I have ascertained from the Water Engineer that the approximate quantity of water supplied in Bombay daily is 35 million gallons. The quantity of sullage water pumped at the drainage or pumping station is about 33,600,000 gallons.

Question 7 will be replied to by the Special Drainage Engineer.

As to question 8, the Shone system of drainage has been introduced in the Colába District. There are four ejector stations at work now, each station containing two ejectors. Sufficient time has not yet elapsed, and the district is too small for any conclusion to be arrived at as to the effect of the system upon the public health generally.

I have, &c.,  
(Sd.) JAMES W. SMITH,  
Deputy Executive Engineer (Drainage).

No. S. D. 2340 OF 1897-98.

Bombay, 16th March 1898.

To

THE MUNICIPAL COMMISSIONER.

SIR,

I have the honour to reply to question No. 7 put by the Honourable Ráo Bahádúr Ranchodlál Chotalál as follows:—

The level of the subsoil water has certainly risen in Bombay during the last ten years. Mr. Baldwin Latham in February 1890 found the subsoil water in Kámátipura lower than the sills of the Love-Grove sluices, that is, lower than 73·64 Town Hall Datum, while the level of the subsoil water in February 1898 was 82·00 Town Hall Datum, showing that water had risen between 8 and 9 feet.

The general level of Kámátipura may be taken as 88 Town Hall Datum.

The Health Officer alludes prominently to the rise of subsoil water in his annual reports for 1892-93 and 1894-95.

The Tramway authorities informed you last year that in their ground opposite to Victoria Gardens they found that water had risen 7·6" between April 1886 and March 1897.

Another evidence of the rise of subsoil water is the difficulty experienced in examining some of the water-mains without resorting to pumping, though the mains are laid only a few feet below the surface.

I have, &c.,  
(Sd.) JAMES W. SMITH,  
Special Drainage Engineer.



The following Extract from the Proceedings of the Governor of Bomay 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 ACTS, 1861 and 1892."*

The Council met at the Town Hall, Bombay, on Tuesday the 29th March 1898, at 12 noon.

P R E S E N T.

His Excellency the Right Honourable LORD SANDHURST, G.C.I.E., Governor of Bombay, *Presiding*.

The Honourable Mr. JOHN NUGENT, C.S.I., I.C.S.

The Honourable Sir E. CHARLES K. OLLIVANT, K.C.I.E., I.C.S.

The Honourable the ADVOCATE GENERAL,

The Honourable Mr. W. H. CROWE, I.C.S.

The Honourable Mr. J. MONTEATH, C.S.I., M.A., I.C.S.

The Honourable Mr. DAJI ABAJI KHARE, B.A., LL.B.

The Honourable Mr. NARAYAN GANESH CHANDAVARKAR, B.A., LL.B.

The Honourable Mr. T. B. KIRKHAM.

The Honourable Mr. W. C. HUGHES, M.Inst.C.E.

The Honourable Mr. A. S. MORIARTY, I.C.S.

The Honourable Dr. BHALCHANDRA KRISHNA BHATAVADEKAR, L.M.

The Honourable Mr. GOKULDAS KAHANDAS PAREKH, B.A., LL.B.

The Honourable Meherban Sardar NARAYANRAO GOVIND *alias* BABA SAHBB, Chief of Ichalkaranji.

The Honourable Mr. FAZULBI Y VISRAM, C.I.E.

The Honourable Mr. DHENDU SHAMRAO GARUD, B.A.

The Honourable Mr. P. M. MEHTA, C.I.E., M.A.

The Honourable Mr. VRIJBLUKHANDAS ATMARAM.

The Honourable Mr. A. WINGATE, C.I.E., I.C.S.

The Honourable Mr. S. B. DOIG, M.Inst.C.E.

Consideration of the Bill for the improvement of the City of Bombay, and to provide space for its further expansion was resumed.

On the motion of the Honourable Mr. MORIARTY, the following amendments in Section 62 were agreed to :—

Line 17, for the figure "53" to *substitute* the figure "53A"; and line 21, to *delete* the words "of appeal."

The Honourable Mr. MEHTA then moved the following amendment to Section 63 :—  
To *add* the following further clause at the end :—

"For the purposes of this section the rateable value of the buildings and lands in the city vesting in the Secretary of State for India in Council and those vesting in the Trustees of the Port of Bombay shall be eight-tenths and nine-tenths respectively of the rateable value thereof as fixed under the respective provisions of Sections 144 and 145 of the City of Bombay Municipal Act, 1888."

He said—This can hardly be said to be an amendment, and I am sure that if it had come before the Select Committee it would have been accepted. As honourable members are aware, the Municipality, under the provisions of Sections 144 and 145 of the Municipal Act, gets its assessment not upon the full value of Government or Port Trust pro-



erty, but a deduction is made in the rateable value of Government property of one-fifth, and of Port Trust property of one-tenth. It seems to me only fair, that so far as this Bill is concerned what the Municipality should have to pay should be 2 per cent. of the rateable value on which they get anything at all. That is the reason why I propose this amendment.

The Honourable Sir CHARLES OLLIVANT—We accept the amendment.

The amendment was accordingly carried.

On the motion of the Honourable Mr. MORIARTY, the following amendments in Section 63A were agreed to:—

Lines 53 and 54, for the words "leviable from time to time" to *substitute* the words "from time to time leviable;" and line 109, to *delete* the words "of appeal."

The Honourable Mr. MEHTA moved the following amendment to Section 63A:—

Lines 81 to 84, to *omit* the following words "less any rents received by the Corporation from the Tramway Company in respect of such streets."

He said—This amendment is for the purpose of making it clear that the deduction to which the Corporation are entitled, as regards the cost of maintaining, lighting, watering, and cleansing the streets, shall not be lessened by deducting the rents received from the Tramway Company in respect of such streets. What the Corporation is entitled to receive, and the Board ought to pay, is the actual cost of maintaining, lighting and watering the streets. The tramways are altogether outside this duty, and I do not see why the Board should receive any deduction from their liability for the actual cost of maintaining the streets.

The Honourable Mr. HUGHES—It seems to me that rents received from the use of a public street by the Tramway Company, can legitimately be deducted from the charges the Board will have to pay to the Corporation for maintaining the streets. The section provides a convenient way for arriving at the credit which the Board should receive. The Board is entitled to the money and it should be paid to them.

The Honourable Mr. MEHTA—As my honourable friend thinks the arrangement an equitable one, I will not press my amendment.

The amendment was by leave withdrawn and Section 63A agreed to.

The Honourable Mr. MEHTA next moved that Section 63B be deleted.

He said—The amendment is very simple so far as the wording is concerned, but it is of great importance. There are in the Bill guarantee clauses or bludgeon clauses to which I shall presently refer, but here we have suddenly before us a clause which is the worst bludgeon clause that can possibly be had. It is a clause which will lead people to imagine that the Corporation cannot be trusted to do anything that it ought to do; that it cannot be trusted to meet any liability which it has incurred, and cannot be trusted to make any payment the Act says it should make. Is this a right position in which to place the Corporation? The bludgeon clauses of the Municipal Act are very different to these. They are for the purpose of enabling Government to call upon the Corporation to perform certain duties which they may seem to Government under certain circumstances to have neglected, including therein questions of opinion as to the way in which these duties should be performed. The bludgeon clauses of the Municipal Act are obnoxious but still I confess that there is a good deal to be said for them. In England the Local Government Board have power to compel local authorities to carry out their duties, and in the event of their refusing to do so the Board can step in and take their place. But I am not aware that there is anything in English legislation which enables the Local Government Board to call upon public bodies to pay monies they are bound to pay, and against the non-payment of which there is a very simple remedy. There is liability, and without the slightest difficulty the party entitled to receive the money can go to a Court of Law, and claim and obtain a decree. There is not the slightest difficulty about a legal remedy in such a case. But here we have a case of a bludgeon clause being inserted in regard to the ordinary regular payment of two per cent., enabling Government to take action under Section 99 of the Municipal Act. That section provides that in case of non-payment, the Accountant General shall, after 7 days thereof, report the circumstance to the Chief Secretary to Government, whereupon the Governor-in-Council may attach the municipal fund. This provision was specifically inserted in order to secure the repayment of the Vehar Water-works debt, and it does not relate to ordinary liabilities. It stands on a very



different footing to the present section, which deals not with a loan re-payable to the Secretary of State but with ordinary liabilities. It seeks to enact that the moment the money becomes payable to the Board and the Commissioner fails to pay it, Government can attach the municipal funds. Even a private party is entitled to some notice before such a step is taken, but this clause says "No." There is no precedent in regard to any moneys not belonging to Government, or any debt except one in which Government alone is interested, for placing a body like the Corporation in the position in which this section will place it, if it remains part of the Bill. In the case of the Commissioner not finding the monyes, Government interposes, attaches the municipal land and pays the Board therefrom. I submit that there is absolutely nothing whatever to justify such a procedure against a body constituted like the Corporation. It is a body 32 of whose members are chosen by the rate-payers, 16 by the Justices (themselves appointed by Government) 16 nominated by Government and a few members elected under a fancy franchise by the University and the Chamber of Commerce. A body thus constituted can be fully trusted to fulfil a duty of so simple a character as that required under Sections 63 and 63A, of paying a certain fixed amount to the Board. If the Corporation does not do so, there is a simple legal remedy. It may be said that a great deal of delay would be caused by having to go to the Courts, but to my mind it is absolutely impossible to conceive that the Corporation would not pay the money. But supposing we contemplate such a remote contingency the remedy is simple, and can be applied without any serious delay. I appeal to the honourable member in charge of the Bill to seriously consider whether this clause should be maintained, seeing that it casts, without adequate necessity, a reflection and a slur on the Corporation that it does not deserve. I earnestly ask the Council to delete this clause altogether.

The Honourable Sir CHARLES OLLIVANT said—It will save time if I postpone any remarks I may have to make on the principle of these clauses until we come to Section 71. I can go with the Honourable Mr. Mehta as far as this, that the section can be deleted, if at the same time it is made clear, that so far as I am concerned the subject-matter of it will find a place in Section 71. We have to deal in exactly the same manner with them both, and it seems to me useless to discuss the principle involved twice. If this provision is to find a place anywhere, it should be in Section 71, and on the understanding that the question is left open we will agree to delete the clause.

The section was accordingly *deleted*.

On the motion of the Honourable Mr. MORIARTY the following amendments in Sections 64, 65 and 66 were agreed to:—

Section 64, line 8, after the word "specified" to *insert* the words "or referred to".

Section 65, line 12, for "(6)" to *substitute* "(5)".

Section 66, line 4, for the word and figure "Section 63" to *substitute* the words and figures "Sections 63, 63 A and 64".

Sections 67 and 68 of the Bill were agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendment in Section 69 was agreed to:—

Line 113, for the words and figures "Sections 59 and 59 A (i) and (ii)" to *substitute* the words and figures "Section 59 and provisos (i) and (ii) to sub-section (i) of Section 59A".

