

THE



# Bombay Government Gazette.

Published by Authority.

FRIDAY, 27<sup>TH</sup> DECEMBER 1872.

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 COUNCIL'S ACT, 1861."*

The Council met at Púna, on Wednesday, the 16th October 1872, at noon.

#### P R E S E N T :

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding*.

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable H. P. ST. G. TUCKER.

The Honourable A. ROGERS.

The Honourable the ACTING ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.

The Honourable E. W. RAVENSCROFT.

The Honourable J. A. FORBES.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

A communication from the Secretary of the Chamber of Commerce, dated the 12th October, enclosing extracts from the proceedings at a meeting of that body held on the 8th October, was read by the Acting Under-Secretary.

The letter from the Chamber of Commerce presented to the Council.



The Honourable the ACTING ADVOCATE-GENERAL mentioned that as Section 82 in the Bill stood at present a remission would only be allowed on property let out for separate tenements. He, therefore, proposed a series of amendments on that section, making it read as follows :—

Amendments proposed before the third reading of the Bombay Municipal Bill.

“When any land, house, or portion of a house, let as a separate tenement, or for lodgings, or godowns, as mentioned in Section 76 of this Act, shall have been vacant for sixty consecutive days during any year, the Commissioner shall remit so much of the rate for that year as may be proportionate to the number of days the said land, house, or portion of a house may have remained unoccupied: provided that the owner of such land, house, or portion of a house, or his agent, shall have given notice, in writing, of the vacancy thereof to the Commissioner, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.”

The amended section on the assessment of house property.

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

The Honourable SIR JAMSETJEE JEJEEBHoy proposed the following amendment, of which the Honourable Mr. Narayan had given notice :—

Payment of the Police by the Municipality.

“That the words ‘not less than two and’ in line 11 of Section 86 be omitted; and that the word ‘two’ be substituted for the word ‘three’ in line 12.”

The Honourable Mr. MUNGULDASS—If the Council wish to give this relief, it should be fixed at 2 per cent. instead of “not more than.”

The Honourable Mr. TUCKER—I think we have given quite enough relief in that direction.

The Honourable Mr. RAVENSCROFT—I think that any modification in this direction would be unsuitable, and I shall oppose it.

The Honourable Mr. ROGERS—I learn from the Honourable Mr. Munguldass that the amount of this tax at one per cent. would be about Rs. 1,30,000, and therefore if we reduce the present income to that extent, a considerable drain will require to be made upon the Municipal Fund.

The Honourable Mr. MUNGULDASS—Two per cent. sufficed until Government discontinued its contribution. Up to this time I believe that Government have contributed towards the Mofussil police, and I find that even under Act I. of 1871, Government cannot recover from Mofussil Municipalities more than a fifth of their income.

The Honourable Mr. RAVENSCROFT—Government may make a Mofussil Municipality pay for the whole expense of the Police, if it do not exceed more than one-fifth of the entire revenue of the said Municipality.

The Honourable Mr. MUNGULDASS—Am I to understand that the Police in cities under this Presidency, like Púna and Ahmadabad, are entirely supported by their Municipalities?

The Honourable Mr. RAVENSCROFT—Yes; to a very great extent in all Municipalities to which Act I. of 1871 has been applied.

The Honourable Mr. FORBES—I think that we ought to vote in favour of this amendment; because I do not see the object of retaining the power to impose an additional rate when it has not been found necessary to exercise it in former years.

The Honourable Mr. TUCKER—But the rate has only been in force since 1866, and because a necessity has not arisen during the last six years we cannot assume that it will never arise.

The Honourable Mr. MUNGULDASS—The ratepayers already complain that they cannot bear even the present taxation, and we can only relieve them by two ways,—either by Government helping the Municipality with a contribution towards the police expenses and by paying rates on Government property, or by reducing the present Municipal expenditure upon the classes on whom it presses too heavily.

The Honourable Mr. TUCKER—If we were to agree to the present proposal it would not give any immediate relief to the persons now taxed. It would simply curtail the power of the Corporation in the event of any contingency arising which rendered an increase of the police necessary for the security of life and property. If the city did ever find itself in such a predicament, and the Corporation had not the necessary power to increase the rate for the better protection of the inhabitants, I believe that the owners of house



property would be the first to regret that this part of the section had not been allowed to remain as it stands. Surely the Corporation will never enhance the minimum rate unless it is found necessary for the general good to do so. I think that in the same spirit with which we made an alteration yesterday in the section regarding the house-rate, giving more latitude to the Corporation, we might in this instance allow them a power to increase the rate, if they thought it necessary to do so.

The Honourable Mr. MUNGULDASS said he had no objections.

The Honourable Mr. TUCKER—But if the Council permanently fix this rate at the present minimum amount, it will practically give the Corporation no discretion in case of an emergency.

