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PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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

Abstract of the proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Bombay on Friday the 12th December 1884.

PRESENT :

His Excellency the Right Honourable Sir JAMES FERGUSSON, Bart., K.C.M.G., C.I.E.,
Governor of Bombay, *Presiding*.
His Excellency General the Honourable A. E. HARDINGE, C.B.
The Honourable J. B. PEILE, C.S.I.
The Honourable M. MELVILL.
The Honourable the ADVOCATE-GENERAL.
The Honourable Sir JAMSETJEE JEEJEEBHOY, Bart., C.S.I.
The Honourable BADRUDIN TYABJI.
The Honourable RA' O BAHADUR KHUNDERAO VISHVANATH RASTE.
The Honourable KASHINATH TRIMBAK TELANG, C.I.E.
The Honourable J. B. RICHEY, C.S.I.
The Honourable F. FORBES ADAM.
The Honourable the THA'KOR SA'HEB JASWATSINJI FUTEHSINGJI.
The Honourable J. R. NAYLOR.

Papers presented to the Council. The following papers were presented to the Council :—

1. Letter from the Secretary to the Government of India No. 441, dated 14th March 1884, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bombay Local Boards Bill.
2. Letter from the Secretary to the Government of India No. 631, dated 12th April 1884, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bombay District Municipal Act Amendment Bill.

The Honourable Mr. MELVILL, in moving the first reading of Bill No. 1 of 1884

Mr. Melvill moves the first reading of the Bill to legalize the payment by the Trustees of the Port of Bombay of certain arrears of interest due to the Government.

(a Bill to legalize the payment by the Trustees of the Port of Bombay of certain arrears of interest due to the Government) said:—Your Excellency,—It is, perhaps, desirable that I should explain the object of this Bill more fully than it is set forth in the Statement of Objects and Reasons. The

Port Trust was originally constituted by the Bombay Act I. of 1873. Section 49 of that Act says: "There shall be deemed and taken to be due from the Trustees to the Secretary of State for India in Council, immediately upon the commencement of this Act, the several sums set forth in Schedule G. to this Act annexed, for the lands, works and matters therein respectively set forth." Section 50 says: "Interest shall be paid by the Trustees to the said Secretary of State upon the sums which, for the time being, may be due to him from them." During the first four years of the existence of the Port Trust, it being in its infancy, and not so prosperous as it afterwards became, it was not able to pay all the interest due to Government in the years 1873 to 1877 under that Section; and the result was that at the end of the year 1877 there was a sum of Rs. 2,36,013-11-9 due to Government on account of arrears of interest. This is the sum with which it is the purpose of this Bill to deal. As the prosperity of the Port Trust increased, the result at the end of the year 1882-83 was that the Trustees had in hand a sufficient surplus for the discharge of this debt, and they were quite ready and willing to pay it off. It might appear at first sight that nothing could be simpler than that the debt could be discharged out of the surplus. But in the meantime the Trust was reconstituted by the Bombay Act VI. of 1879; and if honourable members refer to Sections 49 and 51 of the Act, they will see that the objects for which the funds in the hands of the Trustees could be expended have been clearly set forth, and they do not include the payment of an antecedent debt. The question, therefore, arose how this difficulty was to be met; and at first it was thought that the best plan would be to take advantage of a provision contained in the Act under Section 39, which says that the Port Trust may borrow money for the purpose of paying off any debt. It was proposed that the Trustees should raise a loan for the discharge of their debt to Government. But the Trustees expressed their disinclination to go into the market to borrow such a small sum; and it seemed absurd that, when they had already a sufficient sum for the discharge of the debt, they should be obliged to borrow money. It was, therefore, ultimately resolved upon the advice of the Advocate-General that the Trustees should make, and Government should accept, payment of the debt out of the surplus in hand; and it was thought necessary to introduce the present Bill in order to legalize the payment made by the Trustees. The Bill says that "in order to legalize the payment so made by the Trustees, it is hereby enacted that, notwithstanding anything contained in the Bombay Port Trust Act, 1879, the said sum of Rs. 2,36,013-11-9 shall be deemed to have been lawfully paid by the said Trustees to the said Secretary of State." I move that the Bill be now read a first time.

Bill read a first time.

The Bill was read a first time.

His Excellency the PRESIDENT said:—As this is a Bill of a purely formal character—to legalize that which, all persons agree, is most expedient for the public interest—it would be unnecessary to give the honourable members trouble to meet here again. I will therefore, suspend the rules, and propose that the Bill be allowed to be read a second time.

Standing orders suspended, and the Bill read a second time, considered in detail, and read a third time and passed.

The standing orders were accordingly suspended, and the Bill was read a second time, considered in detail, and read a third time and passed.

The Honourable Mr. MELVILL, in moving the first reading of Bill No. 2 of 1884

Mr. Melvill moves the first reading of the Bill to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Fund of the Bombay International Exhibition and to enable the Municipal Commissioner of Bombay to be a Member of the Executive Committee of Management of the said Exhibition.

(a Bill to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Fund of the Bombay International Exhibition and to enable the Municipal Commissioner of Bombay to be a Member of the Executive Committee of Management of the said Exhibition) said:—Your Excellency,—The objects and reasons of this Bill are so fully stated, and I think that honourable members are so conversant with the subject-matter of this Bill, that it is hardly necessary for me to make any remarks.

The principal object of this Bill is somewhat analogous to the Bill which has just been passed,—that is to say, it is intended to legalize the payment by the Municipal Corporation of a sum of money to the Guarantee Fund of the Bombay Exhibition. The preamble says: "It is proposed to hold an International Exhibition in Bombay in the year 1886-87 or 1887-88." I think it is pretty well decided that it will be

held in the former year. The Municipality have resolved to subscribe a lakh of rupees to the Guarantee Fund. But this is not one of the objects to which the funds of the Municipality can, under the existing law, be applied; and, therefore, it is necessary to legalize any payment which the Corporation may hereafter be called upon to make under their guarantee. That is the main object of the Bill. Section 2 provides that the Municipal Commissioner may be a Member of the Executive Committee of Management. Government understand that there is a very general opinion that it is desirable that our present able and energetic Commissioner, Mr. Ollivant, should be a Member of the Committee of Management, and it is very probable that he will be appointed Chairman of the Committee. But under the law, as it now stands, it cannot be done; because, by Section 43 of the Bombay Act III. of 1872, it is provided that the Municipal Commissioner shall not be permitted to hold any other appointment, or to follow any other profession, and shall devote his whole time and attention to the duties of his office as Municipal Commissioner. The present Bill, therefore, enables the Municipal Commissioner to become a Member of the Executive Committee, and devote such share of his time and attention as he may deem necessary to the affairs of the Exhibition. Then, inasmuch as the duties of the Municipal Commissioner are as much as any man can perform, it would be impossible for Mr. Ollivant to act as Municipal Commissioner and at the same time perform the functions of Chairman of the Committee of Management. The next Section, therefore, gives power to appoint a Deputy Commissioner to assist him in his duties as Municipal Commissioner. Section 4 gives power to fix the allowances, and Section 5 enables the Municipal Corporation—if they should think fit—to pay the salary of the Deputy Commissioner. It is probable that the provisions of this last Section will not be carried into effect, because *prima facie* any extra expense which may be incurred in connection with the Exhibition should be defrayed from the funds of the Exhibition. Still, if the Municipal Corporation, with their wonted liberality, should desire to contribute towards the salary of the Deputy Municipal Commissioner, this Section will enable them to do so. With these observations I propose that the Bill be read a first time.