The Honourable Mr. MEHTA then moved the following amendment in Section 69 (3):—

Line 118, to *substitute* for "equally" the words "in the proportion of one to three".

He said—The amendment of which I have given notice, relates to the disposal of the balances to the credit of the Board. It seemed to me that under this section Government were going to receive a larger share of the balances than the Corporation, but on further examination I find that the clauses work in a somewhat different way to what seemed to be the case at first sight. The surplus profits are divided equally between Government and the Corporation, and at the utmost Government can only receive one-half of the money which may be derived from the net profits accruing from the rents and other revenues of the Board arising from Government property vested in it. It does



not seem inequitable that if the Corporation draws the monyes which have been contributed by it, that Government should come in and say, "give us back a portion of the money we have given to help you". I do not think that the section as it stands will work injuriously and therefore I will ask permission to withdraw the amendment.

The amendment was accordingly by leave withdrawn.

The Honourable Mr. MEHTA moved the following amendment in Section 69 (3) :—

Line 130, to *add* after the words "Schedule E" the words "minus the interest at 3 per cent. paid that year to Government on the capital debts in respect of the said lands and reclamation".

He said—At page 63 Section 69 provides that "the sum payable to Government shall not exceed half the total net profits from the rents realised by the Board", but under other sections Government is entitled to receive three per cent. interest on certain of the capital debts. My amendment is moved with the object of deducting from the Government share of net profits the three per cent. interest so paid. No doubt this is the intention of the Bill, but it is not specifically provided for. I do not think therefore there will be any objection to this amendment.

The Honourable Mr. HUGHES—Of course in arriving at the net profits, the Board would have to deduct all charges in respect to capital liabilities. The three per cent. would already be paid to Government, and only out of the net receipts after payment of all charges on revenue would the division of profits take place.

The Honourable Mr. MEHTA—But I do not suppose there is any objection to this point being made clear. It seems to me that we should state in the section that the net profits can only be arrived at by excluding the three per cent. interest paid to Government from the Government share of the profits.

The Honourable Sir CHARLES OLLIVANT—Your Excellency, owing to the difficulty of hearing in this room I am not quite certain whether I clearly follow the meaning of the honourable member. Of course the regular expenses of the Board must include the interest on the capital debts of the Board to Government in the Corporation. There is no difference between the debts owing to the Secretary of State, and those owing to the Corporation in this effect. It is only after you have paid all expenses that you come to the question of disposing of the surplus. You cannot divide the net profits. I am not quite sure however that this section is sufficiently clear. I will read out this part of the section as I think it should be. At line 117 the words "the remainder (if any) of such balance shall be divided equally", should be omitted, and this should be the third of the purposes to which balances can be applied when they exceed the aggregate amount paid to the Commissioner of the Board. From line 117 the clause should read as follows :—

"Thirdly, as profits between Government and the Corporation in equal shares : Provided however that the sum payable to Government under this sub-clause shall not, in any case, exceed half the total net profits from rents realised by the Board during that year in respect of the lands vested in the Board and specified in Schedule C and the reclamation of any areas situate within the limits specified in Schedule E, and where Government are under this proviso to receive less than half the amount of the said profits, the whole of the balance of such profits shall be paid to the Corporation".

This makes it clear that while the Corporation may receive more than half the net profits, Government can in no case receive more than half. I do not know whether the honourable member will think that this makes the meaning quite clear.

The Honourable Mr. MEHTA—It must be remembered that the payments are in regard to the rents and profits of lands made over by the Municipality as well as by Government; if any balance remains over ordinary expenditure, it goes first to the Corporation in repayment of the two per cent. and then to the Secretary of State in payment of capital charges for the lands vested in the Board, while payment is not made for the Corporation lands vested in the Board. Neither is any payment made to the Corporation in respect to the large sums contributed by the Corporation in years in which there were no profits. It is clear that the contribution of the Corporation towards the earning of these net profits will be a larger amount than the contribution of Government. Provision is made that Government shall not have more than half the profits, but if you do not exclude the three per cent. interest paid to the Secretary of State from their share, Gov-



ernment will carry away a much larger sum than what is really due to them. I say that from the net profits the three per cent. ought to be deducted. My honourable friend Mr. Hughes says that it will follow that this will be done from the use of the words in the section "net profits". If this is so, why not accept the amendment? From what Sir Charles Ollivant has said it would appear that the interest charges will be deducted before a division is made. If the net profits are to be subject to these deductions, then I submit that the amendment which makes this clear should be accepted.

The Honourable Sir Charles OLLIVANT—I would again point out that it is not until the interest and other charges have been paid, that the question of division of profits arises. The surplus is to go first to repayment to the Corporation of the aggregate amount paid during the year under Sections 63 and 63 A; secondly to the Secretary of State in payment of the capital debt of the Board; and thirdly the surplus after making these payments is to be divided between Government and the Corporation, provided always that Government can never receive at the most more than half the net profits from their own lands. What the honourable Mr. Hughes and I say is the same: so far as the three per cent. interest on the capital debt is concerned, that comes into the working charges of the Board before there is any division of profits at all.

The Council divided—

*Ayes.*

The Chief of Ichalkaranji.  
The Honourable Mr. Garud.  
The Honourable Mr. Parekh.  
The Honourable Dr. Bhalchandra Krishna.  
The Honourable Mr. Chandavarkar.  
The Honourable Mr. Khare.  
The Honourable Mr. Mehta.

*Noes.*

The Honourable Mr. Monteth.  
The Honourable Mr. Kirkham.  
The Honourable Mr. Moriarty.  
The Honourable Mr. Vrijbhukandas.  
The Honourable Mr. Wingate.  
The Honourable Mr. Hughes.  
The Honourable Mr. Crowe.  
The Honourable Mr. Doig.  
The Honourable the Advocate General.  
The Honourable Sir C. Ollivant.  
The Honourable Mr. Nugent.  
His Excellency the President.

The Honourable Mr. Fazulbhoy Visram did not vote.

The Honourable Mr. Mehta's amendment was therefore lost.

The Honourable Sir CHARLES OLLIVANT:—Before we pass on to the next section, I desire to move that the verbal alterations to Section 69 which I read just now be made. I beg leave to move that from line 117 the section be amended to read as follows:—

"(iii) thirdly, as profits to Government and the Corporation in equal shares: Provided, however, that the sum payable to Government under this sub-clause shall not, in any case, exceed half the total net profits from rents realised by the Board during that year in respect of the lands vested in the Board and specified in Schedule C and the reclamation of any areas situate within the limits specified in Schedule E, and where Government are under this proviso to receive less than half the amount of the said profits the whole of the balance of such profits shall be paid to the Corporation."

The amendment was carried.

On the motion of the Honourable Mr. MORIARTY the following amendment in Section 70 was agreed to:—

Line 6, for the word and figures "46 and 47" to substitute the word and figures "45 and 47."

The Honourable Sir CHARLES OLLIVANT—Before the Honourable Mr. Mehta speaks to the amendment standing in his name for the deletion of Sections 70, 71 and 72 of the Bill I wish to refer to the question raised in the amendment in which Mr. Mehta proposed to delete Section 63 B. I then agreed that the section should be deleted on the understanding that when we came to Section 71 I should move an amendment with the same object in view as that of the abandoned section. This can be done by referring in this section to Section 63 A. I will therefore ask leave to move to insert after the word "Sec-



tion" in line 4 the words and figures "or Section 63 A." I will also in order to make this provision more acceptable to its critics propose that at the end of the section the following words be added: "Any moneys paid by the Commissioner under the last preceding section, or payable under such section and levied under this section, and any moneys paid by the Commissioner under the last preceding section payable under the said section and levied under this section shall constitute a charge upon the property of the Board prior to any division of profits."

It is manifestly fair that if the Corporation has to pay as a temporary measure any sums over and beyond their ordinary liability, they should have a guarantee that the repayment to them is a first charge on the surplus of the Board before any profits are declared.

The Honourable Mr. MEHTA—This amendment may come in the way of the one of which I have given notice if it is carried at this stage.

The Honourable Sir CHARLES OLLIVANT—Yes, I am aware of that and my object in mentioning the amendment I desire to propose is that the honourable member may know what our intentions are. My amendment can best be taken after the amendment for the deletion of the clauses has been considered, that is, in the event of its being rejected.

The Honourable Mr. MEHTA—Your Excellency, I beg leave to propose that Sections 70, 71 and 72 of the Bill be deleted. I think that my honourable friend in charge of the Bill somewhat realises that the position of the Corporation in regard to these clauses is not a very desirable one. In the debate on the second reading of the Bill I adverted to some valid objections to these clauses. Section 70 defines the procedure in the event of default being made by the Board in payment of interest or investment of sinking fund charges due to the Secretary of State or to the Corporation. The Accountant General is empowered to make the payment and to demand repayment forthwith from the Commissioner. Section 71 lays down the procedure in the event of the Commissioner failing to make this payment. Section 72, Your Excellency will observe, stands in a different position to the two preceding ones, as it gives Government power to attach the revenues of the Board itself in the event of default in the payment of liabilities. Therefore Sections 70 and 71 stand on one basis, while Section 72 stands on another basis altogether. Taking Sections 70 and 71 together, the principle is that in case of any liability in regard to loans or sinking funds, or of the payment of interest to Government, or to the Corporation, in all these three cases the Bill provides that Government shall come down for payment of the liability on the Corporation. Now does not this really do away with the limit of two per cent. provided for in a previous part of the Bill? The Bill says that the liability of the Corporation shall be two per cent., but here in these clauses it is provided that if any further payment is required it shall be made by the Corporation. I ask honourable members to say whether this does not do away with the limit altogether. Two per cent. is simply to be paid in the first instance, and you can add any further amount which may be required for loans, sinking fund, or the payment of interest to Government. If the Council remembers this, it will be in a better position to consider the argument in favour of this provision, that this is nothing more than a guarantee clause to give investors confidence in the operations of the Board, and that it will act as a guarantee clause to those people who invest their moneys in the loan of the Board. But in doing that, you are indirectly but effectively taking away the limit of two per cent. The question is, which is the desirable course to follow—to retain the limit of two per cent. and incur such risks which may result; or to give such a guarantee? It is said that the loans will be raised at a somewhat cheaper rate than if there was no guarantee; sometimes it is said that the rate would be a quarter per cent. less, and at other times that it would be a half per cent. less. I am not at all sure that this will be the case, but even if in the first instance a little higher rate of interest has to be paid, we have to remember that the loans are not to be raised entirely at first, and that the Board will exist, not for five or ten years but for sixty or ninety-nine years, or even longer. This being so, the investing public will soon come to know the position in which the Board stands, and its credit will be good if it carries on its work in a right manner. The investing public, who are not so ignorant as seems to be supposed, will come to know that there is absolutely no risk in advancing loans to this Board, and whether there is a guarantee or not they will be ready to take up the Board's securities. For the sake of a little advantage which the



