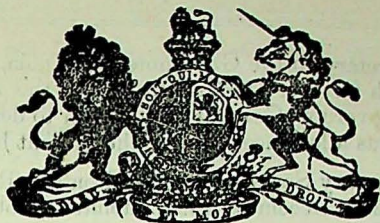


THE



Bombay Government Gazette.

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

PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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

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

The Council met at Bombay on Wednesday the 7th day of March 1888.

PRESENT.

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

Lieut.-General His Royal Highness the DUKE OF CONNAUGHT, K.G., K.T., K.P., G.C.I.E., G.C.S.I., G.C.M.G., C.B., A.D.C.

The Honourable J. B. RICHEY, C.S.I.

The Honourable R. WEST.

The Honourable the ADVOCATE-GENERAL.

The Honourable KASHINATH TRIMBAK TELANG, C.I.E.

The Honourable F. FORBES ADAM, C.I.E.

The Honourable J. R. NAYLOR.

The Honourable Ráo Bahádur MAHADEV WASUDEV BARVE, C.I.E.

The Honourable PHEROZESHAH MERVANJI MEHTA, M.A.

Papers presented to the Council.

The following papers were presented to the Council:—

1. Letter from the Secretary to the Government of India, Legislative Department, No. 1678, dated 6th October 1887, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to amend the law for the periodical inspection and the management by competent Engineers of Boilers and Prime-movers in the Presidency of Bombay.
2. Letter from the Chairman, Municipal Corporation, Bombay, No. 1413, dated 25th October 1887, submitting observations on the City of Bombay Municipal Bill.

3. Letter from the Secretary to the Government of India, Legislative Department, No. 1820, dated 27th October 1887, stating that the assent of His Excellency the Viceroy and Governor General to the Bill to declare and amend the Law relating to Toda Giras allowances has for the present been withheld.
4. Letter from the Honorary Secretaries of the Bombay Rate-payers and Residents' Association, dated 2nd December 1887, submitting observations on the City of Bombay Municipal Bill.
5. Letter from the Secretary to the Government of India, Legislative Department, No. 2034, dated 21st December, 1887, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to amend Bombay Act No. VI of 1863.
6. Letter from the Secretary to the Government of India, Legislative Department, No. 2035, dated 21st December 1887, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to consolidate and amend the Law for the prevention of Gambling in the Presidency of Bombay.
7. Report of the Select Committee appointed to consider and report on the Bill to consolidate and amend the Law relating to the Municipal Government of the City of Bombay.
8. Letter from the Secretary to the Government of India, Legislative Department, No. 74, dated 19th January 1888, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to amend the Bombay Hereditary Offices Act so far as it relates to Mata-dars.
9. Letter from the Chairman, Municipal Corporation, Bombay, No. 2428, dated 2nd March 1888, submitting the views of the Corporation, regarding the amended Municipal Bill No: IV of 1887.

The City of Bombay Municipal Bill.

The Honourable Mr. NAYLOR moved the second reading of the City of Bombay Municipal Bill, and in so doing said:—Your Excellency,—In

Mr. Naylor moves the second reading of Bill No. 4 of 1887.

proposing the second reading of the Bill to consolidate and amend the law relating to the municipal government of the city of Bombay, I do not think it is necessary that I should trouble the Council with many remarks. I explained, when asking the Council to read the Bill the first time, what its objects were. Since then, it has been very carefully considered and amended by the Select Committee appointed by the Council for this purpose, and the result of their labours is before us in the shape of an unusually lengthy report and of an amended Bill, which bears evidence on every page of it of the thoroughness of the Committee's work. The lamented death of Sir Maxwell Melvill reduced the numbers of the Select Committee from six to five, and it is a circumstance worthy of mention that of the five members of the Committee who remained, the majority were Indian gentlemen. This is, I believe, the first occasion in the history of this Council on which this has occurred. Another happy feature of the composition of the Select Committee is, that of the three Indian gentlemen who, with the late acting Advocate-General and myself, constituted it, one was a Hindu, one a Mahomedan, and the third a Pársi. A more completely representative committee could scarcely have been named on whatever principle nominations to this Council might be made; and when I add that two of my Indian colleagues are members of the present Municipal Corporation, that one of them was for a considerable period the very highly respected chairman of that body, and that three of the members of the Committee were lawyers of long standing, who enjoy a large practice in the city of Bombay, I think I shall have said more than enough to satisfy the other honourable members of this Council that the Bill, in the shape in which it has left the hands of the Select Committee, is worthy, as to all matters on which the members of that Committee were unanimous, of their ready assent and acceptance. The Committee were greatly assisted in their labours by the very large amount of criticism to which the Bill has been subjected outside of this Council. Independently of the legal opinions of

eminent solicitors and, in one instance, of counsel, which have been obtained and published regarding the provisions of the Bill, the Corporation forwarded to Government a very lengthy exposition of their views and wishes with regard to it, and an elaborate table of suggested additions and amendments. It was obviously impossible for the Select Committee, in their report, to give the reasons which led them either to adopt or not to adopt each of the innumerable suggestions thus submitted for their consideration; but each one of those suggestions was carefully weighed and discussed, and disposed of in accordance with the views of a majority.

Your Excellency, the outcome of the Committee's labours appears to me to be that the scope, the form, and the general provisions of the Bill as introduced, have been accepted, but that large and important changes have been made in two directions. In the first place, endeavour has been made to give to the citizens of Bombay, through their representatives, the Municipal Council and the Standing Committee, as large a measure of self-government as is compatible with the system of the institution with which we have to deal and with the safeguards ordinarily retained in legislation concerning local bodies. And, in the second place, every provision of the Bill which may tend to the annoyance or inconvenience of residents of the city, or to the injury of their just rights and privileges, has been carefully reviewed for the purpose of so modifying it, or of hedging it in with such precautions, as to deprive it, as far as is reasonably possible, of any objectionable operation. I would like to say a few words on each of these two points. The test of the extent to which the Bill confers the right of self-government is to be sought in the powers with which it invests the Council and the Standing Committee. Honourable members are in possession of a set of printed tables, which exhibit the powers vested in each of the municipal authorities and in Government under the existing law and under the amended Bill respectively. In the case of Government, those tables show, that of the existing 49 powers which the Governor in Council exercises, 29 only have been continued to him under the Bill, 8 have been abrogated, 7 have been transferred to the Council, 3 to the Standing Committee, and 2 to the Commissioner. Amongst the powers which have not been continued to Government are the following important ones: to disallow rules framed by the Corporation or the Town Council for the conduct of their business; to appoint the Chairman of the Town Council; to prescribe new scales of rates and prices for water-supply; to sanction the rates of license-fees; to sanction the construction of new water-works and the provision of new places for disposal of the dead. It is true that the Bill confers 21 new powers on Government, but these almost all concern matters which have no place at all in the present Municipal Acts. In only two instances are powers conferred by the Bill on Government which at present vest in the Corporation. These are (1) the appointment of auditors of the municipal accounts, and (2) the sanctioning of rules for granting pensions to municipal officers and servants; and the transfer of each of these powers has been proposed for special reasons. The Municipal Corporation have under the present Acts only 19 powers expressly conferred upon them. Under the Bill, 58 are conferred on the Council; and of these, 15 have been continued out of the Corporation's present 19 powers. Of the remaining 4 powers of the Corporation under the existing law, 2 have been transferred by the Bill, as I have just stated, to Government; the other 2, which related to the carrying out of improvements in public streets and the enlargement of drains, have been transferred to the Commissioner, in accordance with the general principle that the entire executive power vests in that authority. The Town Council has 55 express powers under the present Acts. Of these 15 are transferred by the Bill to the Council and 11 to the Commissioner. Under the Bill, 80 powers are conferred on the Standing Committee, of which 52 are new powers not possessed by the Town Council. The Commissioner has 119 powers under the existing law. The Bill proposes to deprive him of 18 of these, by transferring 4 to the Council, 13 to the Standing Committee, and 1 to the Chief Presidency Magistrate. Under the Bill, the Commissioner will have 183 powers, of which 82 will be such as he does not possess under the present law. Of these 82 powers, 65 are entirely new, *i.e.*, they do not exist at all in the present Acts, 2 are transferred from Government, 4 from the Corporation, and 10 from the Town Council. The 2 transferred from Government are such as can be exercised by the Commissioner with more convenience to the public than by Government. Of the 4 transferred from the Corporation, I have already explained that 2 belong to him as being a part of the executive power which vests solely in him. The other 2 relate to the disposal of municipal property up to a limited

value or extent, as to which the present Acts make no express provision, but the power of disposal vests, presumably, in the Corporation alone. The 10 powers transferred to the Commissioner from the Town Council are of a miscellaneous nature; they are such as, for one reason or other, have appeared to vest more fittingly in the Commissioner than in the Standing Committee. In one instance, the transfer from the Town Council to the Commissioner is due to an oversight, which I shall ask the Council, when we are considering the Bill in detail, to set right. The redistribution of powers in the Bill has been made with reference to the principles explained in para. 51 of the Select Committee's report. In the existing Acts it is difficult to trace any principle upon which powers were conferred on the several municipal authorities. Hence it is inevitable that there should be many interchanges in the Bill. But the brief examination of the tables, into which I have entered, clearly indicates that the powers, both of the Council and of the Standing Committee, are very considerably increased by the Bill, partly by divesting Government and the Commissioner of powers hitherto vested in them, and partly by conferring on those two bodies important new powers. It would occupy much time to pursue this subject in detail; and as honourable members have, no doubt, examined the Bill for themselves, it would serve no useful purpose for me to do so. I will only add on this point that the Bill, if it be passed in substantially its present shape, will add largely to the authority of the Council and of the Standing Committee, without depriving the Government, on the one hand, of the controlling power which should properly belong to some authority superior to the Council; or the Commissioner, on the other hand, of the several powers which, as the executive authority of the Municipality, it is essential for him to possess. With regard to the portions of the Bill which concern the convenience, rights, and privileges of the people, it will be remembered that, when moving the first reading of the Bill, I specially invited the attention of native gentlemen, who interest themselves in the matter, to the provisions in the chapters relating to drainage, water-supply, buildings, and sanitation, with a view to the correction of anything in them which might be likely to operate with undue severity. My honourable friend, Mr. Telang, has given much consideration to these chapters, and we have introduced several amendments in them at his suggestion, which, I trust, will render their operation as little irksome to the people, whose interests my honourable friend has so much at heart, as is possible. But, after all is done which can reasonably be done in this direction, it is inevitable that large powers be left in the hands of the executive officers, and it will, of course, sometimes happen that those powers will be abused, or used without due consideration. Against such a contingency the readiest remedy in a large city like Bombay is publicity; and with the rapidly growing intelligence of the citizens of Bombay, it is not probable, I think, that there will be much toleration of a misuse by executive municipal officers and servants of the authority with which the law must necessarily invest them for the accomplishment of its purposes. But in large matters, where private rights and interests are likely to be affected by any measure which the Municipal Commissioner is minded to carry out, or by any order which he proposes to enforce, an additional safeguard can be obtained by requiring that he shall not take action without the previous approval of the Standing Committee. In many instances, therefore, the Select Committee have inserted this proviso, where it was not previously inserted; and upon the whole it will, I think, be apparent to the Council that very little has been left undone by the Select Committee, which could be done, to render the executive provisions of the Bill reasonably unobjectionable. I am afraid that the large number of amendments, of which notice has been given for discussion when we proceed to consider the Bill in detail, may give rise to an impression that the work of the Select Committee is not by any means so complete as I have described it. I must, however, explain that some of those amendments relate to points which were not brought forward in Select Committee at all, and which, if they had been brought forward there, would probably have been satisfactorily disposed of by the Committee. The rest of the amendments concern points which were very fully considered in Select Committee, but upon which we were unfortunately unable to come to an unanimous decision. The only course, in that case, was for the members of the Committee, who were in a minority, to reserve to themselves the right to take the opinion of the full Council on any disputed question, which they deemed to be of material importance. With regard to a Bill of such length, and concerning matters of such great local interest as this one, it was to be expected that there would be great diversity of opinion; and I esteem myself fortunate in having met with unanimity upon so large a portion of the measure as that which is not challenged by any of the amendments before us. The proper time

for stating my views upon the several amendments will be when they are moved and explained by the honourable members who have respectively given notice of them, and I will not now anticipate what I shall then have to say. My duty at present is to ask the Council to accept the Bill, as amended by the Select Committee, as a measure which, subject to any alterations which may be hereafter imported into it by this Council, will adequately meet the wants of this large and ever-increasing city, will place its municipal government upon a sound, effective and satisfactory footing, and will enhance the importance and power for good of the assembly, principally elected by the votes of the residents of the city, which is at the head of the municipal constitution. I regret that the final views of His Excellency the Governor General in Council upon the question of jurisdiction in municipal civil cases, which is referred to in para. 64 of the Select Committee's report, have not yet been received. It is understood, however, that a letter from the Government of India is now on its way on the subject, and I hope that, before the Council has completed the consideration of the Bill in detail, it will be possible to inform honourable members of the manner in which the legal difficulties in this matter are to be met. I beg now to propose that the Bill No. 4 of 1887 be read a second time.