Bill read a first time.

The Bill was read a first time.

His Excellency the PRESIDENT said:—This Bill stands in the same position as the last one. It is introduced only to meet a legal disability. It may, perhaps, be proper for me to remark that the Government in this matter have done no more than give that effect which it is proper that they should give to the general feeling of the community. The movement for holding the Exhibition is altogether spontaneous on the part of the public of Bombay, and we are giving such facilities to it as are in our power to afford. My honourable colleague has said that the Exhibition would be held in the first year named in the Bill. As a matter of fact, I believe that the Bombay Provisional Committee are waiting for a reply from the Government of the Australian Colonies, from whom large numbers of exhibits are expected. They have not yet stated which year would be most convenient to them. I understand, from all I hear, that the idea that the Exhibition will interfere with the holding of the Indian and Colonial Exhibition in London is no longer entertained. The promoters of the Bombay Exhibition have, in the first place, abandoned the project of holding the Exhibition in the year 1885, in order to avoid the possibility of its clashing with the other Exhibition. I find that there is only one opinion here, that in no way will the project of holding an Exhibition in Bombay be allowed to interfere with the most adequate representation of this city in the London Exhibition. It must be very gratifying to Mr. Ollivant to see that he should be the one man who, all parties agree, should be asked to preside over the Executive Committee of the Bombay Exhibition. It is, under existing circumstances, necessary that the appointment should be legalized. I now ask that the Bill be read a second time.

Standing orders suspended, and the Bill read a second time, considered in detail, and read a third time and passed.

The standing orders were suspended, and the Bill was read a second time, considered in detail, and read a third time and passed.

His Excellency the PRESIDENT then adjourned the Council.

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

C. G. W. MACPHERSON,
Under Secretary to Government.

Bombay Castle, 12th December 1884.

	Section.	Clause.		Section.	Clause.
<i>Conduct of Business—continued.</i>			IV.—CONTROL.		
Committees shall meet when they think proper	(13)	Collector's powers of inspection and supervision	34	...
Questions at committees' meetings shall be decided by a majority of votes	(14)	Power of Commissioner of division to prevent extravagance in the employment of establishment	35	...
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Vacancy not to affect municipality's proceedings...	(16)	Collector's order to be reported to Commissioner of the division who may confirm or modify it	ib.	...
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Executive Engineer or Educational Inspector may attend meetings of municipalities	27	...	Extraordinary powers of Collector in case of emergency... ..	37	...
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III.—RULES AND BYE-LAWS.			Powers of Government and of the Commissioners of divisions over Collectors, &c.	41	...
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for granting leave to municipal servants ;	(c)	Powers and duties of Government to be discharged in Sind by the Commissioner	44	...
for fixing pensions, &c. ;	(d)	Limitation of suits, &c.	45	...
for contributing to provident funds ;	(e)	Amendment of Bombay Act VI. of 1873 :	46	...
for fixing the amount of the security to be furnished ;	(f)	amendment of section 3 ;	(a)
for prescribing the taxes, &c. to be levied for municipal purposes ;	(g)	amendment of section 17 ;	(b)
for general guidance of municipal servants ;	(h)	new clause added to section 21 ;	(c)
proviso as to officers lent by Government ; and...	(i)	amendment of section 23 ;	(d)
as to previous sanction of Government in certain cases	(j)	new section substituted for section 24 ;	(e)
Certain municipalities may make bye-laws :	31	...	new section substituted for section 27 ;	(f)
for markets and slaughter-houses ;	(a)	amendment of section 84 ;	(g)
for regulation of dangerous or offensive trades ;	(b)	new clause substituted for clause 1 of section 88 ;	(h)
for the water-supply and conservancy ;	(c)	amendment of section 94	(j)
for registration of births, &c. ;	(d)			
for general administrative purposes	(e)			
Fine may be imposed for infringement of bye-laws			
Power to make bye-laws may be extended to other municipalities			
Continuance in force of present rules and bye-laws of municipalities	32	...			
Rules and bye-laws to be printed and sold	33	...			

A Bill to amend the Bombay District Municipal Act.

WHEREAS it is expedient to amend the Bombay District Municipal Act in manner hereinafter appearing; It is enacted as follows:—

I.—PRELIMINARY.

1. This Act may be cited as "The Bombay District Municipal Act Amendment Act, 1883," and this Act and the Bombay District Municipal Act, which is hereinafter referred to as "the principal Act," may be together cited as "The Bombay District Municipal Acts of 1873 and 1883."

This Act and the principal Act extend to the whole of the Presidency of Bombay, except the City of Bombay.

2. This Act shall be construed as one with the principal Act.

3. The enactments mentioned in the schedule hereto annexed are repealed to the extent specified in the third column thereof:

Provided that the said repeal shall not affect the validity or invalidity of anything already done under either of the said enactments, and shall not apply in any temporary municipal district in existence when this Act comes into force;

Provided further that the municipal commissioners in every permanent municipal district in existence when this Act comes into force shall continue to be appointed as if this Act had not been passed until the date notified by the Governor in Council for each such municipal district under section 10 of this Act.

4. In the principal Act and in this Act, unless there be something repugnant in the subject or context:

(1) the words "*Sind Official Gazette*" shall, in Sind, be deemed to be substituted for the words "*Bombay Government Gazette*," wherever they occur;

(2) the term "municipal district" means any place which is at present a municipal district under the principal

Act and any place, or any two or more places, which may hereafter be constituted a municipal district under section 5 of this Act, if such municipal district has not ceased to exist under the provisions of the said section.

In the principal Act:

(3) the phrases "the date of this Act coming into force," "the date of the passing of this Act," and the like, shall, in Sind, be deemed to mean the first day of October 1878.

In this Act:

(4) the words "salaried servant of Government" do not include a retired servant of Government in receipt of a pension;

(5) the term "Commissioner of the division" means, in Sind, the Commissioner of Sind and elsewhere the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879.

II.—CONSTITUTION OF MUNICIPALITIES.

Municipal Districts.

5. Subject to the provisions of sections 8 and 9 of this Act, the Governor in Council may, from time to time by notification in the *Bombay Government Gazette*, declare any place, or any two or more places, to be a municipal district, and may, from time to time by a like notification, extend, contract or otherwise alter the limits of any such municipal district, or declare that any place shall, from a date to be specified in the notification, cease to be a municipal district.

Every such notification for constituting a new municipal district, or for altering the limits of an existing municipal district, shall clearly set forth the local limits of the area to be included or excluded from such municipal district, as the case may be.

When any place ceases to be a municipal district, the municipality constituted therein shall cease to exist, and the property and rights vested in any such municipality, or in any municipality which has

ceased to exist under the operation of section 20 of the principal Act, shall, subject to all charges and liabilities affecting the same, vest in the Governor in Council, and the proceeds thereof, if any, shall be expended by the Governor in Council for the benefit of the place in which such municipality had jurisdiction.

6. Municipal districts constituted under

Municipal districts to be temporary or permanent. the last preceding section may be either temporary or permanent.

Bom. Act VI of 1873, s. 4, cl. 5.

7. Any place in which a periodical fair

Temporary municipal districts. is held, or which is resorted to periodically by pilgrims, together with any neighbouring place to which the people attending such fair or the pilgrims resort whilst such fair or pilgrimage lasts, may be declared a temporary municipal district.