Board may get in the reduction of rate of interest in the first few years, is it right or advisable to do away with the limit of two per cent. which the Bill lays on the contribution of the Corporation? It seems to me right and proper that the operations of a Board of this kind should be confined within a certain limit, and that the Board should clearly understand that it must keep within that limit and not incur any outlay beyond it. The second consideration against the clauses arises from what is due to the Board itself, which ought to have no temptation to be less cautious and less circumspect in their transactions than they would be by the insertion of these clauses. If the Board knows that it cannot possibly go beyond the two per cent. limit laid down in this Bill, it will afford a safeguard against speculative management of the large concerns entrusted to the Board. I do feel most strongly that we ought to provide checks against incautious and extravagant management in carrying out the transactions of the Board. It is therefore for the Council to seriously consider whether these clauses should be retained or not. I ask the Council to say whether it is prepared to place an unlimited burden on the rate-payers of the city for the purpose of carrying out this improvement scheme. You have to consider whether you prefer to have the loans for the first two or three years raised at a cheaper rate, or to have the work cautiously and carefully managed by the fixing of a limit beyond which the Board cannot go? The amendment suggested by Sir Charles Ollivant, by which the moneys paid under these sections should be a charge on the surplus before there is a division of profits, does go a little way, but only a very little way, in saving the position of the Corporation. They will not recover the payments in this way for a long period of time, if they do so at all, for no date can be given as to when the Board will begin to make profits. I do not think that even the Honourable Mr. Hughes will be able to tell us that. I have given notice of several amendments to be moved in the event of these sections being retained, and they are designed to make the burden of this charge on the Corporation less objectionable. It will then be the time to speak more at length on the amendment the Honourable Sir Charles Ollivant proposes to move. All I need now say is that the mere fact of the moneys received under these sections being a charge on the surplus before a division of profits is made, would not alter the strength of the arguments which I place before you in asking that these sections may be removed altogether. I may say, however, that if the Council will agree to delete Sections 70 and 71 then my objections to 72 would be removed considerably. I would in that case make a present of that section to my honourable friend Mr. Hughes.

The Honourable Sir CHARLES OLLIVANT—I have been waiting before rising to reply in the hope that some honourable members who are more at home with the sentiments of the Corporation and the honourable member than I am, would get up and explain to him with greater financial knowledge than I possess how important it is in the financial interests of the city that these sections should remain as they are. I am convinced that there are members of the Corporation who, while feeling the force of many of the arguments we have just heard, would admit that for the financial success of the operations contemplated by the Bill it is absolutely necessary that these guarantee clauses should stand. I am not able to say much about the matter myself, as I cannot pose as a financial authority. But we are not altogether free agents in the matter and we are practically pledged to retain these clauses. I have already said that I do not believe they will entail any liability whatever upon the Corporation. I was glad to hear even the honourable member admit that the elimination of these clauses might, at least in the early years of the Board's existence, injuriously affect the rate of interest at which it could borrow? I would willingly agree with my honourable friend if I could, but I feel bound to protest against any amendment that vitally changes the character of these sections 70 and 71.

The Honourable Mr. MEHTA—Sir Charles Ollivant says that members of the Corporation and others feel that the financial success of the Board depends upon these guarantee clauses. Now, what is the meaning of these words? They are very large words, and they seem to mean a great deal more than really underlies that statement. The fact simply is that it is possible the Board may have to raise a loan at a somewhat higher rate than would be the case if the clauses were retained. Can it be said that merely because of this, the financial success of the Board will be hazarded? The only thing on which the financial success of the Board depends is the confidence inspired by the operations of the Board, and if these clauses really stood between the Board and failure, there would be very little chance of ultimate success.



The Council divided :--

*Ayes.*

The Chief of Ichalkaranji.  
 The Honourable Mr. Garud.  
 The Honourable Mr. Parekh.  
 The Honourable Dr. Bhalchandra  
 Krishna.  
 The Honourable Mr. Chandavarkar.  
 The Honourable Mr. Khare.  
 The Honourable Mr. Mehta.

*Noes.*

The Honourable Mr. Monteath.  
 The Honourable Mr. Kirkham.  
 The Honourable Mr. Moriarty.  
 The Honourable Mr. Vrijbhukhandas.  
 The Honourable Mr. Wingate.  
 The Honourable Mr. Fazulbhai Visram.  
 The Honourable Mr. Hughes.  
 The Honourable Mr. Crowe.  
 The Honourable Mr. Doig.  
 The Honourable the Advocate General.  
 The Honourable Sir Charles Ollivant.  
 The Honourable Mr. Nugent.  
 His Excellency the President.

The amendment was therefore lost.

The Honourable Mr. MEHTA—I will withdraw the next amendment of which I have given notice, namely, in line 6 of Section 70 to delete “46 and.” The amendment is a merely verbal one, and it is covered by the amendment proposed by the Legal Remembrancer and carried.

The Honourable Mr. MEHTA then moved the following amendment to Section 70 :—

To omit the words “or in any payment due by the Board under Section 59 to the Secretary of State for India in Council or to the Corporation respectively.”

He said—I think Sir Charles Ollivant must admit that this stands on a very different footing to the previous amendment, and I trust that he will not take up the same position in regard to it as he did to the motion to delete the clause altogether. Great importance has been attached to duly establishing the credit of the Board in public estimation, and it is said that for this purpose it is absolutely necessary that the guarantee clauses should remain. But what is to be urged with regard to the credit of the Board, so far as relates to the payment to Government on the interest upon the valuation of this property? How can that question be affected by this guarantee? It seems to me that if this clause is justified only on the ground that it is absolutely necessary for the financial success of the Board, it is not required as a guarantee of the payment of the interest on Government properties at least. If the Board are in default in regard to this interest, to whom is it largely due? In the first place it is due to the Board, and in the second place due to Government, and surely Government cannot go to the Corporation for what it is itself responsible for. When I say that Government is responsible, the Council will have to remember that it is Government to whom the responsibility for sanction of every improvement and reclamation after full consideration of ways and means attaches. They do not leave any power in this respect to the Corporation. Government may exercise this power in absolute opposition to the views of the Corporation, and yet the money which is required to be paid in case of default, is recoverable from the Corporation by means of the bludgeon. It seems to me that it is not possible to justify the inclusion of this part of the section in this clause. Government come down on the Corporation by this provision for the consequences resulting from its own misjudgment, recklessness, or laches in sanctioning schemes beyond the means of the Board. Is that fair and just?

The Honourable Sir CHARLES OLLIVANT—Your Excellency,—If it had been possible I should have liked to have given way as regards this amendment, but I do not think I am permitted to do so. It would be a great pity to insist on the principle of giving a dog a bad name and hanging him. Directly you begin to talk about the Bludgeon clauses you hear people say “get rid of them.” But if we look at these clauses as a matter of business we shall see that they only resolve themselves into the question of providing security. I cannot believe that the Corporation has any want of confidence in the Standing Committee, and yet they take receipts from the Standing Committee. In the same way it is provided in this Bill that the means of payment should be assured. So far from Government taking any particular advantage, you will see that the same principles apply in the case of the Corporation. It may be inconvenient to the Corporation to have their



finances disorganised by having to make payment, but my honourable friend knows that the Corporation have the power to recoup themselves by a special tax without any serious disorganisation to their finances. It might be a more gracious act to give the Government lands to the city for nothing at all, but these are not the terms upon which Government are prepared to grant the transfer. To make any material alteration in this section would mean a deviation from the terms of the contract on consideration of which the Government of India agree to make over these lands to the Board. With much regret, therefore, I have to announce that I am unable to assent to this amendment.

The Honourable Mr. MEHTA—My honourable friend Sir Charles Ollivant with the spirit of fairness which is strong in him admits that my proposal is a fair one, and the arguments he brought forward really go to meet quite another point which I have not raised in this connection. My objection to this part does not relate to the bludgeon, my argument was that it is here sought to recover from the Corporation moneys over and above the 2 per cent. it has already contributed, owing to the default of Government itself. That is an argument my honourable friend does not meet. I take it that the honourable member has no arguments against the amendment, but that he is in a position in which he cannot accept it. Well in that case it is futile to say anything more.

The Honourable Sir CHARLES OLLIVANT—The honourable member was too engrossed in the attractive conversation of his neighbour to hear what I did say against the proposal. (Laughter.)

The Honourable Mr. MEHTA—What I understood was that no arguments were of any use.

The Council divided :—

*Ayes.*

The Chief of Ichalkaranji.  
The Honourable Mr. Garud.  
The Honourable Mr. Vrijbhukandas.  
The Honourable Mr. Fazulbhoj Visram.  
The Honourable Mr. Parekh.  
The Honourable Dr. Bhalchandra.  
The Honourable Mr. Khare.  
The Honourable Mr. Mehta.

*Noes.*

The Honourable Mr. Monteath.  
The Honourable Mr. Kirkham.  
The Honourable Mr. Moriarty.  
The Honourable Mr. Wingate.  
The Honourable Mr. Hughes.  
The Honourable Mr. Chandavarkar.  
The Honourable Mr. Crowe.  
The Honourable Mr. Doig.  
The Honourable the Advocate General.  
The Honourable Sir Charles Ollivant.  
The Honourable Mr. Nugent.  
His Excellency the President.

The amendment was therefore lost.

The Honourable Mr. MEHTA moved the following further amendment in Section 70 :—

Line 21, to *substitute* for the word "Commissioner" the word "Corporation"; to *omit* the word "forthwith" and to *substitute* in its place the words "within a month from the date of any requisition by Government in that behalf".

He said—We now come to the question of what is to be done under these circumstances established by the rejection of my previous amendments. In the Bludgeon clauses of the Municipal Act, it is provided that some little time should be given to the Corporation for meeting calls made upon them; but here in this section it is provided that the Accountant General may forthwith without any notice attach the amount required, and make the Municipality refund it forthwith. The Corporation will be bound to pay, whether it has notice or not, the amount of the payments in defaults. I think the Honourable Member in charge of the Bill will find it hard to defend this proposal. "Then the question arises, why is the Commissioner to be called upon to pay the money? It seems to me that it is the Corporation on whom the call should be made. I trust that the Council will delete the word "forthwith", and will give the Corporation some reasonable time as in the Bludgeon clauses of the Municipal Act. I cannot conceive of anything more reasonable than the amendment I now suggest.

The Honourable Sir CHARLES OLLIVANT—The Corporation is to be congratulated upon having such a doughty champion as the honourable member. This is one of the amendments of which I spoke yesterday, when I said that some amendments are put



forward with the comfortable conviction that they will not be carried. We have heard of the poor Corporation, but it seems to me that everybody referred to in this section must be described as poor. It will be the poor Accountant General, or the poor Provincial Government that has to pay the funds in the first instance, then the poor Commissioner, and the poor Corporation in the second place, until it comes down in the third place to the poor tax-payer, who will by a special tax really pay the money, that is to say, if it is ever required. As I said on the first reading of the Bill, I say again, that I do not believe a single extra penny of taxation will be laid on the tax-payer in connection with these Guarantee Clauses. But if the purport of the clause is to be maintained at all, it is absolutely necessary that the investor should know that no time will elapse in the fulfilment of the obligation secured by this clause. Therefore it is that we employ the terms "Accountant General", and "Commissioner" "forthwith", so that there will be no chance whatever of the shutters being up for a single day, but all will know that they are perfectly certain of getting the money repaid which they have lent. For these reasons, Sir, I am unable to agree to the amendment.