The Honourable the ADVOCATE-GENERAL said:—Your Excellency,—I had not the advantage of being present when the Bill was introduced, but I should like to take the opportunity of saying a few words upon its general principles before we proceed to discuss its amendments in detail. I think it is necessary to be a member of the legal profession to appreciate a Bill of such immense complexity. I do not think there are ten men in the profession in England who would have ventured to undertake to draft it. Therefore, I feel sure that the honourable member will not consider the amendments proposed to the Bill as involving any unfair criticism of the conclusions he has arrived at; for I think it is only by the discussion of such amendments that one can reach a satisfactory result in dealing with such a complicated mass of details. Of the fact recited in the preamble that it is necessary to amend the Bill for the better government of Bombay, no men can feel more absolutely convinced than those who practise in the High Court, and have struggled to arrive at an intelligent interpretation of the stratified series of enactments which at present exist. There are one or two sections on which no one can put any interpretation whatever; therefore we think it will be a great advantage to all of us, especially those who have to deal with the interpretation of those sections, to have intelligible sections substituted for them. I think this Bill halts, and unnecessarily so, between two opinions. The time will probably come hereafter when the Municipality will be able to conduct its own affairs entirely, and may fairly claim to appoint such officers as the Municipal Commissioner. At present that power is not asked for, and it would be unwise to force upon the Municipality a power for which they have not asked; but I fear the result will be to introduce an element of friction into the Bill. We shall modify this as much as possible by amendments. It has been modified to a great extent by the Select Committee, who, I think, have proceeded on a perfectly correct principle as to the distribution of powers; but that that division of powers has not in the opinion of members of the Council been completely carried out on the principle laid down by the Committee is evidenced by the various amendments proposed. Considering the immense complexity of the measure, it would be crediting any man with superhuman powers to assume that the distribution of powers made by him could obtain unqualified assent from all parties interested. It is too sanguine to suppose that the distribution made by this Council will do it; but I hope we shall go a long way towards it, and that by the time the Bill leaves the Council the various functionaries will have those powers allotted to them which the 51st section of the report of the Select Committee suggests they should have. I do not think this is the time, as Mr. Naylor said, to consider the amendments in detail; but, perhaps, it may be as well to say something on the principle of the amendments. Those I propose myself fall into three classes—the first being on the question of constitution. I have the misfortune of not being able to agree with the names the honourable member who drafted the Bill has given to the Municipal body. I purpose moving, and in this I shall have the support of everybody in Bombay, whether European or Native, with whom I have conversed on the subject, that instead of styling the Municipal body the Town Council it shall be called the Corporation; and I think I shall be able to show when we come to details that it is owing to a misapprehension of the English law and practice on the subject that any change was made in that respect. I am in favour of calling the Town Council the Standing Committee of the Corporation: that change of designation emphasises a very import.

ant constitutional point. I think a very great deal of harm was done by the old name. There is a great deal in a name, a very high authority to the contrary notwithstanding; and the designation of Town Council very often led that body to consider itself a sort of House of Lords—a distinct body from the Corporation, and occasionally at rivalry with it. I agree with the honourable member that the position they should occupy is that which the change of name will provide. I propose a further change of name, I do not know whether it will meet with the approval of the Council; but, in order to bring into prominence what I consider is the true position, I propose to restore the old name of mayor instead of that of either chairman or president. It existed in this city many years before either president or chairman were ever dreamt of, and this would bring the nomenclature into unison with that prevailing, not only in England; but on the Continent of Europe. Then there is a second class of amendments I have to move, the object of which is to effectuate the distinctions which the Committee has drawn as to the assignation of powers, and to correct the assignation when not in accordance with that principle. I have a third class of amendments, which refers to the interests of the general body of citizens, whom the honourable member has already mentioned, who have no official representative. A great deal has been done for them, but more remains to be done. These amendments refer to certain matters of law—matters which have been forced upon my attention by what I have myself seen in the High Court—the harsh way in which certain provisions, which are re-introduced in the present Bill, are at present worked, and the manner in which the private interest of private persons has been sacrificed without any corresponding advantage to the Municipality. The excessive powers given have frequently led the Municipality into disastrous litigation, and the High Court has had to correct its errors in the exercise of the too extensive powers under existing Acts.

The Honourable Mr. PHEROZESHAH MEHTA:—Your Excellency,—The Bill for the Council is of such great importance, as well as of such great local and general interest, and it is so likely, if passed into law, to enjoy a tenure of some permanency, that I think it desirable that I should state the reasons for which I find myself able to vote for its second reading. I believe there are still several objectionable features clinging to it emerging from the operation which it has undergone at the hands of the Select Committee. But I have great faith in the liberal tendencies of your Lordship's Government, and I am extremely hopeful that the detailed discussion in Council will succeed in removing a great many of these objectionable features. The Bill has been introduced for the purpose of accomplishing two main objects. One of them is the consolidation of the several Municipal enactments relating to Bombay spread over the statute-book, and the arrangement of the different provisions on a logical and systematic method. With regard to this object, I think your Lordship's Government may well congratulate themselves on the excellence and thoroughness of the work done in this respect by the honourable member in charge of this Bill. I should have preferred to have left it to so many honourable members whom I see before me infinitely better qualified than myself to speak on this point. But I have had practical experience of the difficulties and inconveniences of the present state of the Municipal law in regard to order and arrangement, and I have had the opportunity of closely and minutely studying the Bill when in Select Committee. I think it is therefore not inappropriate that I should bear my testimony, for whatever it may be worth, to the success with which the task of consolidation and arrangement has been performed. Such a work required great ability and great industry, and both seem to me to have been unsparingly bestowed to make it as complete as possible. I anticipate, my Lord, great benefits and advantages from it in the way of easily understanding and working the law. But, my Lord, I should have unhesitatingly sacrificed all these benefits and advantages if the Bill was to pass as originally framed and introduced in Council. For, in its original form, I cannot but regard it as a distinctly retrograde measure. I am aware that this description of it is disputed. But that it is a true and correct description can, I think, be shown without much difficulty. The constitutional portion of our Municipal law is rightly considered to be its most important portion; it is the keystone of the whole arch, for, however excellent and elaborate the other provisions, they would be useless unless the forces to work them were properly and judiciously organized. Now it can be affirmed, without fear of serious contradiction, that the constitutional lines on which our Municipal administration has been carried on since the present Act was passed, have been these:—That the Corporation, with the help of the Town Council, was the supreme administrative body, with the

Commissioner as its sole executive officer invested with full executive power and responsibility, that the Corporation had the fullest control over the Budget, which it exercised—not simply generally, but by constant criticism and supervision, and in a way to bring home to the Commissioner that he was constantly responsible to the Corporation for the due discharge of his duties. Whether fully or clearly expressed in the Act or not, these have been the lines on which the Municipal administration of the last fifteen years has been conducted. If we may judge from the debate that took place in Council on the Bill of 1872, something like this was intended by its framers. In the somewhat animated debate that took place on the third reading of that Bill, Mr. Rogers, then one of the Executive Council, explained that “a great deal of the mistrust as to the power of the Municipal Commissioner has, I think, arisen from the wording of section 42,” but the words “entire executive power and responsibility for the purposes of this Act shall be vested in the Commissioner” do not mean to imply that he can do as he likes. He is simply the executive officer of the Corporation, with the power to carry out all that he is ordered to do by the Corporation, who must provide him with the necessary funds.” The measure of 1872 was brought in, because the previous constitution provided by Act II of 1865 had signally broken down. And when I say that the present Bill in its original form was a retrograde measure, what I substantially mean to say is that it goes back to the discredited principles of 1865, in regard to the position of the Commissioner in the constitutional scheme. The statement of the constitutional principles of the Bill bears a remarkable resemblance to the statement of the principles of the Act of 1865. It is clear from the statement of objects and reasons, as well as the speech of the honourable member in introducing the Bill, that its object and intention was to place the Municipal administration of the city in the hands of the Commissioner, controlled only generally by “the power of the purse” given to the Corporation. It was frankly admitted by the honourable member, in the discussion in the Select Committee, that it was intended the Corporation were to have no powers of criticism, initiation, or supervision, and that after the Budget grants were sanctioned, the less they met and talked the better. It is impossible not to be reminded by this account of the constitutional scheme of the Bill, of the striking resemblance it bears to the account given of the constitutional scheme of the Act of 1865. The Honourable Mr. Cassels, who introduced the Bill of 1865, described the Municipal constitution that was to be created by it in the following words:—“This Bill vests all Municipal property in Bombay in the Bench of Justices, which is for this purpose made a body corporate, having perpetual succession and a Common Seal. The justices will, therefore, exercise complete control over the Municipal fund, and the Commissioner will annually submit to the Bench a budget of estimated receipts and disbursements which the Bench may alter or modify as they deem fit, and after the Budget has been voted, no new works are to be commenced by the Commissioner without further order from the Bench. In this manner the justices will hold the purse strings, and will exercise a minute supervision over the details of all income and expenditure; but they will not be allowed so far to interfere with the responsible executive officer as to order any works to be undertaken which he has not first proposed, the initiative in this respect being reserved for the Commissioner. But should the Commissioner not faithfully and energetically perform his duties, he can at any time be removed on a suitable representation from the Bench.” This passage may well be accepted as a brief *resumé* of the constitutional features, and the arguments in their support, of the present Bill as originally introduced. Thus, I think, it cannot be gainsaid, that so far it must be regarded as a retrograde measure, endeavouring to go back from the principles of the legislation of 1872 to those of the legislation of 1865. Now, my Lord, I am ready to admit that it may be wise sometimes to retrace steps in the light of experience. Then, let us see how the constitution on the lines described by Mr. Cassels worked in actual practice; how the power of the purse was sufficient to restrain the Commissioner. Everything was done to secure it a fair trial. One of the ablest officers of the Bombay Civil Service was appointed Commissioner. The Bench was at the time composed of some of the wealthiest, the most educated, and the most enlightened members of the Bombay community, European and Native. And what was the result? I believe some at least of the honourable members of this Council cannot have forgotten the intense excitement in which the whole city was thrown in 1871 by the complete, and, according to some, most disastrous, financial breakdown of the system. I well remember the great meetings that were held in the Town Hall to consider the situation, and the sensation that was created when the chairman of the Finance Committee of the Bench, Mr. Hamilton Maxwell, got up and announced that the Municipality were bankrupt! I was

one of those who in those days, at the risk of incurring some unpopularity or rather the certainty of it, tried to obtain recognition of the services which the Commissioner had undoubtedly performed; but, after the enquiries made by Mr. Hope's Committee, it was impossible to deny that the system had ended in a complete financial failure, and that it was abundantly established that the general power of the purse and the control of the Budget had by themselves proved utterly impotent to hold the Commissioner within legal bounds, and to restrain him from bringing the city to the very brink of bankruptcy. Such was the proved result of the legislation of 1865 after a trial of six years. Let us now turn to the results of the legislation of 1872, with an elected Corporation and a Commissioner, no longer its master, but its servant, after a trial now of fifteen years. The Council need not be alarmed that I will detain it by a repetition of the numerous acknowledgments of its signal success, elicited from all quarters, and especially from the successive heads of this Government, as well as of the Government of India. The Honourable Mr. Naylor has himself fully admitted it. But he seems to labour under the impression, which, I know, is popular in some quarters, that the credit of this success is mainly due to the Commissioner. "The great success of the administration of the last twenty years," said the Honourable Mr. Naylor in his introductory speech, "is, no doubt, very largely due to the fact that the entire executive power and responsibility have been vested in the Commissioner, who is an officer specially selected by Government for this very important and difficult post." The true history, however, of this success is very different. We have seen that the result of the administration of the first six years was failure and disaster brought about by the exceptionally able officer selected by Government to wield the entire executive power and responsibility. With regard to the last fifteen years, I emphatically say that the success has been due to the fact that the Corporation has exercised constant control, criticism, and supervision, and, in many important matters, to their direct initiation. I am aware, my Lord, of the charge, not unfrequently made against the Corporation, of more talk than work. I cannot help saying that nothing can be more a superficial view of the matter. It may be quite true that we sometimes do talk a certain amount of nonsense, but where on earth is the body or assembly free from this failing? And is it not that it is generally after wading through a certain amount of confusion of thought and knowledge that you ultimately arrive at sound and practical conclusions? The success of the municipal administration for the last fifteen years is, in spite of its alleged talking proclivities, due to the Corporation in three ways:—1st, it has prevented the Commissioner from embarking on hasty, ill-considered and inappropriate schemes by its constant criticism. The fear of this criticism, reasonable and unreasonable, has done more useful negative work than is generally known or imagined. 2ndly, it has introduced great reforms in the executive departments. And, 3rdly, it has directly initiated great undertakings for the improvement and sanitation of the city. I will mention only two or three of the most prominent instances. The re-organization of the Assessment Department has been justly recognized as one of the most important events of Mr. Ollivant's administration, bringing a very large increase of revenue. Now it is not generally known that this re-organization was forced on the Executive by the action of the Corporation, led by one of their members, now unhappily deceased, the late Mr. Goculdass Jugmohundas, whose persistent efforts to expose the shortcomings of the department were at first strenuously opposed. A reform in the Engineering Department was brought about in the same way. The greatest work that the Corporation has yet undertaken—the construction of the Tansa Water Works—was undertaken by it, not at the initiation of the Municipal Commissioner, but of one of its own members. I could multiply these instances, but I think I have said enough to show that the credit of this remarkable success justly belongs, in the main, to the constitutional scheme under which the Corporation carries on the administration by the hands of its executive officer, constantly and continuously controlling, criticizing, supervising, and directing him. To revert from a scheme of such promise and performance to the discredited principles of the Act of 1865 would be a blunder indeed. But I am afraid, my Lord, I have taken up the time of the Council by talking of a dream that is dreamed and gone. Now a change, so to say, has come over the spirit of the dream, and I am glad to acknowledge that the Bill, as it comes back amended in Select Committee, is framed on sound constitutional principles. I can even go further and say that the amended Bill has fully and clearly embodied the principles which were perhaps only timidly and tentatively indicated in the Act of 1872. In my opinion, my Lord, the constitutional part of the Bill is now placed upon a satisfactory footing. When I say that, I do not forget that there are several objectionable features

clinging to it, as I have said before. The proper time to refer to them in detail will come when the Council proceeds to the detailed discussion of the Bill. But I think, my Lord, I should now refer to two or three of the most important, as they may be said to affect the principle of the Bill. One of the most important of these is contained in section 65, which I consider the keystone of the constitutional part of the Bill. Clause 3 (c) of that section gives over the whole power of the Corporation to the Commissioner in cases of what are called pressing emergency. In the first place, such a provision is excessive, even for the purpose for which it is designed; for it is difficult to conceive any case of emergency in which the Commissioner can possibly require to exercise all the powers of the Corporation,—for instance, that of levying taxes, &c. In the second place, such a provision has not been shown to be necessary by experience; no Corporation would refuse to ratify the acts of a Commissioner in a case of real emergency. The bursting of the Vohar dam is usually cited for the necessity of such a power, but the Corporation immediately sanctioned whatever was required to be done. On the other hand, experience has shown that such a power is liable to extraordinary abuse. It happens that just as there is a case the one way, there is a case the other. I am aware that the power is to be exercised subject to the sanction of the Town Council. Now, my Lord, the Commissioner in 1883 actually got the Town Council to pass this resolution, which I quote from the record of that year: "That the Corporation be recommended to sanction the payment, from surplus cash balance, of Rs. 2,768, to meet the cost of the following works urgently required for the new police quarters at Byculla:—Screen wall for women's latrines, Rs. 390; rebuilding boundary wall fallen down at the Jewish Synagogue and forming wall of lean-to sheds, Rs. 544; pavement and drain required for waste water after the cleaning down of fire-engine, Rs. 112; roof to cover way between the main stable, Rs. 685; venetians to Police Commissioner's Office, Rs. 127; roofing verandah in front of guard room, Rs. 910; total Rs. 2,768." I should mention that as a matter of fact the money had been already spent on the ground of urgency. My Lord, I think this shows that such a power is liable to be abused for irregular action. The next most important feature of an objectional character is contained in section 37, clauses (u) and (v), and is in reference to the position of the Commissioner in the Corporation. Section 43 of the present Act provides that the Commissioner shall have the right of being present at all meetings of the Corporation, but he shall not be at liberty to vote upon or move a resolution. The Bill, as originally framed, qualified him to be a member of the Corporation for all purposes. This was strongly objected to in the Select Committee, and it was decided to abandon the proviso. But it seems that the majority of the Committee were disposed to poke a little fun at the other members, and after withdrawing the original proviso, they straightway proceeded to present them with a hydra-headed monster: they gave powers in clause (v), by which the Commissioner was made into a wonderful embodiment of 72 members rolled up in one. He could jump up immediately every time a member sat down, to answer him and correct him. But, seriously, my Lord, those who have any experience of managing meetings know that such a privilege would be subversive of all order and discipline, and such a Commissioner would be an intolerable nuisance. Then, my Lord, I object most strenuously to the portion of the Bill creating a Deputy Commissioner. It utterly mars the integrity of the constitutional scheme which renders the Commissioner the *sole* executive officer, for the purpose of attaching to him sole and undivided responsibility. If it is made out that there is more work thrown on the Commissioner than he can attend to, the remedy is to give him the necessary assistance in whatever departments he may require it. The creation of a Deputy Commissioner would be only destructive of his proper position and responsibility in the constitutional scheme. These are some of the most objectionable features still surviving, but I trust that the detailed discussion in Council will lead to their elimination. Before I conclude, I should like to say a word as to the proposal of vesting executive power in sub-committees of the Council, with the Commissioner as chairman. It is said that this proposal was rejected, because the citizens of Bombay were diffident as to their capacity for real local self-government. Such is not the reason, however. I have been connected with the discussion of this question ever since 1871. In the public discussions of that time, the reformers asked for an executive Town Council. I then ventured to point out that such a remedy would be worse than the disease in a paper I read on the Municipal reform question of 1871 before the Bombay Branch of the East-Indian Association. The matter was again discussed in 1884 by the Corporation, and again when the first draft of the Bill was sent to it by Government. I took an active part in the discussions on both occasions, and the proposal I have referred

to was rejected, not because we were diffident of the capacity of real local self-government, but because it was held that real local self-government did not consist in the direct exercise of executive powers by the Corporation, by themselves or by committees. It is now, my Lord, nearly five years since the Corporation embarked on the enterprise of obtaining a further extension and strengthening of their free Municipal institutions. They were well justified in their ambition, for it is now matter of history that it was their success that suggested and secured for the whole of India the remarkable development of local self-government that was inaugurated in the time of the late Viceroy. They appointed committees, they worked hard at it themselves, and they sent up representations to Government. At one time matters looked rather gloomy. It seemed as if they were destined to look as foolish as the discontented frogs in the fable who went to pray to the gods for something better than king Log. But the alarm was only momentary. Such fears are now altogether dissipated. With the bill in its amended form, and as I trust it will be further amended in Council, the citizens of Bombay will have good reason to be thankful to your Lordship's Government for a measure which will embody provisions for further extending and strengthening their municipal institutions as wisely and liberally conceded as, I may be pardoned for saying with some pride, they have been richly deserved.