8. Not less than two months before the

Permanent municipal districts. publication of any notification declaring any place or places a permanent municipal district, or altering the limits of any such district, the Governor in Council shall cause to be published in the *Bombay Government Gazette* in English and in the local newspapers, if any, in the language of the district in which such place or places is or are situated, and to be posted up in conspicuous spots in the said place or places, in the language of the said district, a proclamation announcing that it is proposed to constitute such place or places a municipal district, or to alter the limits of the municipal district in a certain manner, as the case may be, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor, in writing to a Secretary to the Government within two months from the date of the said proclamation.

No such notification as aforesaid shall be issued by the Governor in Council unless the objections, if any, so submitted, are, in his opinion, insufficient or invalid.

Bom. Act VI of 1873, s. 4, cl. 1.

9. Unless for exceptional reasons, which shall be clearly set forth in the proclamation and notification aforesaid, no two places which are separated by an extent of more than one mile of land unoccupied by houses shall be included

Restrictions on the constitution of permanent municipal districts. ed in one permanent municipal district; and no such municipal district shall be

Bom. Act VI of 1873, s. 6.

constituted in any area of which the population is less than two thousand.

When two or more places bearing different names are formed into one municipal district, the name of the municipal district shall be determined by the Governor in Council.

Bom. Act VI of 1873, s. 4, cl. 3.

10. In every permanent municipal district there shall be a municipality.

Except as is hereinafter otherwise provided, every such municipality newly constituted under this Act, and on and after such date as shall be notified by the Governor in Council for each permanent municipal district in existence when this Act comes into force, the municipality in every such district shall consist of—

(a) elective commissioners.

(b) such persons, if any, as the Governor in Council, or any officer whom he authorizes in this behalf, appoints, who shall be called "nominated commissioners":

Provided that the number of elective commissioners shall be not less than one-half of the whole number, exclusive of the president, and that not more than one-half of the nominated commissioners shall be salaried servants of Government.

11. The Governor in Council may: The Governor in Council shall from time to time—

(a) determine the total number of commissioners in each municipality;

(b) fix, subject to the provisions of the last preceding section, the proportion of the commissioners, if any, who shall be nominated and the number of those who may be salaried servants of Government;

(c) make rules, consistent with this Act, for fixing the dates and the time and manner of holding elections of the elective commissioners, prescribing the qualifications of candidates and of voters, and generally for regulating such elections:

Bom. Act VI of 1873, s. 7, cl. 2.

Provided always that no alteration in, or addition to, the qualifications entitling

persons as aforesaid, made at any time after the first elections have been held in any municipal district under this section, shall take effect in such district within six months from the date on which such alteration or addition is made.

12. Nothing in the two last preceding sections shall apply to any permanent municipal district to which, owing to the smallness or remoteness of such district or to the backward state of its inhabitants, or other such exceptional reason, the Governor in Council shall, in a notification setting forth such reasons and published in the *Bombay Government Gazette*, at any time declare the provisions of the said sections to be unsuitable.

In any such municipal district the municipality shall consist either entirely of nominated commissioners, or partly of nominated commissioners and partly of elective commissioners in such proportions, and appointed or elected by such persons, in such manner, and subject to such conditions, as the Governor in Council in the notification published under the first paragraph of this section, or in any subsequent notification published as aforesaid, shall think fit to prescribe.

It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section; and in the event of any notification under the first paragraph being rescinded, the municipality affected thereby shall from a date to be fixed in this behalf by the Governor in Council be constituted in accordance with the two last preceding sections.

13. The powers and duties conferred and imposed by this Act and by the principal Act on municipalities shall, in a temporary municipal district, be respectively exercised and discharged by a neighbouring municipality nominated in this behalf by Government, or by a municipality specially constituted for the time being and consisting of such commissioners nominated in such manner as the Governor in Council directs.

14. Every municipality in a permanent municipal district shall be a body corporate by the name of "The Municipality of _____" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire

Bom. Act VI of 1873, s. 5, & s. 24, cl. 2.

Incorporation of municipalities.

and hold property, both moveable and immoveable, to lease, sell, or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes of this Act:

Provided that no lease of immoveable property for a term exceeding three years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner of the division.

Provisions relating to Municipal Commissioners.

General disqualifications. 15. No female, and no person—

Bom. Act VI of 1873, s. 7, cl. 3.

(a) who is less than twenty-one years of age, or

Adapted from s. 8, Bom. Mun. Acts of 1872 & 1878.

(b) who is a District Judge, or is acting in that capacity, or

(c) who has been sentenced to imprisonment by any criminal court and such sentence has not been subsequently reversed or quashed, or

(d) who is an uncertificated bankrupt or is insolvent, may be a municipal commissioner; and no person—

(e) who is a subordinate officer or servant of a municipality, or

(f) who has directly or indirectly any share or interest in any work done by order of a municipality, or in any contract or employment with or under a municipality, may be a member of such municipality; and any municipal commissioner who, during the term for which he has been elected or appointed,

(g) becomes disqualified for any of the above reasons, or

(h) not being a salaried servant of Government, is absent for more than four consecutive months from the limits of the district in which the municipality is established, shall cease to be a commissioner, and his office shall become vacant.

16. A person who has already been elected or appointed a municipal commissioner on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

17. Except as is otherwise provided in the next following section, municipal

Bom. Act VI of 1873, s. 9.

Term of office.

commissioners appointed or elected under this Act shall, unless they become in the meantime disqualified, hold office for a term of three years.

18. In the event of the death, resignation or disqualification of a municipal commissioner, or of his becoming incapable of acting, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the commissioner in whose place he is elected or appointed would have held it, if the vacancy had not occurred.

19. The names of all commissioners finally elected to any municipality as well as the names of the nominated commissioners, if any, appointed thereto shall be published, as soon as conveniently may be, in the *Bombay Government Gazette*.

20. Except as is hereinafter otherwise provided, no municipal commissioner shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of, the municipality; the funds at the disposal of each municipality shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses:

Provided that every municipal commissioner shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by gross neglect of his duty as a commissioner, and may be sued for recovery of the monies so misapplied as if for monies due to the Government.

Municipal Elections.

21. No person shall be entitled to vote at any municipal election who—

(a) is less than twenty-one years of age, or

(b) has been sentenced to imprisonment by any criminal court and such sentence has not been subsequently reversed or quashed.

22. If the validity of any election of a municipal commissioner is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within ten days after the date of the election, apply to the District Judge of the district within which the election has been or should have been held.

The District Judge may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or for setting the election aside.

For the purposes of the said inquiry the District Judge may exercise any of the powers of a civil court, and his decision shall be conclusive.

If he sets aside an election a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

Presidents and Vice-presidents.

23. Every municipality shall be presided over by a president, who shall be one of the commissioners and shall be appointed by the Government or, if the Governor in Council so directs, elected by the municipality.

If the president so appointed or elected is a salaried servant of Government, the municipality shall elect one of the commissioners to be vice-president; unless the Governor in Council otherwise directs, no appointment of a vice-president shall be valid until it is approved by the Government, or by such other authority as the Government prescribe in this behalf.

Every president's and vice-president's term of office shall cease on the expiry of his term of office as a commissioner, provided that he shall be removable from office as such president or vice-president by the Government for misconduct, or neglect of, or incapacity to perform, his duty.