The Honourable Mr. MEHTA—In reply to that I should like to ask, how is the investor to know or care whether the Municipality pays forthwith, or after a month's notice, seeing that he has already been paid the money by the Accountant General? I must say I am rather surprised that my honourable friend is not prepared to modify the word "forthwith". It is not right that the demand on the Corporation should be made without notice. I am sorry that the high sense of fairness which the honourable gentleman possesses does not prompt him to say that it is inequitable to call upon the Corporation to pay without any notice being given.

The Council divided :—

*Ayes.*

The Chief of Ichalkaranji.  
The Honourable Mr. Garud.  
The Honourable Mr. Vrijbhukhandas.  
The Honourable Mr. Fazulbhoy Visram.  
The Honourable Mr. Parekh.  
The Honourable Dr. Bhalchandra  
Krishna.  
The Honourable Mr. Chandavarkar.  
The Honourable Mr. Khare.  
The Honourable Mr. Mehta.

*Noes.*

The Honourable Mr. Monteath.  
The Honourable Mr. Kirkham.  
The Honourable Mr. Moriarty.  
The Honourable Mr. Wingate.  
The Honourable Mr. Houghes.  
The Honourable Mr. Crowe.  
The Honourable Mr. Doig.  
The Honourable the Advocate General,  
The Honourable Sir Charles Ollivant.  
The Honourable Mr. Nugent.  
His Excellency the President.

The amendment was therefore lost.

The Honourable Mr. MEHTA—I now beg to propose that in Section 71, line 1, the word "Corporation" be *substituted* for the word "Commissioner." I have already given my reasons for wishing this change to be made and need not trouble the Council with any further remarks.

The amendment was lost.

The Honourable Mr. MEHTA then moved the following amendment to Section 71 :—

Lines 12—15, to *omit* the words : "and Government may further require the Corporation to levy a special tax as provided in the last preceding section."

He said—I do not see why these words should be inserted. Supposing the Corporation do not levy the special tax as provided in the last section, what is to be done? There is no provision in regard to that. It seems to me to be a section without anything to back it up, judging from the remarks of the honourable member in charge of the Bill. There is a provision for levying a special tax if the Corporation thinks it necessary, and if the Corporation can pay from ordinary revenues, they ought to be allowed to do so. It may often be possible to pay the special levy in this way. All the power necessary will be conferred by this and the preceding section if this portion of the clause is omitted. There is no necessity to force the Corporation to make this levy and if they feel qualified to provide the necessary funds out of ordinary revenue they should be allowed to do so.



The Honourable Sir CHARLES OLLIVANT—This seems to me to fall within the same series of amendments as the previous ones to which I have objected in connection with these guarantee clauses. I am not however surprised at the records we are getting on the voting papers, when I remember how smoothly these clauses passed through Select Committee. There were of course differences of opinion. But they did not lead to any material changes. If you accept the principle that there should be such a guarantee and honourable members are aware of what I said at the first meeting that there can be no other guarantee under the particular circumstances—it seems to me that if the principle of them is accepted all the rest of this procedure must follow as a matter of course. I do not wish to put myself in the unpleasant position of supposing for one moment that the Corporation would make it convenient to utilise its cash balances for this purpose, and then recoup themselves by declining to prosecute very necessary works. But it seems to me—and I am sure the Government of India will take the same view—that if the balances are undesirably depleted it should be in the power of the Local Government to demand that a special tax should be levied, and I hope the Local Government will choose a special tax which will press as lightly as possible. In the Select Committee I indicated what such a special tax should be. I mentioned for instance a tax on kerosine oil. Such a tax has been imposed already, and I do not think any one was the worse for it. It seems to me that in the very unlikely event of the Corporation being called upon temporarily to meet these liabilities, it is very desirable that Government should have the power of sanctioning such a special tax, and if necessary it should be levied. This is one of the conditions of the contract and we cannot recede from it.

The Honourable Mr. MEHTA—The principles of a guarantee having been adopted by the Council, I accept them, but I do not see how this provision necessarily follows from such acceptance. The question is whether the Corporation should be forced to levy this tax when it can meet the demand from its own resources. I see that what was in the mind of the honourable member in charge of the Bill was that the Corporation might provide the money out of current revenue by postponing the execution of necessary works. But if the Corporation fails to carry out duties obligatory upon it, Government can have recourse to the bludgeon clauses of the Municipal Act and compel the Corporation to carry out those duties. This has nothing to do with the principle of the guarantee.

The Honourable Sir CHARLES OLLIVANT—So far as the wording is concerned it was settled in Select Committee and taken out of Section 70 to be inserted in Section 71.

The Honourable Mr. MEHTA—But that does not affect the reasons why I oppose the insertion of these words.

The Honourable Sir CHARLES OLLIVANT—No, but I am explaining the reasons why the words do not appear where they did in the original Bill.

The amendment on being put was lost.

The Honourable Mr. MEHTA—Before I move a further amendment I believe that Sir Charles Ollivant intends to move a further addition to the clause, to take the place of the deleted Section 63B. If so I am going to oppose it.

The Honourable Sir CHARLES OLLIVANT—When I agreed to the deletion of Section 63B my reason was that the insertion of a similar provision could be made in this clause, so that there should be only one clause in the subject. I propose that in the third line of Section 71 after the word "in" the words and figures "Section 63, 63A or" be inserted.

The Honourable Mr. MEHTA—It seems to me that Government are driving a rather hard bargain with the Municipality and the city. Not only are these bludgeon and guarantee clauses to come into force as between Government, the investing public, and the Corporation, but as I pointed out on the last occasion, if the Board fails to meet its liabilities it is the Corporation which the clause says is to be called to account. I think we may safely trust the Corporation to pay the liabilities the Bill imposes without inserting any provision of this sort. I ask the Council whether they think the Corporation is a body which they think cannot be entrusted to fulfil the obligations placed upon it to pay certain moneys to the Board, and whether it is necessary to enforce such payment at the point of the bludgeon, instead of leaving the Board to recover the moneys from the Corporation in the usual way? It is utterly out of the question to suppose that the Corporation would refuse, and the amendment the honourable member has proposed seems to me a reflection quite undeserved by a body like the Corporation.



The Council divided :—

*Ayes.*  
 The Honourable Mr. Monteath.  
 The Honourable Mr. Kirkham.  
 The Honourable Mr. Moriarty.  
 The Honourable Mr. Wingate.  
 The Honourable Mr. Fazulbhoy Visram.  
 The Honourable Mr. Hughes.  
 The Honourable Mr. Doig.  
 The Honourable Mr. Crowe.  
 The Honourable the Advocate General.  
 The Honourable Sir Charles Ollivant.  
 The Honourable Mr. Nugent.  
 His Excellency the President.

*Noes.*  
 The Chief of Ichalkaranji.  
 The Honourable Mr. Garud.  
 The Honourable Mr. Vrijbhukhandas.  
 The Honourable Mr. Mehta.  
 The Honourable Mr. Parekh.  
 The Honourable Dr. Bhalchandra Krishna.  
 The Honourable Mr. Chandavarkar.  
 The Honourable Mr. Khare.

The amendment was therefore carried.

The Honourable Mr. MEHTA moved the following further amendment in Section 71 :—

To *add* at the end “the moneys levied from the Corporation under Sections 70 and 71 shall constitute a charge on the revenue and property of the Board prior to the charge for interest payable to the Secretary of State for India and to the Corporation under Section 59.”

He said—I have already to a great extent stated the grounds upon which I move the amendment. As I have said Government are responsible for granting any sanction to the schemes prepared by the Board. If there is any loss or liability the Board cannot fulfil in consequence of carrying out these schemes, surely the first parties who ought to be responsible should be Government and the Board. If in the interest of investors the Corporation has to pay these liabilities, then it should be recouped, by making such repayments a prior charge on the revenues before interest is paid to the Secretary of State and the Corporation. The Corporation should surely have a prior charge against the parties in consequence of whose action the liabilities have arisen.

The Honourable Sir CHARLES OLLIVANT—The honourable member is doing his best to take away the compliment he himself paid me when he spoke of me as the friend of the Corporation. But loyalty and consistency to the Select Committee compel me to say that I cannot accept this amendment. The Government of India have consented to vest valuable lands in this Trust on certain conditions, and we cannot deflect from those conditions without practically committing a breach of promise. For that reason I dissent from this proposal.

The Council divided :—

*Ayes.*  
 The Honourable Mr. Mehta.  
 The Honourable Mr. Garud.  
 The Honourable Mr. Vrijbhukhandas.  
 The Honourable Mr. Fazulbhoy Visram.  
 The Honourable Mr. Parekh.  
 The Honourable Dr. Bhalchandra Krishna.  
 The Honourable Mr. Chandavarkar.  
 The Honourable Mr. Khare.

*Noes.*  
 The Honourable Mr. Monteath.  
 The Honourable Mr. Kirkham.  
 The Honourable Mr. Moriarty.  
 The Chief of Ichalkaranji.  
 The Honourable Mr. Wingate.  
 The Honourable Mr. Hughes.  
 The Honourable Mr. Doig.  
 The Honourable Mr. Crowe.  
 The Honourable the Advocate General.  
 The Honourable Sir Charles Ollivant.  
 The Honourable Mr. Nugent.  
 His Excellency the President.

The amendment was therefore lost.

The Honourable Sir CHARLES OLLIVANT—I am glad to think that after so many divisions we are approaching unanimity again. The amendment I now beg to propose is practically the same as that proposed by the honourable member except as regards the last words, I beg to propose that the following words be *added* to Section 71 :—



“Any moneys paid by the Commissioner under the last preceding section or payable under the said section and levied under this section shall constitute a charge upon the property of the Board prior to any division of profits.”

The Honourable Mr. MEHTA—I accept the amendment, remembering that we must be thankful even for small mercies.

The amendment was carried.

The Honourable Mr. MEHTA withdrew the following amendment to Section 72 standing in his name:—

To *omit* the words “as contemplated in Section 70” and to *substitute* in their place “as required under Sections 47 and 48”.

Sections 72, 73, 74, 75, 76 and 77 of the Bill were agreed to.

At this stage the Council adjourned for half an hour.

The Honourable Mr. MORIARTY moved that in Section 78, line 15, after the word “Bombay” to *add* the words “or an award of the Tribunal.”

The amendment was agreed to.

The Honourable Mr. MEHTA moved that in Section 79 to *omit* the words “such auditors as shall from time to time be appointed by Government” and to *substitute* in their place the following:—

“Two auditors who shall from time to time be appointed, one by Government and one by the Corporation.”