The Honourable Mr. FORBES ADAM :—Your Excellency,—When this Bill was first introduced to your Council by the Honourable Mr. Naylor in August last, I took no part in the debate that followed. In the first place, I felt that some of my colleagues possessed a much more intimate knowledge of municipal affairs than myself, and were much better able to give expression to the opinion of the public and the Corporation; and secondly, I was aware that it was your Excellency's intention not to hurry matters, but to give ample time to members of the Corporation, the public, and the press, to represent their views; and thirdly, that you proposed to refer the Bill to a Select Committee.

Although I have never had the privilege of being a member of the Corporation, I, in common with every intelligent citizen of Bombay, have taken a deep interest indirectly in municipal affairs. I have always kept myself conversant, through the press, with municipal debates, and although I have been often told that debates, as reported, are considerably cut down and that I did not read all the talking that occurred, yet I have never thought, so far as I could judge, that there appeared to be more talking than was necessary to bring out full information on the various subjects discussed—information required by many who entered on discussions in comparative ignorance of the question to be decided, and certainly not more talking than we know takes place in most other deliberative assemblies.

I have also from time to time had the advantage of conversations with those most closely interested in municipal management in Bombay and questions relating thereto.

I confess that long ago I was of opinion that a series of committees, with the Municipal Commissioner as the chairman of each committee, was the best means of educating members of the Corporation in the details of municipal duties and the best way to get the work properly carried on. But that idea did not find favour with the majority of the Corporation, and I have since arrived at the conclusion that the majority were right. It is evident that a Commissioner, sitting permanently as chairman on each committee, would have exercised a too preponderating influence; there would have been a mixing of administrative and executive functions; the Commissioner would have exercised a greater power than it would be wise to place in one man's hands. The proposal was a new departure on fresh lines. The Corporation preferred a development on old lines and, as I understand it, Mr. Ollivant was sent by them to Poona to prepare the framework of a Bill. I have heard it stated that he was sent to prepare a Bill in keeping with the expressed views of the Corporation. But I feel sure Mr. Ollivant did not so consider it. His mission, as he took it, must have been to prepare a Bill on lines as he thought best calculated to procure good government and efficient administration of the city. Putting myself in his place, I can sympathise with his point of view. He was a zealous, hard-working officer, anxious to do well for the city, and what he wanted to do he thought was what was best in the interests of the city to do. An ardent officer, no doubt, he had often found himself hindered and delayed by having to consult and carry with him a majority of a deliberative body. He preferred to be left as free as possible subject to budget restrictions. That Commissioners should be able to decide for themselves and act

promptly he considered sound and right. But while I can sympathise in some measure with Mr. Ollivant, I can see no reason why the Bill, as originally prepared, should have been accepted, even as a basis, by Government. There was something to say for standing still, a great deal to say for moving forward, but absolutely nothing to say for going back. And I consider the Bill as first introduced decidedly a retrograde measure. A Select Committee has since carefully examined it, and modified its provisions. Yet I am inclined to agree with the observations of the Honourable the Advocate-General that they have rather halted in their improvements. They have laid down the principle that the Corporation is the governing body, but all sections do not clearly bear this out. It seems to me to be now neither fish, flesh, nor fowl. I do not propose to detain the Council by going into the sections *seriatim*. I will only observe generally that it is possible so further to amend the Bill as to preserve this great principle consistently throughout without running danger of in any way interfering with the Commissioner in the unfettered performance of his executive duties. I would like to refer briefly to one or two points of detail which as I see they are dealt with in the amendments on the notice paper will be gone into more fully hereafter. I do not see any necessity of putting the power of the Corporation into the hands of the Commissioner in cases of emergency. The power is immense. I cannot conceive any case arising that would justify such a transfer of power. And there is great danger of abuse. I agree with the Honourable Mr. Mehta, that it is not desirable that the Commissioner should have permission to speak as often as he chooses during debates or to move resolutions. His presence at meetings is perhaps necessary, so that he may supply the facts that are in his possession and give information; but unless expressly called on by the Chairman, I think he may do this in one speech, and more must usually be uncalled for. The Bill provides that the Commissioner be a member of the Legislative Council and the Port Trust Board. No one will pretend to say that the duties that fall on members of the Legislative Council are arduous or such that break down a man's health. This is certainly no reflection on the Council. But still great stress has been laid on his labour as Commissioner, and why should they be added to? It seems to me useless, as useless as it would be, to make the Commissioner of Police, the Presidency Magistrate, or the Chairman of the Port Trustees a member of Council. As regards the Port Trust, there is a great deal of work to be done. Most of it has nothing to do with municipal affairs. It may be an advantage to the Port Trustees to have among them a gentleman of the ability and talents of a Commissioner, but what is the benefit to the Municipality? I believe the Chairman of the Port Trust holds a different view, but after five years' Port Trust experience my opinion is that there is not much municipal work that is advanced by the presence of the Commissioner on the Board. The actual work is chiefly done by correspondence, and if business is sometimes facilitated by the interchange of views between the Commissioner and the Chairman of the Trust, these views could just as well be interchanged were the Commissioner not a member of the Port Trust Board. There is another matter I would touch on. It has been repeatedly referred to at meetings of the Corporation. That is that the Commissioner should be bound to produce any papers asked for by the Corporation. I cannot conceive any occasion arising when it would seriously interfere with the interests of the Corporation to produce papers when asked for. On the contrary I can quite imagine occasions on which their non-production might be extremely detrimental to city interests. Discretion as to the production should rest, not with the Commission, but with the Corporation.

I come to another part of the Bill having reference to the Health Officer and the Executive Engineer. Any one who has had any thing to do with large concerns, must be fully aware of the immense importance of having one executive head—it is absolutely necessary for the smooth working of any large concern, and considering the relationship between the Health Officer, the Executive Engineer, and the Commissioner, to make him their head, and the man to whom all matters should be referred, and through whom they must approach the Council is important. But I can understand occasions arising in which it might not work advantageously for the Municipality. For instance, I can imagine a case in which the Municipal Commissioner wishes certain work done in a certain way by the Executive Engineer; but the latter, holding contrary views as to the manner in which it should be carried out, might not be able to reach the ears of the Corporation, who, if they were acquainted with both sides of the question, might favour the opinion of the Engineer. Therefore, making due provision for constituting the Commissioner the head, it would be wise to have some means by which the Engineer could have power

to approach the Corporation when he desired to do so. The Health Officer has that power, and I never heard that it worked badly. Your Excellency, I should like to say a few words as to the control of the Budget. My own opinion is that all unexpended balances should lapse at the end of the year, and be dealt with in the new Budget. My reason for thinking so is that by so doing you keep all works in progress prominently before the members of the Corporation. I believe it good for the welfare of Bombay and the benefit of the rate-payers that unexpended balances should lapse. While I am also of opinion that transfers above Rs. 500 from one Budget to another should not be expended without the sanction of the Corporation. With regard to the Controller, I share the opinion, which I have several times heard expressed by the Corporation, namely, that he should be independent of the gentleman whose accounts he controls. I think this is very necessary. It is done by all public bodies with which I am acquainted. He should be appointed by the Council, and should be responsible to the Council, and in this way a thorough check kept on the municipal accounts. Regarding Chapter 20, I should like to observe that I agree with the absolute necessity of Government retaining full control in their own hands. I am certain that Government will not seek to interfere, except in very grave cases, and the less Government interferes the better. I believe Bombay will be best managed by the rate-payers themselves. At the same time, however, I must add, that when Government wish to approach a municipal officer for the purpose of obtaining information concerning the work of the Municipality, they should do so through the Corporation, the governing body, and through the Corporation only. Your Excellency, I have heard it said that if the Bill should be amended so as to bring it into consonance with the views of the Corporation, that it would be very difficult indeed to get a member of H. M.'s Civil Service to serve as Municipal Commissioner. I cannot conceive why that should be so. Any man might be proud of such a position of managing the executive work of this great city and identifying himself with its growth and development, and I do not think really Government will ever find any difficulty in getting a suitable man when wanted. But should this surmise prove well founded, I am sure that it would be possible to find a man outside the Service well fitted to take the post. A member of the Civil Service, no matter how able he may be, coming to Bombay for the first time has still a great deal to learn, and must learn it at the expense of the Corporation and rate-payers. But it is quite possible to go into a wider field, and get a man with the necessary knowledge and experience who in previous years has obtained that knowledge and experience at the expense of some one else. I have also heard it said that if the Bill be passed amended in consonance with the views of the Corporation, that the municipal affairs of Bombay will not be properly managed, that things will remain at a stand-still. Your Excellency, I take leave to doubt this. I think any one who has watched the conduct of municipal affairs in Bombay during the past ten years must have been exceedingly pleased with the steadily increasing business capacity shown by the members of the Corporation. I think that they show greater accuracy in debate, that debates are less prolonged than formerly, that members are capable of initiating and giving effect to large schemes of improvement. I have never heard it said that any work sent up by the Commissioner to the Council or Corporation has ever been unduly delayed. I believe there are no arrears of work. My Lord, I believe, if the Bill be passed in its present form, it may ere long give rise to friction and dissatisfaction, and lead to a call for fresh legislation. But I am of opinion that if this Council pass the Bill in keeping with the views expressed by the Corporation, the representatives of the rate-payers, it will remain for many years to come a monument of wise and liberal and far-seeing legislation.

The Honourable Mr. WEST:—Your Excellency,—When recently I had the honour of being made a member of your Excellency's Government, the subject, which is a very important and wide one, was wholly new to me. But under the able instruction and the valuable suggestions of my honourable friend, Mr. Naylor, I have endeavoured to gather a general idea of the ruling principles of that measure. I think that with the modification it has received at the hands of the Committee it may generally be accepted as one which will not only carry out the views of the Government for the amelioration of the municipal condition of Bombay, but will afford the citizens of Bombay a better means of transacting public business and give them a greater interest in municipal affairs than they have hitherto had. I am, therefore, much gratified to find so great a consensus of opinion on the part of independent members of this Council, favourable to the general principles embodied in it, especially as they have been more or less modified by the recommendation of

☞ Please substitute these pages for pages 186, 187, 190, 191, 194 to 197, 200 and 201 of the *Bombay Government Gazette*, Part V, dated 25th April 1888.

the Select Committee. For my own part I think there are two or three important places in which a concession to public opinion may properly be made, more especially as your Excellency's Government, on fuller consideration of the Bill in its varied aspects and its connection with the general system of administration, has arrived at the conclusion that these changes are in themselves desirable. The general principle of the Bill, however, is apparently recognised, and according to this that the legislative and initiative force of the constitution is centred chiefly in the Municipality. It is they who are to organise the policy of the city, but the executive power is to be vested in, and exercised by the Municipal Commissioner. When one comes to details one will find this measure, as in every measure, points in which it is impossible to say precisely where darkness merges into day or day into darkness. You will find some matters which will, in the opinion of some, fall within the jurisdiction of the Corporation, which, from another point of view, will fall under the cognisance of the Commissioner. What is wanted, however, is that business shall be promoted rather than obstructed; and I apprehend that no amount of legislation can anticipate all the uncertainties of the future. Cases in which there will be possible confictions of authority are inevitable. I believe, however, that His Excellency's Council is prepared to give the fullest attention to the amendments, which are extremely numerous. In some instances they are not quite irreconcilable with one another, and it would be better if members would confer together as to what is to be done, so that some time may be saved. An adjustment of alterations that are given notice of by more than one member might be arranged. Such as are likely to be carried are those which are consistent with the principles of the Bill. The measure may well be passed, and it will be an honour to the very able and distinguished gentleman who has brought it before this Council.

The Honourable Mr. NAYLOR:—Your Excellency,—Without wishing to detain the Council at all, I should like to make a few observations. I may say at once that it does not appear to be necessary to anticipate now what I shall have to say in reply to the various proposals for the amendment of the Bill; I think I shall be saving the time of the Council if I reserve my remarks until those amendments are submitted. With regard to the Bill, as originally introduced, I wish to say, in the absence of Mr. Ollivant, who contributed so largely to the completeness of the measure, that certainly nothing was further from his mind than the idea that he was deputed to prepare a Bill in accordance with the views of the Corporation. I have not the least reason to suppose that he for a moment understood that his functions were thus limited; and I do not think he would have accepted the position upon such an understanding. He devoted himself to the preparation of the first draft Bill with great zeal and did his best to produce such a measure as would be satisfactory to all parties and for the good of the city. As to the present form of the Bill, I can only repeat what I said when it was brought forward, that our object was, as far as our power went, to introduce a Bill which would perpetuate the present system of municipal administration, but shorn of all its difficulties, which have given, or were likely to give rise to friction and misunderstanding.

Bill read a second time The Bill was then, read a second time and considered in and considered in detail. detail.

The Honourable the ADVOCATE-GENERAL moved that in section 3, clause (b), the words "as constituted under the Bombay Municipal Acts of 1872 and 1878" be omitted, and that clause (c) be omitted.