In the event of the death, resignation, or removal from office, of a president or vice-president, or of his becoming incapable of acting, or disqualified to be a commis-

Bom. Mun. Acts, 1872 & 1878, s. 9 (c).

Determination of validity of elections.

a municipal commissioner is brought in

Casual vacancies how to be filled up.

Publication of names of commissioners in the *Bombay Government Gazette*.

Bom. Act VI of 1873, s. 11, cl. 2.

Municipal funds ordinarily liable for all costs and expenses incurred by municipalities;

Nomination of presidents;

and of vice-presidents.

Their term of office and liability to be removed.

Casual vacancies in their office how to be filled up.

sioner, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment or election, as the case may be, of some other commissioner thereto.

Functions of presidents. 24. The president of a municipality shall—

(a) preside at the meetings of the municipality;

(b) watch over the financial and executive administration of the municipality and submit to the municipality all questions connected therewith which shall appear to him to require its orders, and perform such executive functions as he may be empowered to perform by the rules of the municipality over which he presides;

(c) exercise supervision and control over the acts and proceedings of all officers and servants of the municipality in matters of executive administration, and in matters concerning the accounts and records of the municipality; and, subject to the rules of the municipality at the time being in force, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(d) furnish to the Collector, or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality and any extract from the minutes of the municipality's or of any committee's proceedings, or other document or thing which the Collector may from time to time call for under section 34.

When the president of a municipality is a salaried servant of Government and has been appointed to be president by the Government, he shall not vote upon any questions which come before such municipality for decision unless there is an equality of votes of the other commissioners present for and against the proposition under consideration, in which case he shall have a casting vote.

Functions of Vice-Presidents. 25. Vice-presidents of municipalities shall—

(a) in the absence of the president, preside at the meetings of the municipality, and

(b) exercise such of the powers and perform such of the duties of the president as the president from time to time deposes to him.

Conduct of Business.

Provisions regulating municipalities' proceedings. 26. The following provisions shall be observed with respect to the proceedings of a municipality :—

(1) There shall be held four quarterly general meetings in each year for the disposal of general business on or about the first day of January, the tenth day of April, the first day of July, and the first day of October.

Bom. Act VI of 1873, s. 11, cl. 1.

(2) The president may, whenever he thinks fit, and shall upon the request of not less than one-fourth of the commissioners, call a special meeting.

(3) Seven clear days' notice of a quarterly general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat shall be circulated to the commissioners and posted up at the municipal office, or the local kacheri or some other public building in the municipal district.

(4) No business relating to the departments of Public Works or Education shall be transacted at any meeting unless at least seven days' previous notice of the intention to transact such business thereat has been given to any officer of those departments, respectively, who is not a member of the municipality but is entitled under section 27 to be present at such meeting.

(5) If less than one-half of the commissioners be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such day and hour as he shall consider convenient to the commissioners, and the business which would have been brought before the original meeting, had there been a

Notice must be given to Public Works and Educational Officers when they are entitled under section 27 to be present.

One-half of the commissioners shall form a quorum.

quorum thereat, shall be brought before the adjourned meeting and be transacted by it, whether there be a quorum present or not.

(6) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipality such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

(7) Every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and, if he is absent, by the vice-president, and, if both the president and vice-president are absent, by such one of the commissioners present as may be chosen by the meeting to be chairman for the occasion.

(8) Except with the permission of the presiding authority, no business shall be transacted and no proposition discussed at any general meeting which has not been mentioned in the notice convening such meeting, nor unless it is brought forward by the presiding authority or by any commissioner who has given ten days' previous notice thereof to the president or in the written request for a special general meeting.

(9) Any general meeting may, with the consent of a majority of the commissioners present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

(10) Except as is otherwise provided in section 24, all questions shall be decided by a majority of votes of the commissioners present, the president, vice-president, or chairman having a second or casting vote in all cases of equality of votes.

(11) The municipality may delegate any of their duties or powers to committees consisting of such commis-

sioners as they think fit; and any committee so formed shall conform to any instructions that may from time to time be given to them by the municipality, and the municipality may at any time discontinue or alter the constitution of any committee so formed.

(12) A committee may elect a chairman of their meetings, and if no such chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their members to be chairman of such meeting.

(13) Committees may meet and adjourn as they think proper, but the president of the municipality may, whenever he thinks fit, and shall upon the written request of not less than two members of a committee, call a special meeting of such committee.

(14) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.

(15) Minutes shall be kept in the vernacular language of the names of the commissioners and of the officers of the Public Works and Educational departments, if any, present and of the proceedings at each general meeting and each committee's meeting in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president or vice-president or chairman of such meeting, and shall at all reasonable times be open to inspection by any inhabitant of the municipal district: when practicable, the proceedings at general meetings shall be inserted in the minute-book in English as well as in the vernacular language.

(16) During any vacancy in a municipality the continuing commissioners may act as if no vacancy had occurred.

Bom. Act VI of 1873, s. 92.

Bom. Act VI of 1873, s. 8, cl. 4, & s. 10, cl. 3.

Bom. Act VI of 1873, s. 11, cl. 4.

Bom. Act VI of 1873, s. 11, cl. 5.

Bom. Act VI of 1873, s. 11, cl. 3.

Bom. Act VI of 1873, s. 93.

(17) No act of a municipality, or of any committee, or of any person acting as a commissioner or as a president, vice-president, or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such municipality, committee, president, vice-president, chairman, or commissioner, or on the ground that they, or any of them, were disqualified for the office of commissioner.

27. The Executive Engineer and the Educational Inspector of a district, if not members of a municipality within the district, shall have,

Executive Engineer or Educational Inspector may attend meetings of municipalities.

each of them, the right of being present at any meeting of the said municipality and, with the consent of the municipality, may take part at such meeting in the discussion or consideration of any question relating to his department, on which he considers his opinion or the information which he can supply will be useful to such municipality: provided that the said officers shall not, unless they are members of the municipality, be entitled to vote upon any such question.

If it shall appear to a municipality that the presence of either of the above officers respectively is desirable for the purpose aforesaid at any future meeting of such municipality, it shall be competent to such officer not less than seven days previous to the intended meeting, to require his presence thereat; and the said officers, unless prevented by sickness, or other reasonable cause, shall be bound to attend such meeting.

28. Whenever it appears to the president of a municipality unnecessary to convene a meeting, he may instead of so doing circulate a written proposition of his own, or of any other commissioner, or of any executive officer of the municipality (with the remarks thereon, if he thinks fit, of any officer of the Public Works department or Educational department, not a commissioner, who would be entitled to be present at such meeting) for the observations and votes of the commissioners.

The decision on any proposition so circulated shall be in accordance with the major-

ity of votes of the commissioners who vote upon it, unless one-fourth of the commissioners require a special meeting to be convened under clause 2 of section 26.

Every decision arrived at by the commissioners under this section shall be recorded in the minute-book kept under clause 15 of section 26.

29. The president of a municipality may, on behalf of the municipality, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: provided that the amount or value of such contract or agreement shall not exceed five hundred rupees.

Mode of executing contracts.

Every other contract or agreement on behalf of a municipality shall be in writing and shall be signed by the president and by two other commissioners and shall be sealed with the common seal of the municipality.

No contract or agreement not executed as in this section provided shall be binding on a municipality.

III.—RULES AND BYE-LAWS.