He said—My proposal that one auditor should be appointed by Government and one by the Corporation, is a very reasonable one. My reason for suggesting this change is that the burden in every case falls upon the Corporation, and if they appoint one auditor they will have the satisfaction of knowing that the accounts presented have been audited by an auditor representing them, as well as by an auditor representing Government. The Corporation will be very much interested in knowing the real state of the finances of the Board.

The Honourable Sir CHARLES OLLIVANT—Without suggesting for a moment that the Corporation are not interested in the finance of the Board, I believe that the course which will be most satisfactory for all parties will be the employment of the thoroughly trained agency of a public official, like the Accountant-General, who has no remorse in the way he deals with items he does not regard as legal, and who is supposed to be devoid of human weaknesses if not of human sympathies. This matter did not come up in Select Committee. It seems to me that the mixed agency of the Accountant General and the Corporation would not be a satisfactory agency for auditing the accounts, while that of the Accountant-General's office would be thoroughly satisfactory.

The Honourable Mr. MEHTA accordingly withdrew his amendment and Sections 79 and 80 of the Bill were agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendment in Section 81 was agreed to:—

Line 35, to *delete* the word ‘pensions’.

Sections 82, 83 and 84 of the Bill were agreed to.

The Honourable Mr. MORIARTY withdrew the following amendment to Section 85 standing in his name:—

Line 18, for the words “this and of the last two preceding sections” to *substitute* the words “Sections 81, 83, 84 and of this section.”

Sections 85 to 93 of the Bill were agreed to.

The Honourable Mr. MEHTA moved to *delete* the last paragraph of Section 94.

He said—My amendment is to omit the last portion of the last section. This is an absolutely new provision in law except in the case of the Port Trust Act. It is absolutely against all law on the subject, as the House of Lords, the highest judicial authority, has laid it down again and again that bodies appointed for the purpose of carrying out public objects are in some measure responsible for the acts of their servants. The provision to which I object takes away privileges of the public that have been established for centuries by law. It must have got into the Port Trust Act by some inadvertence. Now I have called attention to it I am perfectly sure the paragraph will not be allowed to remain.



The Honourable Sir CHARLES OLLIVANT—I accept the amendment and must congratulate the honourable member on being left in possession of the field with all the honours of war connected with the Bill to-day.

The amendment was agreed to.

His Excellency the PRESIDENT—Having gone through the amendments on the paper, we will now consider the amendments which were held over for further discussion. The first is that on Section 16, standing in the name of the Honourable Mr. Mehta.

The Honourable Mr. MEHTA said—Before I move this amendment I desire to propose that in Section 14, line 19, after the word “person” the words “other than the Chairman” be inserted. It seems to me that the interest which other Trustees are allowed to have in newspapers or Joint-stock Companies should not apply to the Chairman.

The amendment was agreed to.

The Honourable Mr. MEHTA—The drafting of the amendment to Section 16 which I proposed yesterday has been duly considered by Sir Charles Ollivant and the Legal Remembrancer, and I now have the pleasure to move that the first paragraph of the section be amended to read as follows :—

“The Chairman shall receive such monthly salary as Government shall from time to time determine: provided that such salary shall not exceed Rs. 3,000, and save during the twelve months next succeeding the date which shall be notified under Section 10, shall not be less than Rs. 2,000. He shall, except within the period aforesaid, hold no other salaried office, and, save in so far as he may be otherwise permitted by Government, shall devote his whole time and attention to his duties under this Act.”

The amendment was carried.

The Honourable Sir CHARLES OLLIVANT—In regard to Section 43 at page 33, I feel bound to support the sub-clause (k) as it stands, unless the Honourable Mr. Mehta will agree that this sufficiently meets his views, *viz.*, that we leave out the last part of the sub-clause which limits the right of appeal to questions as to the person or persons who are entitled to receive the compensation, and the apportionment of the compensation amongst them. We will also leave out the reference at the commencement of the sub-clause to the amount in respect to which an appeal can be filed. I propose that the sub-clause be amended to read as follows :—

“(k) In any case in which the President may grant a certificate that the case is a fit one for appeal, there shall be an appeal to the High Court from the award or any part of the award of the Tribunal.”

The Honourable Mr. MEHTA—We accept the lesser of two evils.

The amendment was agreed to.

The Honourable Mr. MORIARTY—In reference to the conversation which arose yesterday regarding the power of the President to make by-laws and appoint officers, the form in which it is proposed to give effect to the wishes of the Council is as follows :—

To *add* the following sub-clause to Section 43 at line 167 :—

“(l) Subject to the sanction of Government, the President of the Tribunal shall have power—

(i) to appoint such clerks and other officers or servants as may be necessary for carrying on the business of the Tribunal and to fix their salaries, which shall be paid accordingly by the Board; and

(ii) to make rules for the conduct of the business of the Tribunal provided that such rules are not repugnant to the provisions of the Code of Civil Procedure; and such rules shall come into force on receiving the sanction of Government.”

The amendment was agreed to.

The Honourable Sir CHARLES OLLIVANT—I wish to explain that in reference to Section 53 there are two points to be considered—one regarding the Flats will be dealt with when we come to consider the schedules; the other will be dealt with at the third reading.



The Honourable Mr. DOIG—On this Section 53 I have to move an amendment as follows :—

After the word “plans” in line 12 to *add* the following words :—

“subject, in the case of the lands specified as plot 12 in Schedule C, to the right therein reserved of temporary occupation by Government and to the right of Government to remove the materials of certain buildings therein specified”.

The area in question is the Government Mews, in the Hornby Road plot.

The amendment was carried.

On the motion of the Honourable Mr. MORIARTY the following further amendment in Section 53 was agreed to :—

Line 105, instead of “vest in the Board” to *insert* the words “remain so vested.”

On the motion of the Honourable Mr. MORIARTY the following further amendment in Section 59A was agreed to :—

Line 56, after the word “date” to *add* the words “not being less than ten years.”

The Honourable Mr. MEHTA—I have now to propose the amendment to Section 61, the consideration of which was held over yesterday. I now beg to move that the first paragraph of Section 61 be read as follows :—

“For twenty years from the date of the first lease of any portion of the area comprised in any reclamation scheme, the Board shall have the free enjoyment of all rents and profits derivable from such area, exclusive of rates on goods landed on or shipped from the foreshore.”

The amendment was carried.

The Honourable Mr. MEHTA—I would ask Sir Charles Ollivant whether he will not consent to put in a reversionary clause. I understood in Select Committee that Government would consider the form such a clause should take; therefore I did not send in any notice of an amendment for the insertion of such a clause. It seems to me that as the Corporation has to finance the Board, the reversion of the property should go to the Corporation. I therefore move an amendment for a clause to this effect—

“When the Board is wound up or ceases to exist, the property remaining vested in the Board at that time shall become the property of the Corporation.”

I am not particular as to the words, because when the time comes to wind up the affairs of the Board the Legislature will, no doubt, put a right construction on the section.

The Honourable Sir CHARLES OLLIVANT—It is quite correct that this question was referred to in the Select Committee, but I certainly was not aware there was any understanding, unless the particular context was the clause relating to Police accommodation. It was considered not right to have those provisions unless there was some security that the Police buildings should be vested in the Corporation. Now, as regards a general vesting clause I have only got this to say: I do not see any practical advantage in leaving the thing so, and dealing with events necessary in the far future. Although, as far as I can judge, the reversion will be to the Corporation, still, inasmuch as this was not presented at an earlier stage, either to our minds, or to the minds of the Government of India, I feel great reluctance in assenting to anything of the kind now proposed. I am afraid to consent to it, although I should like to round off the whole thing in some such provision. Therefore, I must ask the honourable member not to propose the amendment, or if he does so, to do it with the knowledge that I am constrained to oppose it.

The Honourable Mr. MEHTA—The attitude of the honourable member in charge of the Bill makes me sigh for the days when in this very Durbar Room one of the most respected Commanders-in-Chief opposed Government tooth and nail on certain public questions. I refer to Sir William Mansfield. But those far off days are gone. I do not want to pin down Government in any way to a particular clause, but I think we ought to have something in the Bill when the time comes for winding up the Board, as to what was the intention of the promoters of this Bill respecting the property of the Board. I think that ninety-nine years hence or so, when the question of dissolving the Board is brought forward, the Government, who have to deal with it, should have some indication as to what was passing in the minds of this Council and in the minds of your Excellency's Government. If it is thought desirable, the question might remain over until we take the third reading, which will give Government an opportunity of considering it before then.



The Honourable Sir CHARLES OLLIVANT—It will be more relevant and more convenient to allow these things to take their natural course.

The Council then proceeded to the consideration of the Schedules.

Schedules A and B were passed.

The Honourable Sir CHARLES OLLIVANT moved that in Schedule C, plot number 1, the Flats, in column 7 the following words be *inserted*: “no charge against the capital debt of the Board is to be made in respect of this plot.”

The amendment was agreed to.

The Honourable Mr. MEHTA—I see that the area of the Kennedy Sea Face is not given in the Bill, although it was in the original Bill. I should like to know why this has been done and whether it is intentional.

The Honourable Mr. HUGHES—It has not been intentionally done, but the reason the figures are not given is that the boundaries in the original Bill did not include the whole of the Kennedy Sea Face, but the boundaries now given do so.

The Honourable Mr. MEHTA—I think the Council ought to have some idea of the area so that we may know what liability is incurred.

The Honourable Mr. HUGHES—I am not aware that there is any objection to giving the area.

The Honourable Mr. MEHTA—Can it be inserted before the third reading?

The Honourable Mr. HUGHES—Yes, I think we can undertake to insert the figures before the third reading.

The Honourable Sir CHARLES OLLIVANT—My present impression is that there was some reason for not inserting the area in the Schedule, and I am, therefore, rather loath to give any undertaking of this kind.

The Honourable Sir CHARLES OLLIVANT moved to *add* to the last entry in Schedule C, No. 18, in column 4, the following words:—

“Subject to the right of Government to remove the materials of the buildings forming the Body Guard Lines and the Bandmen’s Quarters, provided such right is exercised within 12 months from the date which shall be notified under Section 10.”

The amendment was carried.

Schedules D and E were agreed to.

The Honourable Mr. DORG moved that Schedule F be amended to read as follows:—

#### SCHEDULE F.

(SEE SECTION 64.)

*Showing Lands included in Schedule C leased by Government between 1st September 1897 and the date which shall be notified under Section 10.*

Locality.	Description of Plot.	Area.	Terms of Lease.
		Sq. yds.	
The Hornby Road Plot.	Bounded on the <i>North</i> by the John Cannon High School; on the <i>South</i> and <i>East</i> by the Cannon Road, and on the <i>West</i> by the Esplanade Road.	3,268-33	Ninety-nine years at a ground-rent of one anna per square yard per annum renewable for a further term of 9 years.
And such other lands	as may be leased prior to the date notified under		Section 10.

The amended Schedule F was agreed to.

On the motion of the Honourable Mr. MORIARTY the following amendment in the Preamble was agreed to:—

Line 22, after the word “and” to *insert* the word “whereas.”