That in section 5, clause (2), lines 15 and 16, the word *Council* be omitted and the word *Corporation* inserted in lieu thereof; and that throughout the Act the word *Corporation* be substituted for the word *Council*.

In so doing the honourable gentleman said:—Your Excellency,—With reference to the change which I propose, it will be seen from the report and the long letter received from the Corporation that, although they do not attach very great importance to the change, they dislike it. What they say is this: The Corporation do not consider the change of name of any consequence, though they would perhaps be inclined to retain the old names to which the citizens have been accustomed. They also say that there is no sufficient reason for the change. That is sufficient reason for us to retain them. I do not think any serious question of principle can be said to be involved; what you want is names the people like. It is not merely the members of the present Corporation who feel this preference, but there is not a single person to whom the suggestion has been made who does not prefer the old title. I think myself that the history of the Corporation

points towards its retention. The Select Committee say it is only for some sixteen or seventeen years that the name has been used; but still that is the whole life of the Corporation, and I do not see why we should make a break in its history. Beyond this I myself think there is a certain principle in keeping old names, and in the present instance the name of Corporation keeps the Municipality of Bombay in touch with the other Municipalities established in the Empire. I think the honourable mover has mistaken the English law on the subject. Originally the Act was drawn by one who preceded me in office—a gentleman who had come out to India with very considerable experience of England and English law—and the terms he used were in accordance with the English law. I see the Committee refer to the English Municipal Corporation Act of 1882. It seems we have not followed the usual course adopted in England under that Act, namely the incorporation of the mayor, aldermen and burgesses of a borough, or the mayor, aldermen and citizens of a city. We ought to find another term instead of that of Council which in England is not the whole of the Corporation, but only their delegates. What you do here is to incorporate your seventy-two members. They are your Corporation, and I think in that more important name ought to be swallowed up the other. They discharge the duties of the Municipal Corporation and the Council, and you may select either of these two names. To my own mind it seems preferable to select the more important one—the Corporation—that is the universal term by which such bodies are known in England, and, no doubt, any one acquainted with English municipal life will acquiesce. The mayor, aldermen and burgesses were the original designation of a Corporation, but the full title is not used, so that what occurs to me is that you are introducing a distinction—which, I think, is an unhappy distinction—between the municipal corporations at home and this Municipal Corporation, which in time, we hope, may take its place as the Municipal Corporation of one of the greatest cities of the world, standing next only to the Municipal Corporation of the city of London itself. One instance of the popularity of the name—it may seem a trivial matter—is that, in cathedrals, seats are specially allotted for the members of the Town Council, but they are known as the Corporation seats. Of course, the name is not an important matter, but we should adopt that what is wished by the people themselves. What the Corporation wishes is to retain the old name, and not to be known by any other; and for this reason I propose the amendment.

The Honourable Mr. NAYLOR:—Your Excellency,—It is not a matter of serious importance whether we call the body the Corporation, or whether it be called, as is proposed in the Bill, the Municipal Council. Honourable members, who were present when the Bill was read a first time, will remember that I then stated the reason of the proposed change of the name. The Select Committee were unanimous in adopting it. The honourable members, who sat on that committee, to a large extent, represented the city of Bombay, and I should think their opinions will be accepted as a sure test of the popularity of the change. Yet it is on the question of popularity that the Honourable the Advocate-General bases his amendment. It is true the Corporation has expressed its desire to retain the name Corporation, but the term Municipal Council is more dignified and more suitable to the body which we propose to constitute. The inconvenience of the term Corporation comes out strongly when we try to give a name to a member of that body. We then are compelled to have recourse to the word Corporator or Corporationer—terms which are not pleasant to pronounce and are ugly names to bear. As regards the historical use of the word Corporation, perhaps the Honourable the Advocate-General has not read my remarks in introducing the Bill. I then explained that there is a broad distinction between the Corporation here and municipal corporations at home. A corporation at home consists of the mayor, aldermen and burgesses. Here it is a body elected by the burgesses. But although the representative body of this city is so elected, it is and will continue to be a corporation. Nevertheless it is not necessary that whenever we speak of it we should announce the fact that it is a corporation; it seems to me much better that we should have a proper name for it. The corresponding deliberative assemblies are always called Municipal Council or Town Council in England, and it is better, in my opinion, to give the Bombay body the name of the Municipal Council of Bombay.

The Honourable Mr. PHEROZESHAH MEHTA:—Your Excellency,—It is true that I voted in Select Committee for the adoption of the term 'Council' for the old name of 'Corporation'. But I did so, as a sort of compromise, to secure the present Town Council being designated 'the Standing Committee,' as it really is. I have always entertained a strong

objection to that body being called by its present name, which is not only inappropriate, but suggestive of an altogether misleading connotation for practical purposes. If the alteration in that respect be not disturbed, I have a very strong sentiment in favour of the retention of the name 'Corporation' for the larger body, by which name it has been now known for so many years, and cherished by its members and the citizens of Bombay with some pride.

The Honourable Mr. FORBES ADAM :—I think the Council should give way in this matter, as they do not lay great stress upon its importance. Corporation is an inconvenient name, but if they are prepared to give in to that inconvenience, I do not see why the Council should not study their wishes.

The Honourable the ADVOCATE-GENERAL :—I do not propose to change the name of Councillors for the individual members of the Corporation, and I do not see why the Corporation should not consist of Councillors.

The Honourable Mr. WEST :—There is no clause which provides for the designation of Councillors, that I am aware of, except as a simple derivative from Council.

The Honourable the ADVOCATE-GENERAL :—It has been introduced in connection with the election of Councillors.

The Honourable Mr. WEST :—If the suggestion of the learned Advocate-General were adopted, it would necessitate the introduction of a clause to cover that designation.

The Honourable the ADVOCATE-GENERAL :—Certainly, and it would necessitate certain consequential amendments. I should be prepared to introduce a simple definition clause to cover that designation.

His Excellency the PRESIDENT :—The matter is not of great importance and involves no principle, and I admit that personally I prefer to keep the names by which public bodies have been designated. I agree with the argument used by the Honourable the Advocate-General that it is not desirable, unless some strong cause is shown, to disturb the titular continuity of an institution which has given satisfaction to the public. Inconveniences may arise from a break of gauge, and, therefore, I would advise the honourable mover of this Bill to accept the conservative amendment of the Honourable the Advocate-General, which seems to be supported by a pretty unanimous wish of those who are most directly interested, and which does not prevent us from changing the individual designation of the members. We can obtain a Corporation composed of Councillors.

The Honourable Mr. NAYLOR :—I have pleasure, your Excellency, in accepting this suggestion.

His Excellency the PRESIDENT :—Then we need not divide upon the question.

The Honourable Mr. WEST :—Under the existing circumstances it will be necessary to provide a clause defining Councillors.

The Honourable the ADVOCATE-GENERAL :—I do not know. I think clause (1) of section 5,—the Corporation shall consist of 72 Councillors—will be quite sufficient definition.

The Honourable Mr. WEST :—It might be well to define more specifically who is and who is not a Councillor. Might I make an oral suggestion that a Councillor means a member of the Corporation duly elected or otherwise appointed.

The Honourable the ADVOCATE-GENERAL :—I do not think we could possibly improve upon that.

The Honourable Mr. WEST :—Then I understand you do not move anything with respect to clause (c).

The Honourable the ADVOCATE-GENERAL :—The honourable member is quite right. I jumped to the hasty conclusion that (c) followed (b). (Laughter.)

The Honourable Mr. WEST :—Then (c) stands.

The Honourable the ADVOCATE-GENERAL then moved "that in section 17, clause (3) be omitted." In so doing the honourable gentleman remarked :—Your Excellency, this is purely a matter of drafting. There is no objection to the Police Commissioner being a member of the Corporation, and I should be very sorry to deprive the Corporation of so useful a member. For many years past there has been no such objection, so no such clause as

this is necessary. It is an unnecessary clause, and therefore likely to do harm. It might be suggested the principle that *expressio unius est exclusio alterius* that the Advocate-General of Bombay being Advocate-General is disqualified from being a member. I do not think the present holder of that office has any desire to add to his onerous duties. But I believe my predecessors, the Honourable Mr. Justice Bayley and Mr. Scoble, were members.

The Honourable Mr. NAYLOR :—I can only say, with regard to this point, that some few years ago a question did arise in the Corporation, which was keenly discussed, as to whether the Police Commissioner was qualified or not under the present Acts. I believe in the face of legal doubts Sir Frank Souter has continued to hold office in the Corporation, and is generally considered to be one of their most useful members. The Bill, as first drafted, did not contain the sub-section to which the Honourable the Advocate-General refers. It was inserted by the Select Committee in deference to a wish expressed by the Corporation themselves, in consequence of the legal doubt to which I have alluded. Some three or four years ago, when the Corporation submitted certain draft clauses to Government, there was one among them to the same effect as this sub-section. I do not myself think that the Commissioner of Police could be held to be disqualified under the Bill as originally drafted, but it was considered by some members of the Select Committee that, in case any legal doubt should arise, this clause would remove it. Sub-section (3) was introduced in consequence.

The Honourable Mr. WEST :—I may observe that it is quite possible, looking at the matter in the abstract, that in this Bill before us clause (3) may have been introduced by a wise and far-seeing forecast, to meet an emergency when the Commissioner of Police may be employed by, or on behalf of, the Municipality. That is a possibility of the future. It would not be a bad thing to have the clause retained, particularly as it has been recommended by the Select Committee. Were we not to do so it might lead to the supposition that the Honourable the Advocate-General is wrong, and lead to some trouble for the Judges of the Small Causes Court.

The Honourable Mr. PHEROZESHAH MEHTA :—I think it would be perhaps desirable to let the proviso remain. A question was raised at one time as to the eligibility of the Commissioner of Police for membership, in consequence of the note to section 60 in the present Act to the effect 'Police Commissioner to be under the Municipal Commissioner.' I concur in the view that it is desirable that the Police Commissioner should be eligible for membership, for instead of the Commissioner, as it is argued, having undue influence over the members of the Corporation I believe the fact is that he is more amenable to the influence of the Corporation by being a member of that body than otherwise. The chances of harmonious co-operation are thereby improved.

The Honourable Mr. TELANG :—The Corporation also suggests that the clause should be struck out, but for exactly the opposite reason to that which is urged by the Honourable the Advocate-General.

His Excellency the PRESIDENT :—Do we need to divide upon the matter ?

The Honourable the ADVOCATE-GENERAL :—I dislike the clause ; but if the Council wishes to retain it, I withdraw my amendment.

The amendment was accordingly withdrawn.

The Honourable Mr. PHEROZESHAH MEHTA moved that in section 27, line 44, the word "or" be omitted, and that sub-clause (iii) of clause (e) be omitted. The Honourable gentleman said :—Your Excellency,—What I object to in this section is the word 'notoriously.' It leaves the Commissioner free to judge by mere report, and to act on hearsay. He would probably act on the information of some subordinate officer, and an entire election would be in danger of being set aside, if the report turns out unfounded in fact.

The Honourable Mr. WEST :—Then, perhaps, it would meet your views if we drop out "notoriously".

The Honourable Mr. PHEROZESHAH MEHTA :—Yes, that was the whole of the amendment I at first intended to propose. But the Honourable Mr. Naylor preferred that in that case the whole of the section should be given up, and I had no objection to meet his wishes so far.

objection to that body being called by its present name, which is not only inappropriate, but suggestive of an altogether misleading connotation for practical purposes. If the alteration in that respect be not disturbed, I have a very strong sentiment in favour of the retention of the name 'Corporation' for the larger body, by which name it has been now known for so many years, and cherished by its members and the citizens of Bombay with some pride.

The Honourable Mr. FORBES ADAM:—I think the Council should give way in this matter, as they do not lay great stress upon its importance. Corporation is an inconvenient name, but if they are prepared to give in to that inconvenience, I do not see why the Council should not study their wishes.

The Honourable the ADVOCATE-GENERAL:—I do not propose to change the name of Councillors for the individual members of the Corporation, and I do not see why the Corporation should not consist of Councillors.

The Honourable Mr. WEST:—There is no clause which provides for the designation of Councillors, that I am aware of, except as a simple derivative from Council.

The Honourable the ADVOCATE-GENERAL:—It has been introduced in connection with the election of Councillors.

The Honourable Mr. WEST:—If the suggestion of the learned Advocate-General were adopted, it would necessitate the introduction of a clause to cover that designation.

The Honourable the ADVOCATE-GENERAL:—Certainly, and it would necessitate certain consequential amendments. I should be prepared to introduce a simple definition clause to cover that designation.

His Excellency the PRESIDENT:—The matter is not of great importance and involves no principle, and I admit that personally I prefer to keep the names by which public bodies have been designated. I agree with the argument used by the Honourable the Advocate-General that it is not desirable, unless some strong cause is shown, to disturb the titular continuity of an institution which has given satisfaction to the public. Inconveniences may arise from a break of gauge, and, therefore, I would advise the honourable mover of this Bill to accept the conservative amendment of the Honourable the Advocate-General, which seems to be supported by a pretty unanimous wish of those who are most directly interested, and which does not prevent us from changing the individual designation of the members. We can obtain a Corporation composed of Councillors.

The Honourable Mr. NAYLOR:—I have pleasure, your Excellency, in accepting this suggestion.

His Excellency the PRESIDENT:—Then we need not divide upon the question.

The Honourable Mr. WEST:—Under the existing circumstances it will be necessary to provide a clause defining Councillors.

The Honourable the ADVOCATE-GENERAL:—I do not know. I think clause (1) of section 5,—the Corporation shall consist of 72 Councillors—will be quite sufficient definition.

The Honourable Mr. WEST:—It might be well to define more specifically who is and who is not a Councillor. Might I make an oral suggestion that a Councillor means a member of the Corporation duly elected or otherwise appointed.

The Honourable the ADVOCATE-GENERAL:—I do not think we could possibly improve upon that.

The Honourable Mr. WEST:—Then I understand you do not move anything with respect to clause (c).

The Honourable the ADVOCATE-GENERAL:—The honourable member is quite right. I jumped to the hasty conclusion that (c) followed (b). (Laughter.)

The Honourable Mr. WEST:—Then (c) stands.

The amendment was therefore accepted, except as regards clause (c).

The Honourable the ADVOCATE-GENERAL then moved "that in section 17, clause (3) be omitted." In so doing the honourable gentleman remarked:—Your Excellency, this is purely a matter of drafting. There is no objection to the Police Commissioner being a member of the Corporation, and I should be very sorry to deprive the Corporation of so useful a member. For many years past there has been no such objection, so no such clause as

this is necessary. It is an unnecessary clause, and therefore likely to do harm. It might be suggested the principle that *expressio unius est exclusio alterius* that the Advocate-General of Bombay being Advocate-General is disqualified from being a member. I do not think the present holder of that office has any desire to add to his onerous duties. But I believe my predecessors, the Honourable Mr. Justice Bayley and Mr. Scoble, were members.