30. Every municipality shall, as soon as conveniently may be after it has been constituted, make and may from time to time alter or rescind rules, consistent with this Act and with the principal Act:

(a) regulating the conduct of its business and the delegation of any of its powers or duties to one or more committees;

(b) determining the staff of officers and servants to be employed by it and their respective designations, duties, salaries, fees and absentee or other allowances;

(c) determining the mode of appointing, punishing or dismissing any such officer or servant;

(d) regulating the grant of leave to such officers or servants and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave;

Bom. Act VI of 1873, s. 13, cl. 1, amended.

Bom. Act VI of 1873, s. 14, amended.

Bom. Act VI of 1873, ss. 12 & 93.

President may circulate written propositions.

(e) regulating the period of service of all such officers for fixing pensions, &c.; and servants and determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances;

(f) authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any pension or provident fund which may, with its approval, be established by the said officers and servants;

(g) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security;

(h) prescribing the tolls, cesses, taxes, fees for licenses or permissions granted under section 22 of the principal Act, or other imposts to be levied in the municipal district for municipal purposes, and the times and mode of levying the same;

(i) generally for the guidance of its officers and servants in all matters relating to the municipal administration:

Provided that

(l) if an officer is lent to any municipality by the Government, or if an officer is employed partly in the service of Government and partly in the service of a municipality, such municipality shall contribute to his pension and leave allowances to such extent as may be required by the rules in this behalf from time to time in force, and shall not, except with the assent of Government, dispense with his further services at any time without giving the Government six months' previous notice;

(m) no rule made under this section shall have effect unless and until it has been approved by the Governor in

Council, or by such officer as he appoints in this behalf.

31. The municipality in any municipal district in which all the provisions of Chapter V. of the principal Act are in force may from time to time, with the previous sanction of the Governor in Council, make, alter, or rescind bye-laws consistent with this Act and with the principal Act:

(a) for regulating and inspecting markets and slaughter-houses and for the proper and clean conduct of business therein and for fixing the charges to be made for the use of any of them which belong to the municipality;

(b) for licensing and inspecting places used for any of the purposes mentioned in section 69 of the principal Act and for regulating the conduct of business in any such place so as to minimize the injurious, offensive or dangerous effect thereof;

(c) for regulating the water-supply, conservancy and the disposal of carcasses of dead animals;

(d) for the registration of births, deaths and marriages and the taking of a census within the municipal district;

(e) generally for the regulation of all matters relating to municipal administration:

And every such municipality may, with the like sanction, prescribe a fine for the infringement of any such bye-laws.

The whole, or any part of this section, may be extended by the Governor in Council to the municipality in any municipal district in which all the provisions of Chapter V. of the principal Act are not in force, subject to the proviso to section 27 of the principal Act as amended by section 44 of this Act.

Bom. Act VI of 1873, s. 14, cl. 2 (f).

Certain municipalities may make bye-laws.

Bom. Act VI of 1873, s. 70, cl. 1.

Bom. Act VI of 1873, s. 70, cl. 2.

Bom. Act VI of 1873, s. 72.

32. Any rules or bye-laws made with the approval of the Governor in Council by any municipality under section 14 of the principal Act, and now in force, shall continue in force, so far as they are consistent with this Act, until they shall be altered or rescinded under either of the two last preceding sections.

All references in the principal Act to rules or bye-laws made under section 14 of that Act shall be deemed to apply to the rules or bye-laws made under the last two preceding sections or continued in force by this section.

Bom. Act VI of 1873, s. 95.

33. The rules and bye-laws for the time being in force under any of the three last preceding sections shall be kept open at the municipal office for public inspection at all reasonable times, and printed copies thereof in the vernacular language of the district shall be kept on sale at a reasonable price.

IV.—CONTROL.

Central Provinces Local Self-government Act, s. 28.

Collector's powers of inspection and supervision.

34. The Collector shall have power—

(a) to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any municipality, or any work in progress under it or under its direction ;

(b) to call for any extract from any municipality's or any committee's proceedings, any book, or document in the possession of or under the control of a municipality and any return, statement, account, or report which he may think fit to require such municipality to furnish ;

(c) to require a municipality to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such municipality, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

The power given to the Collector by this section may be delegated by him to the Assistant or Deputy Collector in charge of a taluka in so far as concerns any municipality in such taluka.

Central Provinces Local Self-government Act, s. 20.

35. If, in the opinion of the Commissioner of the division, the number of persons employed by a municipality as officers or servants, or whom a municipality propose to employ, or the remuneration assigned by the municipality to those persons or to any particular persons is excessive, the municipality shall, on the requirement of the said Commissioner, reduce the number or remuneration of the said persons or person :

Provided that the municipality may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

36. If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof.

Collector's power of suspending execution of orders, &c., of municipalities.

Central Provinces, Local Self-government Act, s. 29.

When a Collector makes any order under this section he shall forthwith forward to the Commissioner of the division a copy of the order

Collector's order to be reported to Commissioner of the division, who may confirm or modify it.

with a statement of the reasons for making it ; and it shall be in the discretion of the said Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

The said Commissioner shall forthwith submit to Government a report of every case occurring under this section, and the Government may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner of the division could have made.

37. In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a municipality is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and

Extraordinary powers of Collector in case of emergency.

Central Provinces Local Self-government Act, s. 30.

may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality.

If the expense and remuneration are not so paid, the Collector may make an order directing the person who has custody of the balance of the municipal fund to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands, and the said person shall be bound to obey such order.

The Collector shall forthwith report to the Commissioner of the division every case in which he uses the powers given to him by this section.

38. If it shall at any time appear to the Governor in Council that any toll, cess, tax, fee, or other impost leviable by municipality is unfair in its incidence, or that the levy thereof or of any part thereof is obnoxious to the interests of the general public, he may, by notification in the *Bombay Government Gazette* :

(a) suspend the levy of such toll, cess, tax, fee, or other impost, or of such part thereof, pending such inquiry as he deems fit to cause to be made into its incidence or nature ;

(b) After, or without such previous inquiry, prohibit the levy of the whole or any part of any such toll, cess, tax, fee, or other impost ;

(c) rescind any such suspension or prohibition.

39. When the Governor in Council is informed on complaint made, or otherwise, that a municipality has made default in performing any duty imposed on it by or under this Act, the Governor in Council, if satisfied after due inquiry that the municipality has been guilty of the alleged default, may fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

If the expense and remuneration are not so paid, the Governor in Council may make an order directing the person who has

custody of the balance of the municipal fund to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands, and the said person shall be bound to obey such order.

40. If in the opinion of the Governor in Council a municipality is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Governor in Council may, by an order published, with the reasons for making it, in the *Bombay Government Gazette*, declare the municipality to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

When a municipality is so superseded, the following consequences shall ensue:—

(a) all commissioners of the municipality shall, as from the date of the order, vacate their offices as such commissioners ;

(b) all powers and duties of the municipality may, during the period of supersession, be exercised and performed by such person or persons as the Governor in Council, from time to time, appoints in that behalf ;

(c) all property vested in the municipality shall, during the period of supersession, vest in Government.

On the expiration of the period of suspension specified in the order, the municipality shall be re-established by the election or appointment of new commissioners under the provisions of this Act applicable thereto.

41. In all matters connected with this Act, the Governor in Council and the Commissioners of divisions shall have and exercise the same authority and control over the Commissioners of divisions, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

V.—MISCELLANEOUS.