**BILL No. III OF 1897: A BILL TO AMEND THE BOMBAY DISTRICT  
POLICE ACT, 1890.**

The Honourable Sir Charles Ollivant moves the Third Reading of Bill No. III of 1897.

The Honourable Sir Charles OLLIVANT—Your Excellency, I beg leave to propose the third reading of Bill No. III of 1897: A Bill to amend the Bombay District Police Act, 1890.

Bill No. III of 1897 read a third time and passed.

The motion was agreed to and the Bill was read a third time and passed.

**BILL No. IV OF 1897: A BILL FURTHER TO AMEND THE BOMBAY  
PORT TRUST ACT, 1879.**

The Honourable Mr. Hughes moves first reading of Bill No. IV of 1897.

In moving the first reading of Bill No. IV of 1897: a Bill further to amend the Bombay Port Trust Act, 1879, The Honourable Mr. HUGHES said—Your Excellency,—The Bill further to amend the Bombay Port Trust Act, 1879, was published under your Excellency's order in the *Bombay Government Gazette* on the 3rd December last. The amendments proposed are all of a very simple character and are such as the experience of the last 20 years has shown to be desirable. They involve no change in the administration of the affairs of the Trust; no increase in the fees leviable on the trade and shipping; but merely legalise the performance of certain duties that are commonly imposed on the Trustees of a large port—improve their position in regard to the recovery of the charges already authorised; empower them to grant compensation for injuries sustained by workmen in the execution of their duty; and make some small alterations in the rules regarding the grant of leave to Trustees, the appointments of acting Trustees, the fees for special meetings, and the disqualification of Trustees. The alterations lastly referred to are dealt with in Sections 1 to 4. The Board of Trustees will be seen on reference to the present Act to consist of a Chairman and twelve Trustees, and for the convenient transaction of business Standing Committees are annually appointed out of this number to consider and report to the Board on the various questions that come up from time to time in the several departments into which the affairs of the Trust may be divided, such as (1) Land and Railways; (2) Finance and establishment; (3) Dock; (4) Bunder; and (5) Harbour and Pilotage. The gentlemen chosen to serve on the Committees are those specially qualified from their experience to advise on the subjects submitted for their consideration. When the number is so small the absence of one or two has been found to be inconvenient. The absence of the Director of the Royal Indian Marine would, for example, be inconvenient when nautical affairs were under consideration; of the Collector and Secretary, Railway Department, when the questions related to land and railways; and representatives of special branches of trade or shipping in the case of questions affecting the commerce of the Port. As the Port Trust Act at present stands an acting appointment can only be made when the term of absence exceeds three months. As the result of experience it is desirable that there should be power to appoint acting Trustees, if necessary, for even shorter periods, and Section 1 provides for this being done. No explanations appear to be called for in respect of Sections 2 and 3, which deal with the disqualifications for the office of Trustees.

To the explanation given in the statement of objects and measures regarding Section 4, I would add that the experience which has been gained of the working of the Trust, shows that an ordinary meeting of the Board is necessary once a week, and in the interval the attention of the Trustees is engaged in considering and minuting on papers circulated to them as members of Committees. Meetings of Committees may also in addition be held previous to such papers being submitted to the full Board. For these special Committee meetings no fee is now payable, and having regard to the demand thus made on the Trustees' time, which is often very considerable, it seems right that a fee should be paid as provided in this section for any special meetings that may be called. In the case of the Calcutta Port Trust fees are paid for Committee meetings, and there is every reason for adopting the same practice here. The question of compensation for accidents is of general interest, and it will not surprise those having a knowledge of the operations of the Trust, to find the Trustees asking in Sections 5 and 6 for power to frame regulations determining the conditions under which such compensation may be granted. There are few active occupations in life where workmen are not exposed to risk of injury,



and in the bustle and energy with which work is usually carried on at the docks, wharves, warehouses, and workshops, amidst machinery and in cramped spaces, such risks are unavoidable. Accidents, therefore, every now and then occur to servants of the Board. The injured persons and their families have a claim to generous treatment, and it is desirable that the Board should be placed in a position to give such relief as each case may deserve, and to this end rules embodying the general principles on which compensation will be granted will on the amendment passing into law be submitted for the approval of Government. Section 8 requires that Port Trust roads before they are taken over by the Municipality shall, in addition to the other requirements mentioned in Section 37 of the present Act, be drained and provided with the apparatus for lighting. Section 37, as it stands, follows the wording of the old Municipal Act. As now proposed to be amended, it will be brought into line with the Bombay Municipal Act, 1888. The general principle is that the roads shall be complete in every respect when transferred to the Municipality for maintenance. It may not be out of place for me to mention that while the Municipality has thus to maintain the roads, the full benefit of the enhanced assessment which results from the opening out of new districts in the city, accrues to that body, and it can be proved from what has already been done on the properties of the Trust, that the increased receipts amount to a very considerable sum.

A dry dock, tugs, fire engines and water boats have been provided for the benefit of the trade and shipping. These are necessary to the equipment of a large port, but they are not specifically mentioned in the present Act, and it is sought by the amendments contained in Section 10 to make good the omission, and to furnish the Trustees with full authority to maintain and charge for the use of these and other similar facilities. At the request of the late Municipal Commissioner, a proviso has been added which reserves to the Municipality the right of taking over at any time the special equipment maintained at the docks for extinguishing fires, and for similarly taking over the duty of supplying water to vessels in the harbour. The chances of the Municipality taking advantage of these reservations are, however, very remote. The Trustees pay the full tax for fire brigade purposes on the assessed value of their properties and in addition maintain at their own expense powerful land and floating fire-engines for the protection of the shipping, dock properties and goods in their charge. There is no reason why the Municipality should ever seek to take over these special appliances. As regards water-supply the Municipality are paid in full for the value of the water drawn from their mains, and the Trustees recover from the shipping at payment a rate which is supposed to cover the total cost, and no more. As a matter of fact there is a small loss on the business notwithstanding the facilities the Trustees possess as compared with the Municipality for work afloat. It seems a pity, therefore, that the Bill should be encumbered with clauses that are unlikely ever to be brought into force, and it is for the consideration of the Select Committee whether the lengthy proviso which will be found on page 7 of the Bill should in these circumstances be retained. The remaining sections of the Bill do not require special notice. I should like, in conclusion, to remark that since the Act of 1879 was passed, improvements of great magnitude have been carried out. The work of the Trust in the receipt, handling, and storage of goods has increased enormously, the revenue has risen from 17 to 49 lakhs, while the charges on trade have been considerably reduced. It is most satisfactory that in these circumstances the Act under which the Trust is administered should be found to require so little alteration. I beg to move that the Bill be read a first time.

The Honourable Dr BHALCHANDRA said — Your Excellency,—As I am not opposed to the principle of the Bill, I do not intend to vote against the first reading of the Bill, but I may be permitted, My Lord, to express my disapproval of the proposed amendment of Section 15 of the Port Trust Act contained in Section 4 of the Bill under consideration. I consider this amendment as a departure from a principle once laid down by the Legislature. The same principle is affirmed in Section 50 of the Bombay Municipal Act, III of 1888, with regard to the meetings of the Standing Committee. I believe that those gentlemen who offer their services for the public weal are not induced to do so from any mercenary motives. I am fully prepared to admit the Trustees are all business men or officials with heavy demands on their time, but I consider it a reflection on them to say that it would be unreasonable to expect them to attend special meetings which may be from time to time urgently required without remuneration of any kind. I believe they must be all public-spirited and large-minded gentlemen



ready to sacrifice their time for public business. It is generally assumed that one meeting a week is ample for the conduct of business. Special meetings taking place in case the whole of the business is not transacted at one meeting. As a rule only one meeting of the Standing Committee is held every week as prescribed by the Municipal Act and whenever it is absolutely necessary a special meeting is held, but no extra fees are allowed for the special meetings. An amendment of Section 15 of the Port Trust Act, will, I fear, sooner or later induce the Municipal Corporation to approach the Government with a view to amend Section 50 of the Municipal Act, III of 1888. To my mind, My Lord, this amendment appears inconsistent with the proposed amendments of Sections 14 and 37 of the Bombay Port Trust Act with a view to bring them into accord with Section 35 and Section 306 of the Bombay Municipal Act, III of 1886. While in one case there is an attempt to work these sections on a uniform principle, in the section under discussion a departure is sought to be made from that principle. But no clear necessity has to my mind been made out for such a departure. In my judgment loyalty to citizenship, and a sense of public duty should be better trusted to serve as stimulants to honest work than any mercenary motive. Perhaps, My Lord, a comparison on this subject may be arrived at on the same basis as in the case of the City Improvement Bill in regard to fees payable to the Trustees, *viz.*, the fees payable to each Trustee should not be more than Rs. 200 per mensem.

The Bill was then read a first time, and on the motion of the Honourable Mr. HUGHES was referred to a Select Committee consisting of the mover, the Honourable the Advocate-General, the Honourable Mr. Mehta, the Honourable Mr. Vrijbhukandas Atmaram, the Honourable Mr. Bhalchandra and the Honourable Mr. Macaulay, with instructions to report by July 1st next.

His Excellency the PRESIDENT—The Council will meet again on Saturday to take the third reading of The Improvement Bill. The meeting can be held at the hour most convenient to the members of the Council. I do not anticipate that the proceedings will be at all protracted.

His Excellency the PRESIDENT then adjourned the Council till noon on Saturday the 2nd April.

*By order of His Excellency the Right Honourable the Governor*

S. L. BATCHELOR,

Secretary to the Council of the Governor of Bombay  
for making Laws and Regulations.

*Bombay, 29th March 1898.*



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 ACTS, 1861 AND 1892."*

The Council met at the Town Hall, Bombay, on Saturday, the 2nd April 1898, at noon.

*P R E S E N T :*

His Excellency the Right Honourable Lord SANDHURST, G.C.I.E., Governor of Bombay, *Presiding.*

The Honourable Mr. JOHN NUGENT, C.S.I., I.C.S.

The Honourable Sir E. CHARLES K. OLLIVANT, K.C.I.E., I.C.S.

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. J. MONTEATH, C.S.I., M.A., I.C.S.

The Honourable Mr. DAJI ABAJI KHARE, B.A., LL.B.

The Honourable Mr. NARAYEN GANESH CHANDAVARKAR, B.A., LL.B.

The Honourable Mr. W. C. HUGHES, M Inst.C.E.

The Honourable Mr. A. S. MORIARTY, I.C.S.

The Honourable Mr. BHALCHANDRA KRISHNA BHATVADERKAR, L.M.

The Honourable Mr. GOKULDAS KAHANDAS PAREKH, B.A., LL.B.

The Honourable Meherban Sardar NARAYANRAO GOVIND *alias* BABA SAHEB, Chief of Ichalkaranji.

The Honourable Mr. FAZULBHOY VISRAM, C.I.E.

The Honourable Mr. DHONDO SHAMRAO GARUD, B.A.

The Honourable Mr. P. M. MEHTA, C.I.E., M.A.