The Honourable Mr. NAYLOR:—I can only say, with regard to this point, that some few years ago a question did arise in the Corporation, which was keenly discussed, as to whether the Police Commissioner was qualified or not under the present Acts. I believe in the face of legal doubts Sir Frank Souter has continued to hold office in the Corporation, and is generally considered to be one of their most useful members. The Bill, as first drafted, did not contain the sub-section to which the Honourable the Advocate-General refers. It was inserted by the Select Committee in deference to a wish expressed by the Corporation themselves, in consequence of the legal doubt to which I have alluded. Some three or four years ago, when the Corporation submitted certain draft clauses to Government, there was one among them to the same effect as this sub-section. I do not myself think that the Commissioner of Police could be held to be disqualified under the Bill as originally drafted, but it was considered by some members of the Select Committee that, in case any legal doubt should arise, this clause would remove it. Sub-section (3) was introduced in consequence.

The Honourable Mr. WEST:—I may observe that it is quite possible, looking at the matter in the abstract, that in this Bill before us clause (3) may have been introduced by a wise and far-seeing forecast, to meet an emergency when the Commissioner of Police may be employed by, or on behalf of, the Municipality. That is a possibility of the future. It would not be a bad thing to have the clause retained, particularly as it has been recommended by the Select Committee. Were we not to do so it might lead to the supposition that the Honourable the Advocate-General is wrong, and lead to some trouble for the Judges of the Small Causes Court.

The Honourable Mr. PHEROZESHAH MEHTA:—I think it would be perhaps desirable to let the proviso remain. A question was raised at one time as to the eligibility of the Commissioner of Police for membership, in consequence of the note to section 60 in the present Act to the effect: 'Police Commissioner to be under the Municipal Commissioner.' I concur in the view that it is desirable that the Police Commissioner should be eligible for membership, for instead of the Commissioner, as it is argued, having undue influence over the members of the Corporation I believe the fact is that he is more amenable to the influence of the Corporation by being a member of that body than otherwise. The chances of harmonious co-operation are thereby improved.

The Honourable Mr. TELANG:—The Corporation also suggests that the clause should be struck out, but for exactly the opposite reason to that which is urged by the Honourable the Advocate-General.

His Excellency the PRESIDENT:—Do we need to divide upon the matter?

The Honourable the ADVOCATE-GENERAL:—I dislike the clause; but if the Council wishes to retain it, I withdraw my amendment.

The amendment was accordingly withdrawn.

The Honourable Mr. PHEROZESHAH MEHTA moved that in section 27, line 44, the word "or" be omitted, and that sub-clause (iii) of clause (e) be omitted. The Honourable gentleman said:—Your Excellency,—What I object to in this section is the word 'notoriously.' It leaves the Commissioner free to judge by mere report, and to act on hearsay. He would probably act on the information of some subordinate officer, and an entire election would be in danger of being set aside, if the report turns out unfounded in fact.

The Honourable Mr. WEST:—Then, perhaps, it would meet your views if we drop out "notoriously".

The Honourable Mr. PHEROZESHAH MEHTA:—Yes, that was the whole of the amendment I at first intended to propose. But the Honourable Mr. Naylor preferred that in that case the whole of the section should be given up, and I had no objection to meet his wishes so far.

The Honourable Mr. NAYLOR :—The reason for the Honourable Mr. Mehta's bringing forward his amendment in the shape in which it stands was to place the Council in a position to judge, whether the clause in question should be entirely omitted, or whether only the word "notoriously" should be expunged. The procedure that the Bill provides is, that a candidate for election must be nominated by two persons qualified to vote, and unless a person is so nominated within the specified time, he cannot appear for election as a candidate. Now it occurred to the framers that it would occasionally happen that a person who was obviously and clearly disqualified might be nominated, and if no power were given to the Commissioner to refuse to accept his nomination the election proceedings would have to be carried on, and the returns of the election would have to be made in due course, and the results declared, and after all an election petition would have to be filed before the Chief Judge of the Small Causes Court to set aside the election on account of the invalid nomination which it would have been more convenient that the Commissioner should have been able to set aside in the first instance. Of course, it would be very convenient if we could have a tribunal to determine, once for all before the election takes place, whether each of the nominations is valid. But such an inquiry would occupy a considerable amount of time, and necessitate taking a good deal of evidence, and we thought it more expedient that it should generally be made after the conclusion of the election-proceedings. But where a candidate is notoriously disqualified, we thought the Commissioner should have power to decline to allow him to stand.

The Honourable the ADVOCATE-GENERAL :—The word "notoriously" alters the whole section.

The Honourable Mr. WEST :—That is what Mr. Mehta has stated. Why not substitute the word "patently", which means obviously, or without any room for reasonable dispute.

The Honourable Mr. PHEROZESHAH MEHTA :—Well, I do not see why the word 'notoriously' should alone not be taken out.

The Honourable Mr. WEST :—It should be something clear. But if you simply strike out "notoriously", the result will not be very different.

The Honourable Mr. PHEROZESHAH MEHTA :—A subordinate might give the Commissioner some hasty information, which would cause him to strike out the name of the candidate, and the result might be to upset the whole election.

The Honourable Mr. FORBES ADAM :—I do not profess to be a lawyer, but would it not do to say "after due enquiries"?

The Honourable the ADVOCATE-GENERAL :—A great deal would depend on the good sense of the Commissioner. If he had good sense, he would not accept any information without having satisfied himself as to the information being reliable. I do not see any objection to expunging the word.

The Honourable Mr. NAYLOR :—Then perhaps it will be well to take out "notoriously" and for the Honourable Mr. Mehta to withdraw his amendment.

The word "notoriously" was accordingly expunged, and the rest of the amendment withdrawn.

The Honourable Mr. TELANG :—I move an amendment, your Excellency, to clause 37, page 23, as to the publication of nominations in the newspapers. This is one of the suggestions of the Corporation, and they point out that the term "local newspapers" may be interpreted to mean the whole of them.

The Honourable Mr. NAYLOR :—Your Excellency,—Before the honourable gentleman's amendment is considered, I wish to speak to a point of order. I have not the least desire to prevent any amendment which any honourable member thinks proper to propose from being considered by this Council. But it is only fair to myself and other members of the Council who may be desirous of discussing it that every amendment to be proposed should be given notice of in distinct terms. The honourable member has, I understand, given a general notice of his intention to bring forward proposals in conformity with all the recommendations of the Corporation contained in their recent letter which is before us; but it would be better that we should know precisely the points he

wishes us to discuss. The Corporation's letter and suggested amendments have apparently been drawn by an amateur hand, and there are some of the latter which the honourable gentleman will find it unnecessary to bring before the Council, if he will examine them himself.

His Excellency the PRESIDENT:—I suppose the honourable member will admit he gave notice rather late.

The Honourable Mr. TELANG:—I sent the notice in on Saturday, your Excellency, and that is quite within time, according to the rules. I could not have sent in the notice earlier, as the Corporation's letter was only despatched on Friday evening, I believe. What I want is that the Corporation's suggestions should be considered before the Bill is passed.

His Excellency the PRESIDENT:—These amendments were not introduced two clear days before this sitting, but I understand that as they reached the honourable member himself rather late, his excuse is that he is moving them by proxy. I trust that the mover of the Bill, who shows such a complete mastery of its contents, will not insist on the objection he had a right to raise, and that he will allow the honourable member to proceed, as I am informed that he will take care to put them into proper form.

The Honourable Mr. NAYLOR:—If the honourable member will kindly undertake that before the next meeting on this Bill his additional proposals shall be sent in in due form to the Secretary in time to be printed, I shall have no objection.

The Honourable Mr. TELANG:—That depends on when the next meeting may be held.

His Excellency the PRESIDENT:—We are not likely to exhaust the whole matter at our next meeting, which will be on Saturday, and the honourable member can easily have the necessary amendments ready for that day.

The Honourable Mr. NAYLOR:—Then I waive my objection for to-day.

The Honourable Mr. TELANG:—The amendment is not a very important one; it only necessitates the removal of the article "the" in clause 2 of section 28.

The Honourable Mr. NAYLOR:—This is one of those proposals to which I take objection, because had the honourable member looked into it himself, he would have found it unnecessary to raise the question. There is a section explaining this—section 484.

The Honourable Mr. PHEROZESHAH MEHTA:—Yes, it is a matter which was cleared up before the Select Committee.

The Honourable Mr. TELANG:—Yes, I see that is quite satisfactory.

The amendment was thereupon withdrawn.

The Honourable Mr. PHEROZESHAH MEHTA moved that in section 36, lines 16 and 17, the words "within fifteen days" be substituted for the words "as soon as conveniently may be." He said:—Your Excellency,—I propose this amendment, not, as I need hardly say, out of any want of confidence in the Government, but because I think that when you are introducing a definite system, it is preferable to prescribe a definite period.

The Honourable Mr. NAYLOR:—I doubt the necessity for the limitation; but I have no great objection to the amendment.

The Honourable Mr. WEST:—Some quibbler after the election might raise an objection, that a candidate had not been nominated within fifteen days, and that the nomination was therefore invalid. I do not think the quibbler's objection would be admitted by the High Court. But difficulties might arise. Government when required to fill up a vacancy might not always be able to do it promptly. There would doubtless be a great many cases in which the specified time could not be strictly complied with.

His Excellency the PRESIDENT:—I have some experience of the subject. It is not always the fault of Government that a vacancy is not filled up quite so soon as it might be: first of all we have to consult those who know what element requires representation. Then what happens is this: a gentleman is invited to serve on the Corporation and for some reason or other he refuses. If he stated his refusal by return of post, there would be no difficulty—we should at once issue another invitation. To this fresh invitation we do not always receive an early reply. The condition which the amendment imposes would not be practicable. I therefore agree that it would not be wise to limit the time.

The Honourable Mr. PHEROZESHAH MEHTA :—Then I do not press the amendment.

It was accordingly withdrawn.

The Honourable Mr. PHEROZESHAH MEHTA :—Your Excellency, I move that in section 37, clause (a), lines 12 to 15, the words “one ordinary meeting in each month” be substituted for the words commencing with “five” and ending with “March”. We know that the Corporation has to meet very many more times than five in the year. Indeed, for some time past, the average has been two per week. For years past, as has been shown, the work of the Corporation has required a meeting at least once a week. I think it is therefore right and proper that the provision in the section should be nearer the fact. I propose that there shall be one ordinary meeting per month.

The Honourable Mr. NAYLOR :—I have no objection to amend the clause in the manner proposed. The object of the clause is, I think, to indicate that it is not the intention of the Legislature that the Corporation shall be constantly meeting. But this intention will also be apparent if the clause is altered as the honourable gentleman suggests.

The amendment was adopted without dividing.

The Honourable Mr. PHEROZESHAH MEHTA moved that in section 37, clause (c), line 33, the words “absent from the city or” be omitted, remarking the Chairman is not bound to be constantly in Bombay. If he should happen to be, say, at Mátherán during the vacation, there is no reason why he should not fix the time for a meeting and come down on the appointed day.

The Honourable Mr. NAYLOR :—I have no objection to this proposal.

The words were accordingly struck out.

The Honourable Mr. PHEROZESHAH MEHTA moved that in section 37, clauses (j), (l), the following words, having reference to meetings of the Council to be called on requisitions of urgency, be omitted, viz.: in clause (j), lines 102—110, the words from “but in cases of urgency” down to “practicable”; in clause (l), lines 127 and 128, the words “other than a meeting called on a requisition of urgency”;

The honourable gentleman said :—This amendment involves a question of *considerable* practical importance, and is one of those which I had specially in mind in my remarks on the second reading. It will be observed that the clause as it stands empowers a meeting to be called on the requisition of four members of the Town Council without practically any notice at all, for the words are, that it can be called “upon such notice as having regard to the urgency *shall be practicable*.” A notice of a few hours would be legally sufficient under such a provision. Remembering the character of the business to be transacted by the Corporation, I can hardly conceive any business of such urgency that it cannot afford to wait for a period of seven days; and it must not be forgotten that the President is empowered to call *special* meetings whenever he thinks fit. The absence of such a clause in the present Act has never at any time caused any serious inconvenience. While, on the one hand, the occasions for the need of such a provision would arise most rarely, if at all, it is, on the other, if introduced in the Act, liable to be misused for snatching resolutions without sufficient deliberation, and we know that casuistry enables even honest-minded people to permit themselves to indulge in irregular action, when they take a prejudiced or exaggerated view of the importance of some matter. I have also a great dislike to business being transacted without sufficient time for deliberation and understanding. I propose that all that portion of the section which relates to urgency meetings should be struck out, as it is likely to do more mischief than good.

The Honourable Mr. NAYLOR :—Your Excellency,—This is one of several provisions which have been inserted with a view to facilitate the disposal of business, and to enable the Corporation to cope with any contingency which may at any time occur. We have just passed an amendment proposed by the Honourable Mr. Mehta, that ordinary meetings shall be held, once in each calendar month, and it is possible under this provision there may not be a meeting for six or seven weeks. If during that time urgent work should arise, it might be extremely inconvenient that it should have to be put off until the next ordinary meeting. It would be much more practical if, on the requisition of four members of the Standing Committee, the President should be able to call a special meeting for the disposal of such urgent business as is proposed in this clause. I think the supposition that, at a

special meeting so called, matters not really urgent might be unexpectedly brought forward and disposed of in the absence of a sufficient number of members is one which this Council can scarcely entertain.

The Honourable the ADVOCATE-GENERAL:—Considering the functions of the Corporation, I cannot conceive a case arising which would necessitate the calling of a meeting with less than seven days' notice. As I find, on reading the report of the Corporation, that they dislike these urgency meetings, and as I find that such is the view of the representatives of the Corporation here, as well as of other citizens whose views have been expressed by the Honourable Mr. Forbes Adam, I think it would be well to accept the amendment.

The Honourable Mr. WEST:—Perhaps I may be allowed to suggest another phase of the question. It may occur that a majority of the Standing Committee were opposed to the proposition to be brought forward—then their influence would counterbalance any attempt to hasty disposal of the business by those who were not so well acquainted with the subject introduced at such urgency meeting.

The Honourable Mr. PHEROZESHAH MEHTA:—But at a meeting called on a requisition of urgency, those members who might be able to understand or deal with the matter properly, might not be able to attend.

The Honourable Mr. WEST:—Would it not be better to substitute three days for six.

The Honourable Mr. PHEROZESHAH MEHTA:—Very well; I should have less objection if notice of some reasonable period was given.

The Honourable Mr. WEST:—Mr. Naylor thinks two days sufficient.

The Honourable the ADVOCATE-GENERAL:—Let the clause be amended so as to provide for three days' notice.

This was agreed to.

The Honourable Mr. PHEROZESHAH MEHTA moved:—That in section 37, clause (m), the following words, having reference to the power of the standing committee or commissioner to bring forward urgent business at a meeting, without notice, be omitted, *viz.*,

in lines 148 to 152, the words which are printed in italics;

The honourable gentleman remarked:—I have a much stronger objection to this portion of the section than even to that we have just discussed. It gives power to the Commissioner to spring important business on the Corporation *without any notice at all*. It is not unlikely that the composition of a particular meeting as being favourable to a certain view may become an important element in judging whether a particular matter was of an urgent character or not. And, as I have said before, even honest people allow themselves to be led away by sophistry on occasions. I think it is not fair to the Commissioner to place him in a position of such temptation. All the reasons which I gave for my previous proposal apply to this, only with greater force.