42. If any commissioner, officer or servant of a municipality has, directly or indirectly, any share or interest in any work done by order of a municipality or in any

Central Provinces Local Self-government Act, s. 32.

Power of Government to suspend or prohibit levy of objectionable taxes.

that any toll, cess, tax, fee, or other impost leviable by municipality

Consequences of exercise of such power.

the following consequences shall ensue:—

Central Provinces Local Self-government Act, s. 31.

Power of Government to provide for performance of duties in default of municipality.

informed on complaint made, or otherwise, that a municipality has made default in performing any duty imposed on it by or under this Act, the Governor in Council, if satisfied after due inquiry that the municipality has been guilty of the alleged default, may fix a period for the performance of that duty.

Powers of Government and of the Commissioners of divisions over Collectors, &c.

Act, the Governor in Council and the Commissioners of divisions shall have and exercise the same authority and control over the Commissioners of divisions, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

Central Provinces Local Self-government Act, s. 33.

Bom. Act VI. of 1873, s. 13, cl. 3.

Penalty for Commissioner, officer or servant of a municipality being interested in any contract, &c., with that municipality.

42. If any commissioner, officer or servant of a municipality has, directly or indirectly, any share or interest in any work done by order of a municipality or in any

contract with or under that municipality he shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees :

Provided that the penalty herein prescribed and the disqualification for a municipal commissionership prescribed in section 15, clause (f), shall not be deemed to apply by reason only of a person having—

(a) a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the municipality, or

(b) a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted.

Nevertheless it shall not be lawful for a person having any share or interest such as is described in the above clauses (a) and (b) to act as a commissioner in any matter relating to a contract or agreement between the municipality and such company or the manager or publisher of such newspaper.

43. Every commissioner and every officer and servant of a municipality and every farmer or agent for the recovery of any toll, cess, tax, fee or other impost on behalf of a municipality shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

44. The powers and duties conferred and imposed by this Act on the Governor in Council or the Government, except those so conferred and imposed by sections 12, 35, 36, 40 and 41, shall, in Sind, be exercised and performed by the Commissioner.

45. No action shall be commenced against any municipality, or against any officer or servant of a

municipality, or any person acting under the orders of a municipality, for any thing done, or purporting to have been done in pursuance of this Act, or of the principal Act, without giving to such municipality, officer, servant, or person one month's previous notice in writing of the intended action and of the cause thereof, nor after three months from the date of the act complained of ;

and in the case of any such action for damages, if tender of sufficient amends shall have been made before the action was

brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

46. The following amendments shall be made in the principal Act, namely :

(a) in section 3 the following definition of the word "street" shall be substituted for the existing one, namely :—

"The word 'street' shall include any way, road, square, court, alley or passage and the roadway or footway over any bridge or causeway."

(b) in section 17 clause (f) for the words "and spaces" the words "not being portions of provincial highroads or trunk roads specially reserved by Government," shall be substituted ;

(c) to section 21 the following clause shall be added, namely :

"Clause 5.—If any tax imposed under this section is a tax on pilgrims resorting periodically to a shrine within the limits of a municipal district, the Governor in Council may require the municipality of such district to assign and pay to the district local board, or to the taluka local board having authority in the taluka in which such municipal district is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit ; and the portion so assigned shall be expended by the said board or boards within the areas respectively under their authority on works conducive to the health, convenience and safety of the said pilgrims."

Taxes on pilgrims may be assigned in part to local boards.

(d) in section 23, after the figures "1869" the words "or out of any public funds" shall be inserted ;

(e) for section 24 the following section shall be substituted, namely :

"24. It shall be the duty of every municipality to make adequate provision, out of the municipal property and funds, for

Duties of municipalities.

Bom. Mun. Acts of 1872 and 1878, s. 33.

Bom. Act VI. of 1873, s. 13, cl. 3.

Bom. Act VI. of 1873, s. 15.

Municipal commissioners, &c., to be public servants.

Powers and duties of Government to be discharged in Sind by the Commissioner.

Limitation of suits, &c.

Amendment of section 23 ;

New section substituted for section 24 ;

Duties of municipalities.

the following matters within the municipal district under its authority, namely :

- (1) lighting of public streets, places and buildings ;
- (2) watering public streets and places ;
- (3) cleansing of public streets, places and sewers, scavenging, removing of noxious vegetation, and the abatement of all public nuisances ;
- (4) extinguishing of fires and protecting of life and property when fires occur ;
- (5) regulating or abating offensive or dangerous trades or practices ;
- (6) removing obstructions and projections in public streets or places ;
- (7) securing or removing dangerous buildings or places and reclaiming unhealthy localities ;
- (8) providing, changing and regulating places for the disposal of the dead ;
- (9) constructing, altering and maintaining public streets, bridges, causeways, culverts, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, baths, washing-places, drinking-fountains, tanks, wells, dams and the like ;
- (10) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost ;
- (11) naming of streets and numbering of houses ;
- (12) public vaccination and the registration of births and deaths ;
- (13) the establishment and maintenance of relief and relief-works in time of famine or scarcity ;
- (14) providing medical aid and accommodation for the sick in time of epidemic disease ;
- (15) establishing and maintaining middle class and primary schools.

And municipalities may, at their discretion, provide out of the said property and funds, either wholly or partly, for the cost of—

Discretionary powers of expenditure of municipalities.

- (16) erecting or maintaining public parks, gardens, libraries, museums, colleges, schools other than middle-class or primary schools, hospitals, dispensaries, lunatic asylums, halls, offices, dharmshálas, rest-houses and other public buildings ;
- (17) planting and maintaining of roadside and other trees ;
- (18) the taking of a census, and any lawful sanitary measure ;
- (19) a survey, or any other measure likely to promote the public safety, health, convenience or education.

The management, control and administration of every public institution maintained out of municipal property and funds shall vest in the municipality which maintains the same: provided that the extent of the independent authority of any municipality in respect of public education and its relations with the Government Educational Department shall from time to time be prescribed by Government."

(f) for section 27 the following shall be substituted, namely:—

"27. All the provisions of this chapter shall have force and effect in every municipal district containing not less than eighteen thousand inhabitants.

Compare s. 6, Bom. Act VI. of 1873.

Provisions of Chapter V. applicable in the first instance to certain large municipal districts only; but

All or any of the provisions of this chapter may be extended to any other municipal district by the Governor in Council: provided that no order for any such extension shall take effect till one month after a proclamation in the language of the district has been posted up in conspicuous spots within the municipal district to be affected thereby, and has been made known at least four times by beat of bataki throughout such district."

(g) in section 84 for the word "taxes" the words "cesses and other taxes and such penalties in addition to the said arrears, not exceeding in any case

Amendment of section 84.

one-fourth of the amount of the arrear, as shall be adjudged by the said Magistrate, and all arrears of" shall be substituted.

(h) for clause 1 of section 88, the New clause substituted for clause 1 of section 8. following clause shall be substituted, namely:—

"88. *Clause 1.*—Every municipality shall have prepared and laid before them, at their quarterly general meetings in July, October and January, complete accounts of the receipts and expenditure of the municipal fund during the

period since the 1st day of April last preceding, and at their quarterly general meeting in April a complete account of such receipts and expenditure for the financial year ending the 31st March last preceding, together

Budget Estimates. with a budget estimate of the income and expenditure of the municipality for the financial year then just commenced."