The Honourable Mr. VRIJBHUKHANDAS ATMARAM.

The Honourable Mr. A WINGATE, C.I.E.

The Honourable Mr. S. B. DOIG, M.Inst.C.E.

The Honourable Mr. E. GILES, M.A.

**BILLS AND ORDERS OF THE DAY.**

BILL NO. 1 OF 1898, A BILL FOR THE IMPROVEMENT OF THE CITY OF BOMBAY, AND TO PROVIDE SPACE FOR ITS FUTURE EXPANSION.—THIRD READING.

The Honourable Sir CHARLES OLLIVANT said—By some subtle process which I have been unable to fathom, I find that I am still in charge of this measure. I understood that my functions were to end with the chairmanship of the Select Committee, and the rough and tumble debate on the consideration of the Bill in detail. I have always looked upon the measure as your Excellency's own and did not expect to have to speak upon it on this occasion. But I am very proud to be associated with your Excellency in a measure I have so much at heart. Before the third reading of this Bill is finally moved I shall propose a few verbal amendments which it is beyond the power of the Secretary to insert. Under the rules he is able to number the sections, but there are one or two printers' errors, and so on, which it will require the sanction of the Council to rectify.

The Honourable Mr. MEHTA said—I shall be glad if your Excellency will allow me to say one word before the verbal amendments are considered as to the question of



the Flats. I find now from Section 54 as amended by the Council that my fears in regard to the Flats have been met and that the section as it stands will prevent them from being re-vested in Government after the period of 99 years.

The Honourable Sir CHARLES OLLIVANT said—Your Excellency, the first of the verbal amendments I desire to propose is that in line 1 of Section 32, the word “formation” be *deleted*.

The amendment was carried.

The Honourable Sir CHARLES OLLIVANT—I now beg leave to propose an amendment to Section 43. The section is at present a very long one extending from the bottom of page 23 to the middle of page 28. I beg to propose that it be divided into three sections, the first ending with Sub-section 4 at the bottom of page 24; the second comprising Sub-section (5); and the third comprising Sub-section (6). That is to say that the first new section will begin at the top of page 25, and the second new section at the bottom of page 26.

The amendment was carried.

On the motion of Sir CHARLES OLLIVANT the following verbal amendments were agreed to:—

Page 25, line 109, to *omit* the word “and” before the word “who”.

Page 27, line 226, to *substitute* the word “section” for the word “sub-section”.

Section 53, line 15, after the word “and” to *add* the words “in the case of lands specified as plot 18 in the said schedule”, and line 17, to *delete* the words “therein specified”.

The Honourable Sir CHARLES OLLIVANT—My next amendments are in Sub-section (6) of Section 53, and are intended to make clearer a somewhat complicated provision. I propose that in line 116, after the words “Sub-section (3)” to *add* the words “shall be let on a building lease by the Board”, and in line 118 for the words “let on a building lease by the Board” to substitute the words “so let”.

The amendments were carried.

On the motion of the Honourable Sir CHARLES OLLIVANT the following amendments were agreed to:—

Section 60, line 14, after the words “Cotton-green” to *insert* the word “plot.”

Section 63 A, line 101, for the letter (c) to *substitute* the figure (3); in line 102, after the word “debts” to *insert* the words “shown in the statement referred to in the last preceding sub-section.”

The Honourable Sir CHARLES OLLIVANT—During the discussion on the second reading of the Bill the Honourable Mr. Mehta expressed a desire that the amended area of the Kennedy Sea Face should be given, and it was understood that they were to be inserted in time for the third reading. When we were obtaining these figures, it was pointed out to us that some other figures in Schedule C had been erroneously given. I accordingly propose that Schedule C be amended by the insertion of the area of the two plots of the Kennedy Sea Face as well as by the correction of certain items which have been erroneously given in the Bill. As it is very difficult to explain figures and measurements, I thought it better to have a printed statement of the amendment laid on the table so that each member may know exactly what it is I am proposing.

The Honourable Mr. MEHTA—I see that as regards the Kennedy Sea Face the figures now entered are, 3,35,212 and 83,821 square yards. This is a considerably larger area than what was given in the Bill as first introduced. It was there put down as 2,24,735 and 66,627 square yards. I do not know whether there is any explanation of this great difference to the effect that a further area has been taken into account, or whether it is due to some mis-calculation. Perhaps the honourable member in charge of the Public Works Department may be able to inform us.

The Honourable Mr. DOIG—I have no explanation to give beyond this, that the areas have been carefully ascertained by the Collector and by the Superintending Engineer of the Northern Division. How the difference is caused I do not know.



The Honourable Mr. HUGHES—The original schedule did not bring the area further south than the Church Gate Street Station. The side north of the Marine Lines Hospital was excluded, the intention being not to include any part of the ride. But the boundaries now given comprise the whole of the Sea-face up to the Wodehouse Bridge. This accounts for the large difference in the areas.

The Honourable Mr. MEHTA—If that is so, we shall have to pay for plots which are already occupied for public purposes.

The Honourable Mr. HUGHES—No, they will not be charged for in any way.

The Honourable Mr. MEHTA—But the schedule says that the average value for purposes of Section 59 will be Rs. 5 per square yard in the event of appropriation as open spaces, and Rs. 10 in the event of appropriation to building purposes. We shall have to pay for a large area which was not to be chargeable under the original Bill. If that is so, I think we ought to keep to the original provisions of the Bill. It will make a difference of 5 lakhs at the least, and this new burden ought not to be imposed upon the Board.

The Honourable Sir CHARLES OLLIVANT—I do not think that is quite so, though I may say that up to this time I was not aware that this area did include anything below the Marine Lines Station. But so far as to this imposing any new liability on the Board, that would not necessarily be the case. If the Board up to the first thirty years decide to permanently dedicate the area as an open space, its capital value would have to be paid free of interest, or if any part of it is let for building purposes the capital value will have to be paid with interest. But it is entirely optional with the Board, and if they do neither one thing or the other they will not be liable to pay the capital charge. That is clearly set forth in Section 53, so that there will be absolutely no liability whatever if the Board in the exercise of their discretion do not utilise the area. It will go back to Government, and there will be no liability.

The Honourable Mr. MEHTA—The area is already appropriated to public purposes and I do not see why the Board should not be made to pay even the lower rate of Rs. 5 per square yard for space which is already open without any charge being payable in respect of it and which in the original Bill was to remain so without any payment, indeed for which no payment could be demanded as already dedicated to the public or appropriated for a specific purpose. It is entirely a surprise to find that by quietly including additional space in the area without any further note, a new burden is imposed on the Board.

The Honourable Mr. HUGHES—I would point out that there can be no liability for it while it continues an open space, for it comes within the scope of Section 58, which provides that any part of the land vested in the Trust that forms a street is not to be chargeable to capital.

The Honourable Sir CHARLES OLLIVANT—I would point out to the Honourable Mr. Mehta that in the event of the Board deciding not to use the land, either for a building site, or for an open space, it will revert to Government at the end of thirty years, and there will be no question of any capital value being charged.

The Honourable Mr. MEHTA—But supposing they do want it for either purpose, the charge will be at the rate of Rs. 5 or Rs. 10 per square yard, respectively. What I do submit is that the portion of the Kennedy Sea-face already dedicated to the public should not be imposed on the Board as a possible burden. As the schedule stands there is a certain liability that may be incurred in regard to this land which has already been dedicated to the public. It seems to me that this ride ought to stand entirely apart in any new arrangement, and I think that the ride should be left out altogether, its inclusion may mean a charge of five lakhs of rupees upon the rate-payer. The third reading is hardly the time to propose an addition of so large a character.

The Honourable Sir CHARLES OLLIVANT—The honourable member ought not to overlook the point raised by the Honourable Mr. Hughes as to the exemption of the ride and footpath from liability under Section 58, which provides that where any part of the land specified in Schedule C and Schedule D is appropriated in forming a street, the capital debt shall be reduced by an amount equivalent to the value of such street. Now we have to go back to the meaning of the word "street" in this Bill, and we find from Section 2 that the definition of the word here is the same as in the Municipal Act but with the objectionable portion omitted. The definition of "street" under this Act will



therefore be as follows :—“ Street ” includes any highway and any causeway, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years, and, when there is a footway as well as a carriage-way in any street, the said term includes both.” If we insert in the schedule words showing specifically that this applies to the ride on the Kennedy Sea-face that will meet the whole thing, but even if we do not, *ipso facto* there can be no charge.

The Honourable Mr. MEHTA—I am fully aware that there is no charge for a street, but the Board will have the power to make a portion of it either an open space or a building site, and it ought not to be a cost to the Board to make an open space of a space which is already open. It is now a street, but once it is dealt with by the Board it ceases to be a street and will have to be paid for. It has already been dedicated to the public and should not be interfered with by the Board.

The Honourable Sir CHARLES OLLIVANT—No one can be more sorry than I am that this thing has occurred at the last moment, and we must take care not to put the Board in a false position. It seems to me that if, as is clear, the word “ street ” covers this ride, there will be no liability whatever unless and until the Board chose to turn any part of it into anything else. I cannot see why they should be bound over absolutely not to do so.

The Honourable Mr. MEHTA—I do not see the force of that argument, for if the Board and the city require more land at any time they can apply for it.

The Honourable Sir CHARLES OLLIVANT—These Government lands cannot be utilised by the Board for open spaces unless they declare them as open spaces within a given period. It is entirely within their discretion whether they do so, and as the declaration is subject to the sanction of Government, it is not altogether in their own option whether they incur this liability or not. I doubt whether it is to the interest of the Board that we should exclude these areas from the schedule.

The Honourable Dr. BHALCHANDRA—I must say that I quite agree with Mr. Mehta. The increase of the area by the inclusion of the ride and footpath may impose a new burden on the Board and the city which it should not be called upon to pay.

The Honourable Mr. MEHTA—I should very much prefer to see the ride and footpath excluded from the area.

The Honourable Sir CHARLES OLLIVANT—The honourable member asked for the figures on Tuesday and what we have done to-day is to supply those figures.

The Honourable Mr. MEHTA—Yes, but it was not understood, except perhaps by two or three members of the Council, that the figures were to be so changed as to include the area of the ride. The boundaries are not the same as in the original Bill; they have been suddenly changed without our having the slightest idea that this was intended, nor was there anything said to lead us to believe that the area had been changed.

The Honourable Sir CHARLES OLLIVANT—It is our own fault that we did not carefully read the schedule, as it was before us at the second reading. We pass it and suddenly at the third reading we find that the schedule is not the same as it was in the Select Committee. If members of the Council had carefully read the schedule they would have seen that the boundaries of the Kennedy Sea-face plot had been changed.

The Honourable Mr. MEHTA—My honourable friend admits that the schedules were changed; but nothing was said to lead us to believe that this had been done. We were taking the plots to be the same as in the original Bill, so that cannot be regarded as consent on our part. There was nothing to show that there had been a departure from the original purpose.