The Honourable the ADVOCATE-GENERAL:—It seems to follow the other as a corollary.

The Honourable Mr. NAYLOR:—The motion, which has just been carried, as regards clause (j), appears to me to render the honourable member's consequential amendment in clause (l) unnecessary. On this clause I trust that the motion will not be accepted.

The Honourable Mr. WEST:—It has been agreed that urgency meetings shall be called at three days' notice, and this clause merely requires amendment to meet that.

His Excellency the PRESIDENT:—Clause (l)?

The Honourable Mr. PHEROZESHAH MEHTA:—That, your Excellency, is only a technical matter, and will follow (j).

The Honourable Mr. WEST:—It seems to follow (j), and that has been provided for.

The Honourable Mr. TELANG:—The words must come out.

The Honourable Mr. WEST:—Do you want the words struck out or left in?

The Honourable Mr. PHEROZESHAH MEHTA:—Struck out.

The Honourable Mr. TELANG :—And at urgency meetings no other business than that which is urgent will be dealt with.

The Honourable Mr. NAYLOR :—Yes, that is so. Then the proposals may be accepted, and the words struck out.

The Honourable Mr. PHEROZESHAH MEHTA :—Then the amendment I propose to clause (n) will also drop. Urgency meetings remain subject to three days' notice.

The Honourable Mr. PHEROZESHAH MEHTA then moved to omit from section 37, clause (m), in lines 156 to 162 the words "or which is not," &c., down to the end of the clause.

The Honourable Mr. NAYLOR :—It seems to me that this provision is of greater practical utility than the last. It may often happen that the Standing Committee is to meet on the same day as the meeting of the Corporation takes place, and some urgent business may then arise which the Standing Committee may think necessary to bring immediately before the Corporation. It has been suggested that business, which is said to be urgent, but which is not really so, may be kept in hand and brought forward when it is seen that it is likely to be accepted without opposition. I have a better opinion of human nature than to suppose that any such artifice would be resorted to or be permitted by a meeting even if attempted; but if the honourable member's amendment is not accepted by the Council, as I trust it will not be, I shall then propose the motion No. 1, which stands in my name, which will have the effect of preventing any such thing happening. The proposal which I shall make will be that no such urgent business shall be brought forward unless two-thirds of the members present at the time assent to its being brought forward.

The Honourable the ADVOCATE-GENERAL :—Honourable Mr. Naylor and myself propose amendments having reference to this subject. Honourable Mr. Naylor proposes two-thirds, and I propose three-quarters. I think this shows there is good reason for making a provision of the kind. Perhaps, Honourable Mr. Mehta will make it agree with one of his amendments.

The Honourable Mr. PHEROZESHAH MEHTA :—It must be remembered that, with regard to such business as that to which the Honourable Mr. Naylor has referred, the same practice, which at present exists, can be still followed. A member of the Council, or, for the matter of that, any member of the Corporation can always tack on such business, by giving three days' notice, to the *business* of any meeting already called. Resolutions and recommendations of the Town Council are constantly brought before the Corporation at present in this way. Every needful facility thus exists for the expeditious transaction of business.

The Honourable Mr. WEST :—I think that perhaps it may occur that a majority of the members present at an urgency meeting may not have that amount of special knowledge which the subject requires, yet the Corporation, being composed of high-minded men full of civic patriotism, will not be devoid of common sense, and will know whether a subject is sprung upon them or not, and will be able to circumvent any attempt to hurry through the business. And whether you have three-fourths or two-thirds, they must be credited, at least, with honest intentions. If not consciously competent to deal with the subject they will adjourn.

The Honourable Mr. TELANG :—Without notice you might have even three-quarters of the members present devoid of the special knowledge desirable. It is not necessarily, or even mainly, a question of dishonest intention at all.

The Honourable Mr. PHEROZESHAH MEHTA :—I have asked the Honourable Mr. Naylor to point out any specific case in which such a provision for the disposal of urgent business would be necessary.

The Honourable Mr. NAYLOR :—It would be rather difficult to know where to make enquiries as to whether such cases have occurred—Mr. Ollivant being away, and Mr. Charles comparatively new to the work. The Honourable the Advocate-General's amendment, which requires a majority greater by one-twelfth than mine does, can do no harm, and I beg the Council to accept his proposal instead of mine.

The Honourable Mr. FORBES ADAM :—I think it is a very strong argument in favour of removing the clause altogether.

The Honourable Mr. NAYLOR :—I withdraw my motion as to the two-thirds, and will vote for the Honourable the Advocate-General's three-quarters instead.

The Honourable Mr. PHEROZESHAH MEHTA :—I am unable to drop my amendment in favour of the Honourable the Advocate-General's proposal, as I think it of considerable practical importance. The Advocate-General's proposal would not remove my objections to the clause as it stands. Perhaps I can best explain what I mean by putting a particular case. The quorum as now fixed is 20. A quorum is necessary before business could be commenced, but very frequently a meeting continues to transact business after the attendance of members has dwindled to a very small number—to fifteen and even twelve members. If important business is sprung upon the meeting at such a stage, the proposed safeguard of the concurrence of three-fourths of the members present might mean only the concurrence of 9 or 10 members. Now I place every confidence in the Corporation as a body acting compactly and deliberately; but after all it must not be forgotten that, like all bodies organized of various materials, the Corporation is a miscellaneous body composed of different elements, and such bodies should never, as far as possible, be unnecessarily placed in a position in which they might be called upon to do business in a hasty or ill-considered manner.

His Excellency the PRESIDENT :—I fear the honourable member places us in a very awkward position. Government is quite prepared to trust the members of the Corporation, whatever be the number of members present, and we are not prepared to believe that they will steal a march on their absent and, perhaps, better-informed colleagues. But the honourable member with his greater experience raises a warning note, and his candour reflects the very greatest credit upon him. I am therefore bound to ask the honourable mover of the Bill whether he will disregard the fear of the honourable member. Government is quite prepared to give the power of that section to such members of the Corporation as may be represented by three-fourths of twenty, trusting that they will not rush through important matters, and that they will only deal with urgent unimportant cases. It is an inherent right in every meeting to decide what business shall be taken subject to a quorum being present.

The Honourable Mr. PHEROZESHAH MEHTA :—I should like, your Excellency, to explain, once for all, the position I take up in this matter. I shall always be foremost in standing up for the collective wisdom and good sense of the Corporation, taken all in all. But I don't feel bound to set it up as an infallible body. I have no doubt that it will be liable to commit blunders now and then, and what I say is that you should not increase the chances of committing blunders by calling upon it to act under unfavourable circumstances, as would assuredly be the case if you afford facilities to a very slender minority to transact business of which no notice has been given.

The Honourable Mr. TELANG :—I may point out that the Corporation themselves object to this portion of the clause.

The Council then divided :—

Ayes.

Noes.

The Honourable Pherozeshah Mer-
vanji Mehta.

The Honourable F. Forbes Adam.

The Honourable Kashinath Trimbak
Telang.

Lieutenant-General His Royal Highness
the Duke of Connaught.

The Honourable J. B. Richey.

The Honourable R. West.

The Honourable the Advocate-General.

The Honourable J. R. Naylor.

The Honourable Ráo Bahádur Mahadev
Wasudev Barve.

So the amendment was lost.

The Honourable Mr. NAYLOR :—Then I beg to propose formally the motion No. 1 which stands in my name, three-quarters being substituted for two-thirds.

This was agreed to.

The Honourable Mr. WEST moved:—That in section 37, clause (u), line 275, the following words be inserted after the word "councillor," viz., "and, with the consent of a majority of the councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts."

The honourable gentleman, in introducing the amendment, said:—The clause to which I have given notice of amendment is obviously one which goes to the very centre of the constitutional principles of this Bill, and is a matter of great importance to the Corporation, the Commissioner and the public at large. Your Excellency has considered this matter very carefully, and it has appeared to your Excellency in Council that although on many occasions it may be desirable that the Commissioner should have an opportunity of disclosing to the Corporation the real and existing state of facts when there has been some illusory statement, or at least an erroneous statement put before them, by somebody in possession of a half truth relating to public matters concerning the Corporation, yet it appears undesirable, on full consideration, that he should have the right to interpose his voice as often as he pleases, even in correcting facts, but it is considered it is quite safe to leave it to the discretion of the Council itself, whether or not those facts shall be stated. In constitutional countries, on the Continent especially, a minister in charge of any particular matter, especially matters of finance or administration leading into a discussion of infinite detail, has a right, at any period of the debate, to get up and put the House right on any matter on which he considers it has been misinformed. So that there was a good analogy on which the section, as it now stands, could be based. In the American constitution a different line is adopted—the Secretary, or, as we should name him in England, Home Secretary, or the Foreign Secretary, may give information to Congress when invited to do so by the Congress itself. The Commissioner should have an opportunity of making any explanation of facts, though he should not be in a position to force his explanations upon the Corporation, which might come at the heat of the moment and plunge the body into personal discussions—sometimes rather warm discussions. There is this consideration, that if the Commissioner does get up and happens to run counter, in any way, to the general feeling of the Council on any point, although he has a right to speak, the members have an equal right not to listen, and they may exercise it. Thus instead of any good it may possibly lead to an increase of irritation between the two constituents that the Council represents—taking the Commissioner as representing the practical side and the members the theoretical side. He should, however, have an opportunity, with the assent of the Corporation, of laying statements of facts before them, and in many cases they will desire such statements; but, on the other hand, he should have no authority to force his opinions upon them under the guise of supplying deficiencies or of correction of fact. I am glad of the opportunity of proposing this amendment, which stands in my name. I understand, after conference with Honourable Mr. Mehta, that if this amendment is adopted, his mind will be satisfied on the subject, and it will follow necessarily that clause (d) will have to be expunged.

The Honourable Mr. PHEROZESHAH MEHTA:—I think the Honourable Mr. West's amendment substantially meets the object I had in view in giving notice of my amendments to these clauses (u and v), which was to restore the position of the Commissioner to what it is under section 43 of the present Act. I have no objection to the limited power of giving an explanation as proposed by the Honourable Mr. West. My only hesitation in the matter arises from the consideration whether the proper place for it is not in the Rules of Procedure of the Corporation. It strikes me that that is its appropriate place, not the Act itself.

The Honourable Mr. WEST:—This matter has been considered lately by me from the very point of view suggested by the honourable member. If in the Act you make no allowance for the Commissioner coming forward to speak in the Council, an objection might be made that you are going beyond the terms of the Act in allowing a stranger to speak. You might just as well make a rule that any one who keeps a shop in Rampart Row shall be permitted to speak.

The Honourable Mr. PHEROZESHAH MEHTA:—I am content to accept the amendment.

The Honourable Mr. WEST's amendment was then adopted, and clause (v) expunged.

The Honourable the ADVOCATE-GENERAL proposed:—That in *section 39*, clause (1), line 6, the word *president* be omitted and the word *mayor* inserted, and that throughout the Act the word *mayor* be substituted for the word *president*.

He said:—Your Excellency,—This question is also one about a name. As I have said, even in names it is best to choose the best one, and the substitution I propose of mayor instead of president is, I think, an acceptable one. There was a mayor of Bombay in the last century, but he was superseded by the recorder. Considering the importance of the city of Bombay, I think it only right when its head is called upon to take his part, as Sir Henry Morland had to do, among mayors of English boroughs and the Lord Mayor of the city of London he should enjoy as great dignity as any one of them. In Scotland, of course, they retain the old French word “provost” to describe their mayors; and in France the word “prefect” takes its place. Our mayor might even become Lord Mayor of Bombay, considering the relative importance of the city.

The Honourable Mr. NAYLOR:—This suggestion has come upon us with some surprise. It has not up to now been put forward by any one in Bombay. We all wish to see the head of the Municipality of Bombay enjoying all the dignity which properly appertains to any one in so high a position. But the designation now proposed is one which is not used in India, and one which to strangers would prove misleading. Certain powers are enjoyed by the President of the Corporation, but he does not possess such powers as would properly belong to a Mayor. Looking to the nature and duties of his office, he is certainly much more properly designated President of the Corporation than Mayor. I shall vote against the change.

The Honourable Mr. PHEROZESHAH MEHTA:—I remember when your Lordship came out you anticipated this point by addressing the Chairman of the Corporation as Mayor. (Laughter.)

The Honourable Mr. WEST:—The designation would be inappropriate. The mover has himself furnished an instance that it is not necessary to call him either lord provost, which would be quite as well as lord mayor, or to give him any other designation. It strikes me that the learned the Honourable the Advocate-General’s argument rather tells against himself. He has himself quoted an instance in which the president of the Corporation of Bombay proved that it was not necessary to be either Lord Provost or Lord Mayor, and he has shown that neither designation is necessary to make the position dignified. The designation “mayor” would be entirely misleading, and, therefore, should be rather avoided than accepted.

The Honourable Mr. TELANG:—I was told by an European friend, within the last hour or two, that a mayor would be expected to give various entertainments, which would make the office of mayor a very onerous honour indeed.

The amendment, being put to the vote, was lost.

The Honourable the ADVOCATE-GENERAL moved:—That in *section 42* after the word *of* in line 2, the words “the mayor and” be inserted, and at the commencement of *section 44* the words “the President shall be the chairman of” be inserted; that after the word *Committee* in line 2 the word *who* shall be inserted; and that in the remainder of the section the word *deputy* shall be prefixed to the word *chairman* wherever it occurs.

The honourable gentleman said:—My reason for proposing this amendment is that the Standing Committee are simply delegates of the Corporation, whose proper head is the head of the Corporation.

The Honourable Mr. NAYLOR:—Looking at the proposal on its merits I should be inclined to think it will be more fitting for the Standing Committee to appoint their own Chairman, and that the President of the Corporation should continue to be what he always has been—speaker of the assembly, and I can see no advantage which would arise from his being *ex-officio* chairman of the Standing Committee. It would be better for the President of the Corporation to have matters come before him in that capacity, without any previous knowledge as to what had gone on with regard to them in the Standing Committee.

The Honourable Mr. PHEROZESHAH MEHTA:—I attach great importance to the point mentioned by the Honourable the Advocate-General, that the position of the Standing

Committee should be emphasised as much as possible. But I am not quite clear as to whether the course he suggests is a desirable one. The functions and qualifications of the Chairman of the Corporation and of that of the Town Council are very different. We elect the Chairman of the Corporation for performing very different functions from those required to be performed by the Chairman of the Town Council. I think it would be preferable to leave the matter to the discretion of the members to elect whom they like.

The Honourable Mr. TELANG :—I take the same view of the matter. I sympathise very much with the Advocate-General's desire to minimize friction between the Corporation and Standing Committee. But there are also weighty considerations on the other side. I think the practice, which obtained some years ago and has been recently revived, is a very good one—that the Chairman of the Town Council should introduce in the Corporation the proposals of the Town Council, and especially those relating to the Budget. This practice will have to be discontinued if the chairman of the two bodies is one and the same person, because the chairman of the Corporation does not ordinarily take part in debates, which also, I think, is a very proper rule.