(i) in section 94 the word "public" shall be inserted before the word "inspection."

Amendment of section 94.

SCHEDULE (see Section 3).

Enactment.	Subject.	Extent of Repeal.
Bombay Act VI of 1873	For the better management of municipal affairs in mofussil towns and cities.	<p>In Section 3 the words and figures "by Regulation XVI. of 1827, or."</p> <p>Sections 4 to 16, both inclusive.</p> <p>In section 17, clause (f), the two last words.</p> <p>Section 19, clause 1, and section 20.</p> <p>In section 22 the words and figures "The rates of such fees shall be specified in the rules contemplated in section 14 of this Act."</p> <p>In section 23 the words "with the sanction of the Governor in Council or any officer duly authorized by him."</p> <p>Sections 70, 72 and 86.</p> <p>In section 87, clause 2, the words "Collectors and other."</p> <p>Sections 91, 92 and 93.</p> <p>In section 94 the word "similarly."</p> <p>Sections 95, 96, 97, 98 and 99.</p>
Bombay Act I. of 1879.	To facilitate the introduction of the Bombay District Municipal Act into Sind.	The whole.

STATEMENT OF OBJECTS AND REASONS.

Existing Municipal Law.

The enactment which for ten years past has regulated the constitution, powers and proceedings of municipal bodies in this presidency—except the City of Bombay and Sind—is the Bombay District Municipal Act (Bombay Act VI. of 1873). Since the 1st October 1878 this Act has also been in force, under the provisions of Bombay Act I. of 1879, in Sind.

2. The working of the Act has been upon the whole satisfactory and no occasion has arisen for any alteration of the administrative portions of it. But it having been determined to introduce the elective system in the constitution of the boards entrusted with the expenditure of local funds, it is fit and expedient that the same privilege be extended to municipal bodies. The present Act (section 7, clause 2), indeed, permits of this measure being adopted to some extent, and to that extent the appointment of non-official Commissioners by election in all City Municipalities has been already provided for by the Governor in Council, with effect from the 1st April 1883. The law as it at present stands is, however, defective, (1) in that it allows of election only in City Municipalities, and (2) in that its general provisions as to the constitution of municipalities and their powers, duties and liabilities are unsuited to bodies mainly or largely composed of elected members.

Reasons for Amendment.

3. Simultaneously, therefore, with the introduction of the Local Boards Bill it is deemed desirable to introduce this Bill for the purpose of amending the District Municipal Act. The object which it is intended to compass is the repeal and re-enactment in a new shape of so much of the present municipal law as relates to (1) the constitution of municipalities, (2) their rules and bye-laws, and (3) the control to be exercised over their proceedings.

4. The opportunity will also be taken of placing the municipal law in the Province of Sind in precisely the same condition as in the rest of the presidency. This it is proposed to do by repealing Bombay Act I. of 1879, an Act which was introduced to facilitate the introduction of the District Municipal Act into Sind by clearing away some legal difficulties which arose in connection with it, and which has now served its purpose. The result will be that if this Bill becomes law, the new enactment and what will remain of the District Municipal Act of 1873 will together comprise the entire municipal law in force in Sind, as in the rest of the presidency.

5. The above remarks sufficiently explain the preliminary chapter of the Bill.

Constitution of Municipalities.

6. The second chapter deals with the constitution of municipalities. The sections 5—9 which treat of the formation of municipal districts do not materially alter the present law upon this point, nor is any change contemplated in the provisions relating to temporary municipalities (sections 7 and 13). But as regards permanent municipalities the proposed changes are great and important.

7. In the first place the existing nomenclature of "City" and "Town" municipalities is abolished, and it is proposed that all permanent municipalities, except a few which will be presently mentioned, shall consist partly of elective and partly of nominee commissioners (section 10), and that the proportion of the former shall not be less than one-half of the whole. In such municipalities there will be no *ex-officio* commissioners and not more than one-half of the nominee commissioners may be salaried servants of Government; and should it be found practicable and desirable, there will be nothing to prevent the entire withdrawal of the official element in these bodies or the nomination of all their members by election.

8. The number of commissioners in each municipality, and subject to the above-mentioned minimum the proportion therein of elective commissioners, is left to be fixed from time to time by the Governor in Council. The size and importance of municipal districts and the condition and civic advancement of their inhabitants vary so greatly that no hard-and-fast rule could be safely laid down in the Act on these points. So also the framing of rules for regulating elections and the qualifications of candidates and voters has been left, as in the present District Municipal Act, to Government (section 11 (c)). The constituency to be invested with the franchise must in the first instance, of necessity, be a small one; but as the system becomes more known and, with the spread of education and enlightenment, the privilege of electing a representative to the municipal commission of their native place becomes more and more appreciated by the people, the right of voting will have to be more and more extensively conferred. Again the qualifications which will give a suitable body of electors in one town may be inapplicable to the circumstances of another. To allow for such elasticity as will thus be necessary in the provisions concerning the qualifications of voters, the only resource is to empower some independent authority like the Governor in Council from time to time to determine the classes of persons who shall be entitled to the franchise.

9. The foregoing observations apply generally to all permanent municipalities. But it is necessary to except from the provisions relating to them, and to make a special provision for the constitution of municipalities in municipal districts which are so small or so remote, or in so backward a state, as to be unfit for enjoyment of the privileges of more advanced areas. For such exceptional districts, the number of which is not likely to be large, it is proposed (section 12) to give authority to the Governor in Council to determine the constitution of the municipalities as he shall deem best in each case.

Powers of Leasing.

10. Section 14 of the Bill is a technical section re-enacting for the most part section 5 and clause 2 of section 24 of the present Act; but the opportunity has been taken of limiting the power of municipalities to lease as well as to sell immoveable property vested in them. The present Act authorizes them in general terms to lease such property, and it has been found that some municipalities have taken advantage of this provision to lease land in perpetuity at a merely nominal rent. Such leases amount in effect to an out-and-out disposal of the property and no doubt were not intended by the legislature. Following the provision in the Local Boards' Bill and in similar English enactments, it is proposed now to limit the power of leasing, except with the previous sanction of the Commissioner of the division, to a term of three years.

General Provisions.

11. Sections 15—22 contain certain provisions relating to municipal commissioners and municipal elections, which being of general applicability it has been deemed expedient to insert in the Bill. Section 19 lays the duty of determining all questions as to the validity of elections on the District Judge.

Presidents and Vice-Presidents.

12. Another important change which is proposed in the constitution of municipalities is with respect to their executive functionaries. The present Act confers a very large share of executive power upon the president or the vice-president or the chairman, or, in town municipalities, on one or more commissioners. In the altered and much more independent position which municipalities will in future occupy, it is thought that all the duties and powers imposed and conferred by the Act should be imposed and conferred in the first instance upon the general body of the commissioners themselves. They will be empowered to delegate these duties and powers to committees

as they think fit, and by their rules may invest their president and executive officers with certain authority, but all these details will be left entirely to their own discretion.

13. Accordingly the office of chairman has been done away with as being unnecessary when either the president or, if the president is a salaried officer of Government, the vice-president, in his absence, will perform all the duties and exercise all the powers that may be performed or exercised by any chief individual head; and the president's duties (section 28) have been carefully circumscribed. The president must be a municipal commissioner (section 27) and will ordinarily be appointed by Government, but may, if Government so direct, be elected by the municipality. In either case he may or may not be a salaried servant of Government, but if he is, a vice-president is to be elected by the municipality subject (unless Government otherwise direct) to the approval of Government, to whom the president may, when he is absent, depute such duties and powers as he thinks fit. The provisions in the Bill as to presidents and vice-presidents are similar, in every respect, to the corresponding provisions in the Local Boards' Bill.