The Honourable Sir CHARLES OLLIVANT—Well I must formally move my amendment.

The Honourable Mr. MEHTA—I put it whether such an addition ought to be made to the scheduled areas at the third reading.

The Honourable Sir CHARLES OLLIVANT—All I propose is that the figures asked for by the honourable member on Tuesday should be inserted.

The Honourable Mr. MEHTA—It is perfectly true that I did ask for the figures, but I did so under the apprehension that the area was unchanged, and there could be a question of correcting any errors in the measurement. I was not even then told that the area had



been materially altered. The report of the Select Committee made no mention of such alteration, and we fully believed that we were dealing with the Kennedy Sea-face as described in the original Bill. It is not as if this amendment was of a merely technical character. I submit that from the facts that have come out this change ought not to be made as a mere technical amendment.

The Honourable the ADVOCATE GENERAL—It cannot be said that any material alteration is being made. The boundaries are fixed by the schedule which was passed at the second reading, and all that is now done is to insert the measurements within the area so bounded. The insertion of these figures does not alter the Bill in the slightest degree, seeing that the boundaries were given at the second reading. The area was there by implication.

The Honourable Mr. MEHTA—There was nothing before us then to direct our attention to this implication.

The Honourable Sir CHARLES OLLIVANT—I do not see how the matter can be adjusted otherwise than in the way I have proposed. All my amendment does is to propose that the figures of the areas of the Kennedy Sea-face be inserted. The only effect of rejecting this amendment will be that the column will remain blank as it now is, which I hope will satisfy the honourable member.

The Honourable Mr. MEHTA—Shall I be allowed to move an amendment to this? The rules of debate lay down that a Bill may be amended at the second or the third reading. There is no differentiation in the rules as between a technical or a substantial amendment in this respect. I will therefore move as an amendment that the boundaries in the original Bill be substituted for the boundaries which have since been entered. I think there are circumstances on this occasion which should be considered sufficient to permit me to move it without previous notice.

His Excellency the PRESIDENT—As this is not an amendment affecting the principles of the Bill, I see no objection.

The Honourable Mr. MEHTA—I will therefore move that the boundaries of the Kennedy Sea-face entered in Schedule 6 of the original Bill be substituted for the boundaries which have since been entered.

The Honourable Sir CHARLES OLLIVANT—That amendment will have to be taken before mine, as the latter will only apply to the boundaries as they stand at present. All the honourable member wishes is that the area which is the ride and footpath should be excluded from the rest of the area that is to be vested in the Board. Assuming that the ride comes under the definition of a street applied to this Act as it does, there can be no capital debt in respect thereto, unless the Board, contrary to its own interests and the interests of everyone else, turns it into something else. That is the exact position, and there is practically no risk of incurring a capital debt in respect to the ride.

The Honourable Mr. MEHTA—The Legislature should put it out of the power of the Board to do anything that is against its own interests and the public interests. What is the use of giving the Board such power?

The Honourable the ADVOCATE GENERAL—At some future time a part of the Back Bay might be reclaimed, and then the position of the ride might be accordingly changed.

The Honourable Mr. MEHTA—Such a contingency could be dealt with by fresh legislation or by agreement between Government and the Board. I am quite willing to accept any arrangement that the honourable member in charge of the Bill may suggest for excluding the ride. I do not think it ought to be put in.

The Honourable Sir CHARLES OLLIVANT—We are very anxious to meet the honourable member, but so long as the ride remains a ride, it will be exempt from capital chargeability under Section 58. That is patent.

The Honourable Mr. MEHTA—I think my object would be gained if the ride was excluded specifically in the schedule from capital liability.

The Honourable Sir CHARLES OLLIVANT—I take it that it would sufficiently meet the honourable member's views if in the "Remarks" column of Schedule C against plot 2 the following words were added after the words "average value for purposes of Section 59":—"save in respect of any portion of this area now used as a ride and footpath, and so long as it continues to be so used."



The Honourable Mr. MEHTA—I was going to move that the ride be excluded from the total area for the purposes of valuation.

The Honourable the ADVOCATE GENERAL—But the suggestion of Sir Charles Ollivant has the advantage that it will not exclude the area from being made over to the Board.

The Honourable Sir CHARLES OLLIVANT—I beg to move, your Excellency, that in column 7, opposite plot 2, after the words “average value for purposes of Section 59” the following words be added:—“save in respect of any portion of this area now used as a ride and footpath, and so long as it continues to be so used.”

The Honourable Mr. MEHTA—I think my object would be gained if the last few words qualifying the exception were omitted—“so long as it continues to be so used.” Otherwise the ride can be declared not a ride to-morrow.

The Honourable Sir CHARLES OLLIVANT—I did not think that the honourable member would still object, after I had met his wishes to this extent.

The Honourable Mr. MEHTA—I only want an assurance to be given in the Act that the ride will not have to be paid for.

The Honourable Sir CHARLES OLLIVANT—I fully appreciate the difficulties of the situation and have gone as far as I possibly can in meeting the views of the honourable member. I am therefore unable to concur to the change in the amendment he proposes.

The Honourable Mr. MEHTA—Very well.

His Excellency the PRESIDENT—This is a most irregular discussion, but I have not stopped it as I am desirous that there should be no feeling against the way in which the Bill has been passed. In putting this amendment it will be necessary to suspend the Standing Orders.

His Excellency the PRESIDENT thereupon suspended the Standing Order and the amendment was then put and agreed to.

On the motion of the Honourable Sir CHARLES OLLIVANT the following amendments in Schedule C were agreed to:—

In column 5 the following figures to be entered :

Opposite Plot 2 (a)....	...	...	...	...	3,35,212
”    ”    2 (b) ...	...	...	...	...	83,821
and in		Column 5.		Column 6.	
Opposite—					
		<i>For</i>	<i>Read</i>	<i>For</i>	<i>Read</i>
		Sq. yds.	Sq. yds.	Rs.	Rs.
Plot 6 ... ..	...	32,217	42,394	3,22,170	4,23,940
”    7 ... ..	...	53,732	55,625	5,37,320	5,56,250
”    11 ... ..	...	2,048	2,166	61,440	64,980
”    12 ... ..	...	67,783	71,051	13,55,660	14,21,020
”    16 (a) ... ..	...	55,367	52,675	...	...
”    16 (b) ... ..	...	80,978	82,473	8,09,780	8,24,730
Total amount ... ..	...	...	...	70,56,442	72,60,992

His Excellency the PRESIDENT—I desire to say a word or two before the final stage of this Bill, so far as this Council is concerned, is completed. As I remarked just now we have had a somewhat irregular discussion, seeing that we were not considering the Bill in detail, and it occurred to me that I ought to have somewhat shortened it. But at the same time in a Bill of such importance as the present one, and seeing the tone and style in which the discussion was conducted, I was most loth to interfere in any way because I was anxious that we should have a proper understanding as to the particular question laid before us. But the fact that I have allowed on this occasion a somewhat discursive debate must not be taken as a precedent in future. On the first reading of this Bill many kindly words were said by honourable members, not only those belonging to Bombay, but also others living outside its limits, as to my particular action in having brought forward this Bill. Now, whilst I have recognised the spirit in which these sentences are framed, I cannot dissociate myself from the action of Government as a whole, and any credit that honourable members, or the public outside, may have been so good as to attach to me is as fully deserved by my honourable colleagues on my right and my left, as myself. Indeed the burden and heat of the day for the conduct of this



Bill has fallen upon the shoulders of my honourable colleague, Sir Charles Ollivant. The method in which he conducted the Bill in Select Committee has won the approbation of all those by whom he was surrounded. (Hear, Hear.) In the lightness and directness of the sparring which took place between him and the Honourable Mr. Mehta, I think that the minds of both gentlemen must have travelled back to other scenes in a building not far from here, and I think they must both have regretted that the years have sped so quickly. As to my other honourable colleague, ever since this Bill was first contemplated I have been supported by the vigorous enthusiasm of Mr. Nugent, so that I used no idle words just now when I said that the credit, whatever there be, is due to Government as a whole. But there is an honourable member of this Board who is outside the Executive Council whose assistance has been of very great value to Government in preparing the scheme. I refer to the honourable Chairman of the Port Trust. (Hear, Hear.) His capacity for travelling and for climbing the dizzy heights of Simla, or for rushing with the greatest celerity to Calcutta, and his powers of lucid explanation and extreme persuasiveness in interviewing members of the Government of India and explaining the Bill to them have indeed facilitated its passage and progression. This also ought not to be forgotten, that we owe a great deal to one official whose courtesy we all acknowledge, and that is the Secretary of Council. (Hear, Hear.) I have seldom seen a more difficult place to hear in than this room, but the sharpness of Mr. Batchelor's ears has ensured accuracy in dealing with and reporting the innumerable amendments put forward by the Legal Remembrancer and other speakers. I observed in my morning paper at the breakfast table this morning, a letter from a correspondent signing himself "D," in which he said that upon this day when there would be a great deal of mutual admiration, the one person, who really was the founder of this scheme for the improvement of Bombay, Lord Reay, should not be forgotten. Lord Reay has been a very old political and social friend of mine for many years, and he has taken great interest in this scheme, and any credit which some say attaches to me, so far as I am concerned, I will give to him with both hands. I was careful to inform the Council when I introduced this Bill that the first report I referred to on this subject, was that of the City of Bombay Extension Committee. I think that the Council may congratulate itself upon the practical unanimity of opinion with which the general principle of this Bill has been received. Criticisms have been passed. I was going to say opposition, but I will not use that word, and my honourable colleague Mr. Mehta is a doughty champion of the critics, and I have no doubt improvements have been effected in the Bill, but the tone which has prevailed throughout our discussions and the conciliatory spirit and the business-like directness which has dominated them would have done credit to any Legislative assembly in the world. It has been remarked with great truth that a more considerable instigator than the Governor in Council in regard to this Bill has been plague. People came to see something must be done. Government have tried to frame and this Council will shortly pass a measure which I hope in the future will give great opportunities for the extension and the improvement of the city. But whilst we are endeavouring to provide for the growth and the extension of the city, and to bring about a permanent improvement in the health of the city, it cannot be doubted that such structural improvements in the city must be aided by a vigorous executive in all its branches, and a well-organised Health Department under the control of the Municipality of Bombay. I think it is but fair to say, that there are indications at any rate, that the cloud is at last being lifted from Bombay. We have had day by day for the past fortnight improvements in our returns. I observe some young men sitting at the table, and it is not too much to hope that within their life-time they will see great improvements in the City of Bombay, improvements which must tend to the better health of the city, the growth of commerce, and a greater happiness amongst a large mass of the population of this city than it has been possible to attain in the past. Now I formally move that this Bill be read a third time.

The motion was agreed to *nem. con.* and the Bill was  
Bill read a third time and passed. then read a third time and passed.

His Excellency the PRESIDENT then adjourned the Council *sine die*.

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

S. L. BATCHELOR,

Secretary to the Council of the Governor of  
Bombay for making Laws and Regulations.

Bombay, 2nd April 1898.