The Honourable the ADVOCATE-GENERAL :—As men of practical experience of the Corporation do not seem to think my amendment desirable, I ask leave to withdraw it.

The Honourable Mr. PHEROZESHAH MEHTA moved :—That the following be substituted for clause (g) of section 49, viz. :—

“(g) the Standing Committee may from time to time appoint out of their own body such and so many sub-committees consisting of such number of persons, and may refer to such sub-committees, for inquiry and report or for opinion, such subjects connected with the exercise of the powers or the performance of the duties of the Standing Committee under this Act, as they think fit.”

The honourable gentleman remarked :—Your Excellency, it will be observed that the amended clause I propose differs from clause g, as it stands in this that it does not empower the Standing Committee to delegate its powers of final decision to sub-committees. It can still appoint sub-committees for enquiry, information and report. The powers and functions imposed upon the Standing Committee are such, and it is so constituted that it should proceed to final decision in its full collective capacity. To permit it to entrust them to a sub-committee would be to remove the safeguards which lie in the varied composition of the body so as to bring a sufficient number of different points of view and of interests to bear upon the final decision of a question. I consider it hazardous to allow such powers of final decision to be delegated to small sub-committees, of which the quorums may be still smaller.

The Honourable Mr. NAYLOR :—No amendment has taken me more by surprise than this one. Clause (g) as it stands in the original Bill was passed through Select Committee without being in any way challenged. It is simply a reproduction of a section which is in the present Acts, and has been in operation for the last sixteen years. Not only so, but it is a clause of such a nature as finds a place in every enactment of this description. It is always provided that a body may delegate any portion of its duties or powers to a sub-committee, with such instructions and such restrictions as it thinks fit to impose. All the municipal boards in the provinces have this provision in their law and if I am not mistaken, it has been acted upon very largely. The Town Council have not yet, I believe, made use of it, although it has had the power. When the first draft of this Bill was prepared, it was proposed, as has already been stated to the Council, that the executive work of the Municipality should be carried on by sub-committees presided over by the Municipal Commissioner. That proposal was negatived by the Corporation, and has not been carried any further. But this clause will enable the Standing Committee to appoint sub-committees from time to time if they think fit. It may prove necessary in order to carry out the multifarious duties which will hereafter devolve on the Standing Committee to arrange for their discharge by means of such sub-divisions of labour as this clause authorizes.

The Honourable Mr. PHEROZESHAH MEHTA :—The very fact, your Excellency, mentioned by Mr. Naylor is my explanation why this amendment did not suggest itself to me earlier, viz., that a similar provision in the present Acts has always been a dead letter. During the last fifteen years, ever since the present Act has been in operation, the Town Council has never appointed a sub-committee to which it has delegated its powers of final decision on any question, though it has often appointed sub-committees for enquiry and report. So that when I went through the Bill, I did not scan this clause very jealously,

under the impression that it did not go beyond the limited interpretation which practice had put upon it. With regard to there being a similar provision in the Acts concerning municipal bodies in the Mofussil, it must be remembered that their constitutional scheme is radically different from ours; they are bodies possessing executive functions which they can only discharge by means of executive committees. The analogy would only mislead. As to the argument about division of labour, what I object is not division of work, but delegation of responsibility. I do not believe in the division of labour which leads to division in the performance of an obligation or a duty.

The Honourable Mr. TELANG :—I think it is well to remember that there is considerable financial power belonging to the Standing Committee, and I do not think it would be at all desirable to give up to a small committee of that body the power of finally deciding these financial matters. I shall vote against the amendment.

The Honourable Mr. WEST :—I would suggest there is a way in which both views may be met. This section may be allowed to stand with the proviso that the sub-committee's decision be subject to any bye-law which may be drafted by the Corporation. This would be flexible enough to meet any necessity. On the sub-committees you may have experts, whose opinions will be of great value; and if this bye-law is drafted, it would, I think, satisfy both parties.

The Honourable the ADVOCATE-GENERAL :—Then we will reserve the point for the third reading. It is very probable the change may be made.

The Honourable Mr. WEST :—Seeing what the general feeling here is, it may fairly be anticipated that the amendment will be carried. Mr. Naylor thinks the spirit of the section should be preserved.

Clause (g) was thereupon allowed to stand subject to the modification suggested by the Honourable Mr. West.

The further consideration of the Bill was then adjourned till Saturday, the 10th March, at noon, and the Council proceeded with the other business of the day.

The Sind Village Officers' Act Amendment Bill.

The Honourable Mr. RICHEY, in introducing Bill No. 5 of 1887, a Bill to amend the Sind Village Officers' Act, 1887, said :—Your Excellency,—
Mr. Richey moves the first reading of Bill No. 5 of 1887. It will be remembered that Act IV of 1881 provided for the levying of a cess in the towns of Sind for the payment of village officers out of the funds of this cess. Under the Financial Code, officers payable from local funds have no claim for pension or gratuity from the general revenues. Some of the village officers in Sind were already on pensionary services when this local fund was created, and as they were thereupon payable from the local fund, their pensionary rights became imperilled. This Government laid their case before the Government of India, and they suggested we should amend the Act so as to allow the pensionary claim to fall upon the cess fund. I propose at the same time to provide in the Bill that the cess fund should be chargeable to petty contingencies, incidental on the enlarged establishment under the Act. As the law stood, the authority for the appointment and dismissal of subordinate village officers and defining their duties, was vested in the Commissioner of Sind; this duty had in practice to be delegated to the collectors or subordinate officers. Provision is also made that rewards may be charged on the cess fund in case of valuable services by police officers. I have to ask the Council to give this Bill a first reading.

Bill read a first time.

The Bill was then read a first time.

The Bill to amend the Bombay Local Boards Act and the Bombay District Municipal Act Amendment Act.

The Honourable Mr. RICHEY, in moving the first reading of Bill No. 1 of 1888, a Bill to further amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884, said :—
Mr. Richey moves the first reading of Bill No. 1 of 1888.

Your Excellency,—Under the provisions of the Bombay Act of 1884 for the appointment of Local Boards, it was necessary for the Collector on the occasion of approaching elections of members of Local Boards to frame two lists under section 20 of that Act,—one list showing all persons qualified in a *tāluka* to be members of the Local Board, and another list, No. 2, showing groups of the various villages and the number of persons

The Honourable Mr. PHEROZESHAH MEHTA :—Then I do not press the amendment. It was accordingly withdrawn.

The Honourable Mr. PHEROZESHAH MEHTA :—Your Excellency, I move that in section 37, clause (a), lines 12 to 15, the words “one ordinary meeting in each month” be substituted for the words commencing with “five” and ending with “March”. We know that the Corporation has to meet very many more times than five in the year. Indeed, for some time past, the average has been two per week. For years past, as has been shown, the work of the Corporation has required a meeting at least once a week. I think it is therefore right and proper that the provision in the section should be nearer the fact. I propose that there shall be one ordinary meeting per month.

The Honourable Mr. NAYLOR :—I have no objection to amend the clause in the manner proposed. The object of the clause is, I think, to indicate that it is not the intention of the Legislature that the Corporation shall be constantly meeting. But this intention will also be apparent if the clause is altered as the honourable gentleman suggests.

The amendment was adopted without dividing.

The Honourable Mr. PHEROZESHAH MEHTA moved that in section 37, clause (c), line 33, the words “absent from the city or” be omitted, remarking, the Chairman is not bound to be constantly in Bombay. If he should happen to be, say, at Mátherán during the vacation, there is no reason why he should not fix the time for a meeting and come down on the appointed day.

The Honourable Mr. NAYLOR :—I have no objection to this proposal.

The words were accordingly struck out.

The Honourable Mr. PHEROZESHAH MEHTA moved that in section 37, clauses (j), (l), the following words, having reference to meetings of the Council to be called on requisitions of urgency, be omitted, viz. : in clause (j), lines 102—110, the words from “but in cases of urgency” down to “practicable”; in clause (l), lines 127 and 128, the words “other than a meeting called on a requisition of urgency”;

The honourable gentleman said :—This amendment involves a question of *considerable* practical importance, and is one of those which I had specially in mind in my remarks on the second reading. It will be observed that the clause as it stands empowers a meeting to be called on the requisition of four members of the Town Council without practically any notice at all, for the words are, that it can be called “upon such notice as having regard to the urgency *shall be practicable.*” A notice of a few hours would be legally sufficient under such a provision. Remembering the character of the business to be transacted by the Corporation, I can hardly conceive any business of such urgency that it cannot afford to wait for a period of seven days; and it must not be forgotten that the President is empowered to call *special* meetings whenever he thinks fit. The absence of such a clause in the present Act has never at any time caused any serious inconvenience. While, on the one hand, the occasions for the need of such a provision would arise most rarely, if at all, it is, on the other, if introduced in the Act, liable to be misused for snatching resolutions without sufficient deliberation, and we know that casuistry enables even honest-minded people to permit themselves to indulge in irregular action, when they take a prejudiced or exaggerated view of the importance of some matter. I have also a great dislike to business being transacted without sufficient time for deliberation and understanding. I propose that all that portion of the section which relates to urgency meetings should be struck out, as it is likely to do more mischief than good.

The Honourable Mr. NAYLOR :—Your Excellency,—This is one of several provisions which have been inserted with a view to facilitate the disposal of business, and to enable the Corporation to cope with any contingency which may at any time occur. We have just passed an amendment proposed by the Honourable Mr. Mehta, that ordinary meetings shall be held, once in each calendar month, and it is possible under this provision there may not be a meeting for six or seven weeks. If during that time urgent work should arise, it might be extremely inconvenient that it should have to be put off until the next ordinary meeting. It would be much more practical if, on the requisition of four members of the Standing Committee, the President should be able to call a special meeting for the disposal of such urgent business as is proposed in this clause. I think the supposition that, at a

special meeting so called, matters not really urgent might be unexpectedly brought forward and disposed of in the absence of a sufficient number of members is one which this Council can scarcely entertain.

The Honourable the ADVOCATE-GENERAL:—Considering the functions of the Corporation, I cannot conceive a case arising which would necessitate the calling of a meeting with less than seven days' notice. As I find, on reading the report of the Corporation, that they dislike these urgency meetings, and as I find that such is the view of the representatives of the Corporation here, as well as of other citizens whose views have been expressed by the Honourable Mr. Forbes Adam, I think it would be well to accept the amendment.

The Honourable Mr. WEST:—Perhaps I may be allowed to suggest another phase of the question. It may occur that a majority of the Standing Committee were opposed to the proposition to be brought forward—then their influence would counterbalance any attempt to hasty disposal of the business by those who were not so well acquainted with the subject introduced at such urgency meeting.

The Honourable Mr. PHEROZESHAH MEHTA:—But at a meeting called on a requisition of urgency, those members who might be able to understand or deal with the matter properly, might not be able to attend.

The Honourable Mr. WEST:—Would it not be better to substitute three days for six.

The Honourable Mr. PHEROZESHAH MEHTA:—Very well; I should have less objection if notice of some reasonable period was given.

The Honourable Mr. WEST:—Mr. Naylor thinks two days sufficient.

The Honourable the ADVOCATE-GENERAL:—Let the clause be amended so as to provide for three days' notice.

This was agreed to, clause (j) standing as in the Bill amended by the Select Committee, except that the word 'not' was introduced before the word 'less' in line 108, the words 'three clear' were substituted for the words 'seven', and the words in italics were omitted.

The Honourable Mr. PHEROZESHAH MEHTA moved:—That in section 37, clause (m), the following words, having reference to the power of the standing committee or commissioner to bring forward urgent business at a meeting, without notice, be omitted, *viz.*,

in lines 148 to 152, the words which are printed in italics;

The honourable gentleman remarked:—I have a much stronger objection to this portion of the section than even to that we have just discussed. It gives power to the Commissioner to spring important business on the Corporation *without any notice at all*. It is not unlikely that the composition of a particular meeting as being favourable to a certain view may become an important element in judging whether a particular matter was of an urgent character or not. And, as I have said before, even honest people allow themselves to be led away by sophistry on occasions. I think it is not fair to the Commissioner to place him in a position of such temptation. All the reasons which I gave for my previous proposal apply to this, only with greater force.

The Honourable the ADVOCATE-GENERAL:—It seems to follow the other as a corollary.

The Honourable Mr. NAYLOR:—The motion, which has just been carried, as regards clause (j), appears to me to render the honourable member's consequential amendment in clause (l) unnecessary. On this clause I trust that the motion will not be accepted.

The Honourable Mr. WEST:—It has been agreed that urgency meetings shall be called at three days' notice, and this clause merely requires amendment to meet that.

His Excellency the PRESIDENT:—Clause (l)?

The Honourable Mr. PHEROZESHAH MEHTA:—That, your Excellency, is only a technical matter, and will follow (j).

The Honourable Mr. WEST:—It seems to follow (j), and that has been provided for.

The Honourable Mr. TELANG:—The words must come out.

The Honourable Mr. WEST:—Do you want the words struck out or left in?

The Honourable Mr. PHEROZESHAH MEHTA:—Struck out.

The Honourable Mr. TELANG :—And at urgency meetings no other business than that which is urgent will be dealt with.

The Honourable Mr. NAYLOR :—Yes, that is so. Then the proposals may be accepted, and the words struck out.

The words in italics in clause (l) were accordingly struck out and the amendment as to clause (m) withdrawn.

The Honourable Mr. PHEROZESHAH MEHTA :—Then the amendment I propose to clause (n) will also drop. Urgency meetings remain subject to three days' notice.

The Honourable Mr. PHEROZESHAH MEHTA then moved to omit from section 37, clause (m), in lines 156 to 162 the words "or which is not," &c., down to the end of the clause.

The Honourable Mr. NAYLOR :—It seems to me that this provision is of greater practical utility than the last. It may often happen that the Standing Committee is to meet on the same day as the meeting of the Corporation takes place, and some urgent business may then arise which the Standing Committee may think necessary to bring immediately before the Corporation. It has been suggested that business, which is said to be urgent, but which is not really so, may be kept in hand and brought forward when it is seen that it is likely to be accepted without opposition. I have a better opinion of human nature than to suppose that any such artifice would be resorted to or be permitted by a meeting even if attempted; but if the honourable member's amendment is not accepted by the Council, as I trust it will not be, I shall then propose the motion No. 1, which stands in my name, which will have the effect of preventing any such thing happening. The proposal which I shall make will be that no such urgent business shall be brought forward unless two-thirds of the members present at the time assent to its being brought forward.

The Honourable the ADVOCATE-GENERAL :—Honourable Mr. Naylor and myself propose amendments having reference to this subject. Honourable Mr. Naylor proposes two-thirds, and I propose three-quarters. I think this shows there is good reason for making a provision of the kind. Perhaps, Honourable Mr. Mehta will make it agree with one of his amendments.