Conduct of Business.

14. The regulations for the conduct of business contained in section 27 of the Bill are founded upon sections 11, 92 and 93 of the present Act, with such alterations and additions as have appeared desirable in order to present a simple and intelligible basis for the construction of systems suitable to the requirements of either large or small municipalities constituted under the new law. Subject to these general regulations, each municipality will be left free to frame its own rules for the conduct of business.

Rules and Bye-laws.

15. It has been found expedient to revise also the sections of the present Act (sections 14, 70, 72 and 95) which relate to rules and bye-laws. It seems desirable that the rules and the bye-laws should not be mixed up together as they are at present, and that the different matters for which they ought to provide should be more carefully and more methodically stated. This has been attempted, as regards rules, in section 30 of the Bill, and, as regards bye-laws, in section 31.

16. The power to make bye-laws is confined to municipalities in municipal districts containing not less than ten thousand inhabitants, and in any other municipal districts to which the Governor in Council thinks fit to extend all the provisions of that chapter (see section 27 of the present Act as amended by section 44 (c) of the Bill). As the framing of rules and bye-laws (of the latter especially) is to some extent a legislative act, requiring an acquaintance with legal forms and the general enactments of law, it is necessary that the rules and bye-laws drawn up by municipalities should not have effect until they have been approved by some central authority who can command the services of able legal advisers. For this reason it is proposed still to require that the sanction of the Governor in Council shall be obtained to all municipal rules and bye-laws.

Control.

17. The official connection of all the principal local authorities with the municipalities of their respective districts, and the circumstance that a considerable proportion of the municipal commissioners have up to the present time been official persons, have rendered the exercise of independent control over those bodies by the local officers or by Government hitherto unnecessary. Nevertheless the present Act, in its sections 91 and 98, invests Government and the Police Commissioners with certain powers, which in certain contingencies it would be their duty to exercise. These two sections and section 96, which gives an extensive right of appeal to the present *ex-officio* presidents and vice-presidents, it is proposed to repeal, and in their place and in substitution of the abolished *ex-officio* element in the constitu-

tion of the municipalities, this Bill provides (sections 34—40) for a system of oversight and control on the part of the Governor in Council and local officials similar in every way to that proposed in the Local Boards' Bill and explained in the Statement of Objects and Reasons thereto annexed.

Miscellaneous.

18. In the last part of the Bill, section 44 is inserted in the place of sections 86 and 97 of the principal act, which are proposed for repeal (*vide* the schedule). Both these sections deal with suits against municipalities. The latter appears to be unnecessary as there is nothing in the principal Act or in the present Bill which would bar any aggrieved person's ordinary remedy in the civil courts, and the former is reproduced in section 44 of the bill in clearer language.

19. The object of section 45 is to amend the unrepealed portions of the District Municipal Act in such a way as to bring them into harmony with the new municipal law and so as to correct certain defects in them which experience of the working of the Act has brought to light. The most important changes are in sections 3, 17, 21, 24 and 88.

20. The amendments proposed in sections 3 and 17 are with a view of defining more accurately the class of lands and streets or roads which vest in municipalities. The amended definition of the word "street" eliminates the special rule of prescription contained in the present Act and leaves all questions as to the right of the public to the use of roads or ways to be decided, as they should be, by the general law of the country. The introduction in section 17, clause (f) of the words "not being portions of provincial highroads or trunk roads specially reserved by Government" (section 45 (b) of the Bill) will enable Government to relieve municipalities, when it is thought necessary, of responsibility for the maintenance of portions of Imperial or Local Fund roads which traverse their districts. In some instances considerable lengths of such roads have to be included in municipal districts, and not only are the municipalities not equal to the burden of maintaining them, but it would also be unreasonable to require them to do so.

21. In the said definition and also in clause (f) of section 17 it is proposed to omit all mention of "open spaces." If such spaces are "squares" or "courts" or "alleys" they will be included, by the amended definition, in the term "street"; but if they are not spaces of this description they will, as a rule, not be areas such as ought to vest in municipalities. They will either be in the enjoyment of some land-holder, or else under section 37 of the Bombay Land Revenue Code they vest in Government. In the latter case, Government can always, under section 17 clause (e) of the District Municipal Act, transfer any such open space to the municipality, if necessary.

22. The additional clause which it is proposed to add to section 21 of the present Act relates to taxes levied by municipalities on pilgrims. It has been brought to the notice of Government that these taxes, owing to the greatness of the number of pilgrims, generally yield large revenues which are in some instances out of proportion to the local requirements of the small municipal districts in which they are levied. Such taxes are, it is true, generally expended by the municipalities on buildings and other works, and arrangements for the convenience and health of the pilgrims. But these municipalities have no authority beyond the limits of the municipal districts in which they are respectively established, whilst the money realized from the pilgrims might often be perhaps even more usefully expended in their cause in erecting dharmshálas and maintaining and improving the roads and on other similar purposes, outside of such districts, but in their neighbourhood, than within them. It is proposed, therefore, to empower Government, whenever they think fit, to require such municipalities to assign a portion of the pilgrim tax to the district or taluka local board, having authority in the neighbourhood for expenditure by such board on objects of the kind above mentioned.

23. The amended section 24 seeks to define (1) the obligatory and (2) the discretionary functions of municipal bodies. Under the former heading are ranged all matters which are essential to the health, safety, convenience and well-being of the population of a municipal district,—matters which every resident of a town or city under municipal government has a right to expect adequate provision to be made for in return for the rates, taxes and regulations which are imposed upon him. Under the latter are placed matters which are legitimate objects of expenditure from municipal revenues, but which are not absolutely necessary in every municipal district.

Police.

24. It will be noticed that all charges on account of Police have been omitted from each of these headings. In accordance with a recent decision of the Government of India it is proposed to relieve municipalities of these charges, and in lieu thereof to impose upon them the obligation of establishing and maintaining middle class and primary schools.

Education.

25. But as in the case of local boards so also in the case of municipalities the time has not yet come when Government can with safety resign the administration of public education unreservedly into their hands. The management, control and administration of every public institution maintained out of municipal property or funds is vested by the last paragraph of the amended section 27 in the municipality which maintains the same, and this, as a general rule, seems just and reasonable. But the interests of the public at large in the maintenance of middle class and primary schools on a uniform standard of efficiency are so great, and the necessity for inspection, management and control by the Government Educational department so obvious, that an exception must be made of educational institutions.

Accounts and Budgets.

26. The amended clause 1 of section 88 of the present Act will throw upon the general body of each municipality, instead of upon their president as at present, the duty of having regular accounts and budget estimates prepared. This change is in harmony with the several other provisions of the proposed new law which vest all powers and responsibilities in the municipal commissioners themselves instead of in individual functionaries, leaving it to them to make such arrangements for their exercise or fulfilment or, in certain cases, for their delegation, as they think fit.

(Signed) J. B. PEILE.

9th July 1883.

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

C. G. W. MACPHERSON,
Under Secretary to Government.

Poona, 9th July 1883.

THE



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PART V.

PROCEEDINGS

OF THE

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