The Honourable Mr. PHEROZESHAH MEHTA :—It must be remembered that, with regard to such business as that to which the Honourable Mr. Naylor has referred, the same practice, which at present exists, can be still followed. A member of the Council, or, for the matter of that, any member of the Corporation can always tack on such business, by giving three days' notice, to the *business* of any meeting already called. Resolutions and recommendations of the Town Council are constantly brought before the Corporation at present in this way. Every needful facility thus exists for the expeditious transaction of business.

The Honourable Mr. WEST :—I think that perhaps it may occur that a majority of the members present at an urgency meeting may not have that amount of special knowledge which the subject requires, yet the Corporation, being composed of high-minded men full of civic patriotism, will not be devoid of common sense, and will know whether a subject is sprung upon them or not, and will be able to circumvent any attempt to hurry through the business. And whether you have three-fourths or two-thirds, they must be credited, at least, with honest intentions. If not consciously competent to deal with the subject they will adjourn.

The Honourable Mr. TELANG :—Without notice you might have even three-quarters of the members present devoid of the special knowledge desirable. It is not necessarily, or even mainly, a question of dishonest intention at all.

The Honourable Mr. PHEROZESHAH MEHTA :—I have asked the Honourable Mr. Naylor to point out any specific case in which such a provision for the disposal of urgent business would be necessary.

The Honourable Mr. NAYLOR :—It would be rather difficult to know where to make enquiries as to whether such cases have occurred—Mr. Ollivant being away, and Mr. Charles comparatively new to the work. The Honourable the Advocate-General's amendment, which requires a majority greater by one-twelfth than mine does, can do no harm, and I beg the Council to accept his proposal instead of mine.

The Honourable Mr. FORBES ADAM :—I think it is a very strong argument in favour of removing the clause altogether.

The Honourable Mr. NAYLOR :—I withdraw my motion as to the two-thirds, and will vote for the Honourable the Advocate-General's three-quarters instead.

The Honourable Mr. PHEROZESHAH MEHTA :—I am unable to drop my amendment in favour of the Honourable the Advocate-General's proposal, as I think it of considerable practical importance. The Advocate-General's proposal would not remove my objections to the clause as it stands. Perhaps I can best explain what I mean by putting a particular case. The quorum as now fixed is 20. A quorum is necessary before business could be commenced, but very frequently a meeting continues to transact business after the attendance of members has dwindled to a very small number—to fifteen and even twelve members. If important business is sprung upon the meeting at such a stage, the proposed safeguard of the concurrence of three-fourths of the members present might mean only the concurrence of 9 or 10 members. Now I place every confidence in the Corporation as a body acting compactly and deliberately; but after all it must not be forgotten that, like all bodies organized of various materials, the Corporation is a miscellaneous body composed of different elements, and such bodies should never, as far as possible, be unnecessarily placed in a position in which they might be called upon to do business in a hasty or ill-considered manner.

His Excellency the PRESIDENT :—I fear the honourable member places us in a very awkward position. Government is quite prepared to trust the members of the Corporation, whatever be the number of members present, and we are not prepared to believe that they will steal a march on their absent and, perhaps, better-informed colleagues. But the honourable member with his greater experience raises a warning note, and his candour reflects the very greatest credit upon him. I am therefore bound to ask the honourable mover of the Bill whether he will disregard the fear of the honourable member. Government is quite prepared to give the power of that section to such members of the Corporation as may be represented by three-fourths of twenty, trusting that they will not rush through important matters, and that they will only deal with urgent unimportant cases. It is an inherent right in every meeting to decide what business shall be taken subject to a quorum being present.

The Honourable Mr. PHEROZESHAH MEHTA :—I should like, your Excellency, to explain, once for all, the position I take up in this matter. I shall always be foremost in standing up for the collective wisdom and good sense of the Corporation, taken all in all. But I don't feel bound to set it up as an infallible body. I have no doubt that it will be liable to commit blunders now and then, and what I say is that you should not increase the chances of committing blunders by calling upon it to act under unfavourable circumstances, as would assuredly be the case if you afford facilities to a very slender minority to transact business of which no notice has been given.

The Honourable Mr. TELANG :—I may point out that the Corporation themselves object to this portion of the clause.

The Council then divided :—

Ayes.

The Honourable Pherozeshah Mer-
vanji Mehta.

The Honourable F. Forbes Adam.

The Honourable Kashinath Trimbak
Telang.

Noes.

Lieutenant-General His Royal Highness
the Duke of Connaught.

The Honourable J. B. Richey.

The Honourable R. West.

The Honourable the Advocate-General.

The Honourable J. R. Naylor.

The Honourable Ráo Bahádur Mahadev
Wasudev Barve.

So the amendment was lost.

The Honourable Mr. NAYLOR :—Then I beg to propose formally the motion No. 1 which stands in my name, three-quarters being substituted for two-thirds, the proposal thus altered being, that at the end of clause (m) the following words be added: "provided that no such urgent business as aforesaid shall be brought before any meeting unless at least three-fourths of the councillors present at such meeting, such three-fourths being not less than fifteen in number, assent to its being brought forward thereat; " and that in clause (2) after the words 'every question,' the words "other than the question whether the Standing Committee or the Commissioner shall be permitted to bring urgent business before a meeting without notice" be added.

Committee should be emphasised as much as possible. But I am not quite clear as to whether the course he suggests is a desirable one. The functions and qualifications of the Chairman of the Corporation and of that of the Town Council are very different. We elect the Chairman of the Corporation for performing very different functions from those required to be performed by the Chairman of the Town Council. I think it would be preferable to leave the matter to the discretion of the members to elect whom they like.

The Honourable Mr. TELANG :—I take the same view of the matter. I sympathise very much with the Advocate-General's desire to minimize friction between the Corporation and Standing Committee. But there are also weighty considerations on the other side. I think the practice, which obtained some years ago and has been recently revived, is a very good one—that the Chairman of the Town Council should introduce in the Corporation the proposals of the Town Council, and especially those relating to the Budget. This practice will have to be discontinued if the chairman of the two bodies is one and the same person, because the chairman of the Corporation does not ordinarily take part in debates, which also, I think, is a very proper rule.

The Honourable the ADVOCATE-GENERAL :—As men of practical experience of the Corporation do not seem to think my amendment desirable, I ask leave to withdraw it.

The Honourable Mr. PHEROZESHAH MEHTA moved :—That the following be substituted for clause (g) of section 49, viz. :—

“(g) the Standing Committee may from time to time appoint out of their own body such and so many sub-committees consisting of such number of persons, and may refer to such sub-committees, for inquiry and report or for opinion, such subjects connected with the exercise of the powers or the performance of the duties of the Standing Committee under this Act, as they think fit.”

The honourable gentleman remarked :—Your Excellency, it will be observed that the amended clause I propose differs from clause g, as it stands in this that it does not empower the Standing Committee to delegate its powers of final decision to sub-committees. It can still appoint sub-committees for enquiry, information and report. The powers and functions imposed upon the Standing Committee are such, and it is so constituted that it should proceed to final decision in its full collective capacity. To permit it to entrust them to a sub-committee would be to remove the safeguards which lie in the varied composition of the body so as to bring a sufficient number of different points of view and of interests to bear upon the final decision of a question. I consider it hazardous to allow such powers of final decision to be delegated to small sub-committees, of which the quorums may be still smaller.

The Honourable Mr. NAYLOR :—No amendment has taken me more by surprise than this one. Clause (g) as it stands in the original Bill was passed through Select Committee without being in any way challenged. It is simply a reproduction of a section which is in the present Acts, and has been in operation for the last sixteen years. Not only so, but it is a clause of such a nature as finds a place in every enactment of this description. It is always provided that a body may delegate any portion of its duties or powers to a sub-committee, with such instructions and such restrictions as it thinks fit to impose. All the municipal boards in the provinces have this provision in their law and if I am not mistaken, it has been acted upon very largely. The Town Council have not yet, I believe, made use of it, although it has had the power. When the first draft of this Bill was prepared, it was proposed, as has already been stated to the Council, that the executive work of the Municipality should be carried on by sub-committees presided over by the Municipal Commissioner. That proposal was negatived by the Corporation, and has not been carried any further. But this clause will enable the Standing Committee to appoint sub-committees from time to time if they think fit. It may prove necessary in order to carry out the multifarious duties which will hereafter devolve on the Standing Committee to arrange for their discharge by means of such sub-divisions of labour as this clause authorizes.

The Honourable Mr. PHEROZESHAH MEHTA :—The very fact, your Excellency, mentioned by Mr. Naylor is my explanation why this amendment did not suggest itself to me earlier, viz., that a similar provision in the present Acts has always been a dead letter. During the last fifteen years, ever since the present Act has been in operation, the Town Council has never appointed a sub-committee to which it has delegated its powers of final decision on any question, though it has often appointed sub-committees for enquiry and report. So that when I went through the Bill, I did not scan this clause very jealously,

under the impression that it did not go beyond the limited interpretation which practice had put upon it. With regard to there being a similar provision in the Acts concerning municipal bodies in the Mofussil, it must be remembered that their constitutional scheme is radically different from ours; they are bodies possessing executive functions which they can only discharge by means of executive committees. The analogy would only mislead. As to the argument about division of labour, what I object is not division of work, but delegation of responsibility. I do not believe in the division of labour which leads to division in the performance of an obligation or a duty.

The Honourable Mr. TELANG :—I think it is well to remember that there is considerable financial power belonging to the Standing Committee, and I do not think it would be at all desirable to give up to a small committee of that body the power of finally deciding these financial matters. I shall vote against the amendment.

The Honourable Mr. WEST :—I would suggest there is a way in which both views may be met. This section may be allowed to stand with the proviso that the sub-committee's decision be subject to any bye-law which may be drafted by the Corporation. This would be flexible enough to meet any necessity. On the sub-committees you may have experts, whose opinions will be of great value; and if this bye-law is drafted, it would, I think, satisfy both parties.

The Honourable the ADVOCATE-GENERAL :—Then we will reserve the point for the third reading. It is very probable the change may be made.

The Honourable Mr. WEST :—Seeing what the general feeling here is, it may fairly be anticipated that the amendment will be carried. Mr. Naylor thinks the spirit of the section should be preserved.

The further consideration of the Bill was then adjourned till Saturday, the 10th March, at noon, and the Council proceeded with the other business of the day.

The Sind Village Officers' Act Amendment Bill.

The Honourable Mr. RICHEY, in introducing Bill No. 5 of 1887, a Bill to amend the Sind Village Officers' Act, 1887, said :—Your Excellency,—
 Mr. Richey moves the first reading of Bill No. 5 of 1887. It will be remembered that Act IV of 1881 provided for the levying of a cess in the towns of Sind for the payment of village officers out of the funds of this cess. Under the Financial Code, officers payable from local funds have no claim for pension or gratuity from the general revenues. Some of the village officers in Sind were already on pensionary services when this local fund was created, and as they were thereupon payable from the local fund, their pensionary rights became imperilled. This Government laid their case before the Government of India, and they suggested we should amend the Act so as to allow the pensionary claim to fall upon the cess fund. I propose at the same time to provide in the Bill that the cess fund should be chargeable to petty contingencies, incidental on the enlarged establishment under the Act. As the law stood, the authority for the appointment and dismissal of subordinate village officers and defining their duties, was vested in the Commissioner of Sind; this duty had in practice to be delegated to the collectors or subordinate officers. Provision is also made that rewards may be charged on the cess fund in case of valuable services by police officers. I have to ask the Council to give this Bill a first reading.

Bill read a first time.

The Bill was then read a first time.

The Bill to amend the Bombay Local Boards Act and the Bombay District Municipal Act Amendment Act.

The Honourable Mr. RICHEY, in moving the first reading of Bill No. 1 of 1888, a Bill to further amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884, said :—
 Mr. Richey moves the first reading of Bill No. 1 of 1888.

Your Excellency,—Under the provisions of the Bombay Act of 1884 for the appointment of Local Boards; it was necessary for the Collector on the occasion of approaching elections of members of Local Boards to frame two lists under section 20 of that Act—one list showing all persons qualified in a *taluka* to be members of the Local Board, and another list, No. 2, showing groups of the various villages and the number of persons

qualified to vote. Then after the lists had been drawn up it was necessary for the Collector to publish them, under section 21, at least two months before the day fixed for the election of members of the Local Boards. Under section 16b the date for election has to be not sooner than three months and not later than one month before the elected members take office. Therefore we have after the publication of the lists two months before the date of the election, and the election one month before the members come into office—three months in all before taking office. Now the members elected under the first procedure taken under this Act of 1884 took office for three years. Their office has been expiring during the last few months, and the Collectors have been busy since last rains in preparing these lists and getting them printed and published, and according to the publication of the lists they have to determine the date of election. We have got a report from the Collector of Násik saying he had allowed himself six months before the terms of office of the existing Local Board members would expire, to prepare, and print, and publish his lists before the new members should take office. Out of that time three months went, as I have described under these two sections, that brought him from the 1st of September to the 1st of December. Three months from that date exactly brings him to the time of the expiry of office of the Local Board members, who go out on the 29th of February, to provide for their successors by the 1st of March. When his calculations were made, he thought that the lists could be framed during September and October, and printed in November. They did not, however, come into Násik until the 8th of November, and then there was such an enormous amount of printing matter, that working the press at his disposal night and day he could not get them ready in time to get them out three months before the members should have to take charge. I have asked him to send me details of the actual work to see how far the responsibility for anything dilatory may go. But it seems that the whole difficulty has arisen owing to the inability of the district officers to get the work completed. It appears there are in Násik eleven *talukas* which form six groups, thus in this one collectorate there are sixty-six different lists of voters, 9,850 members qualified to serve, each of whose claims had to be examined. The preparation of these lists involved 15,124 of printed foolscap sheets of persons qualified to serve on the Local Board, and the sixty-six lists of voters occupying 65,038 foolscap sheets had to be printed. This shows the necessity for amendment of these matters of procedure, and in asking the Council to give the Governor in Council power to allow for such contingencies, by a continuance in office of Boards already constituted, opportunity has been taken also to provide for any similar difficulty which may arise in Municipal elections. In this particular instance, the machinery was inadequate, and there is a certain degree of risk to which, of course, paper records are liable, which must be provided for. Unless some provision, such as is now proposed, is made, there is a risk of having the elections invalidated in case it is not held on a certain day, or a member has to go out of office and his successor cannot be duly qualified, because some list has been lost by a careless peon, or the press has caught fire. These serious and awkward contingencies should be provided for by allowing members to continue in office between their exit and the entry of the new members. This provision has been anticipated in the case of Násik by an order which at present is *ultra vires*. Therefore, we have inserted a clause to cover it. Whenever the Governor in Council has to exercise this power, we propose that he shall specify his reason for so doing. I have to ask your Excellency for the first reading of this Bill.

Bill read a first time.

The Bill was then read a first time.

The Honourable Mr. RICHEY then moved that the standing orders should be suspended, in order that the Bill might be read a second and third time at once. The standing orders were accordingly suspended, and the Bill was read a second and third time and passed.

His Excellency the PRESIDENT then adjourned the Council.

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

J. J. HEATON,

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

Bombay, 7th March 1888.