The Honourable Mr. FORBES—I think it is desirable to curtail the power of the Corporation to increase taxation.

His Excellency the PRESIDENT—In this case they have not got the power of curtailing the expenses of the police, because, as the law stands at present, Government fixes the establishment.

The Honourable Colonel KENNEDY—I think this item of police is the last in which the Corporation ought to reduce expenditure.

The Honourable Mr. FORBES—It is entirely a matter of opinion as to whether the police force is excessive or not, and I doubt whether it is entirely used for Municipal purposes. I believe that a great part of the police is occupied in doing imperial or provincial rather than municipal service in Bombay, and therefore a portion of the police expenditure ought to be paid out of imperial revenue.

His Excellency the PRESIDENT—Imperial duties of what kind?

The Honourable Mr. FORBES—Guarding Government buildings and public offices.

His Excellency the PRESIDENT—If there are any other Government services for which the police are employed, I think it would be a fair question for consideration whether a contribution should not be made on that account.

The Honourable Mr. MUNGULDASS—I think that the services of the police at Government properties are paid for by Government.

The Honourable Mr. FORBES—Does the honourable gentleman mean to say that the police who are occupied in guarding the Government Houses at Parell and Malabar Point are paid for?

The Honourable Mr. MUNGULDASS—Yes; I believe that it is so, and my information goes further—that the police in charge of the Dockyard and the Town Hall are paid for, as also are the Harbour Police, by Government. At least this was the case last year, I know.

The Honourable Mr. RAVENSCROFT confirmed the statement of the Honourable Mr. Munguldass.

The Council divided on the amendment of the Honourable Mr. Narayan :—

*Ayes—4*

The Honourable MUNGULDASS NUTHOOBHOY.  
The Honourable Sir JAMSETJEE JEJEEBHOY.  
The Honourable J. A. FORBES.  
The Honourable GUNPUTRAO TATYA SAHIB  
PUTWARDHUN.

*Noes—7*

The Honourable Sir AUGUSTUS ALMERIC  
SPENCER.  
The Honourable H. P. ST. G. TUCKER.  
The Honourable A. ROGERS.  
The Honourable the ACTING ADVOCATE-  
GENERAL.  
The Honourable M. K. KENNEDY.  
The Honourable E. W. RAVENSCROFT.  
The Honourable J. K. BYTHELL.

The motion was therefore lost.

The Honourable Sir JAMSETJEE JEJEEBHOY then brought forward the following amendment, of which the Honourable Mr. Narayan had given notice :—“That the words ‘not exceeding’ be inserted in place of the word ‘of’ between the words ‘rate’ and ‘two’ in line 5 of Section 87.”

The Honourable Mr. TUCKER—The 2 per cent. is hardly sufficient, the expenses being barely covered at that figure.

The Honourable Mr. MUNGULDASS expressed himself against this amendment.

The motion fell to the ground.



The Honourable Mr. MUNGULDASS withdrew the amendment on this section of which he had given notice.

The Honourable Mr. TUCKER proposed that the words "to the said Commissioner" be inserted in line 8 of Section 90 after the word "fit."

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

The Honourable Mr. MUNGULDASS proposed that Section 96, which authorizes the levy of a supplementary rate, be omitted. The honourable member said—I protest strongly against the retention of Section 96, which legalizes the imposition of a special supplementary rate to supply any deficit that might occur in any year. First, because it is neither expedient nor politic to expose the people to the risk of being called upon to pay a fresh and indefinite tax in addition to the heavy and almost intolerable burdens which are imposed on the rate-payers of Bombay. Secondly, because uncertainty of taxation is productive of evils which ought to be avoided. Thirdly, because it is liable to be levied at a time when it might put the people to great inconvenience and loss. Fourthly, because it will be unequal in incidence and will fall chiefly on one class of rate-payers who possess landed property. Fifthly, because it takes away all incentive to economy and encourages extravagant and unauthorized expenditure, which has already involved the Municipality in heavy debts.

The Honourable Mr. TUCKER—Even in the best and most carefully considered Budgets mistakes will sometimes occur sufficient to alter an estimated surplus into an actual deficit, and every year we have instances of this happening in some country or another. By this section, all that is meant to be expressed is simply that there is a possibility of deficit, no matter how much credit we may be prepared to give to the Corporation for prudence and economy, and that when this contingency shall happen the Corporation shall be bound at once to take measures to supply the deficiency. So far from this section encouraging extravagant expenditure, I must repeat that I believe it will have an opposite effect, as the Corporation will be made much more careful in preparing their estimates than they might otherwise be. I agree, however, so far with the honourable gentleman, that it is not fair to insist that the obligation to make good this deficit shall only be thrown upon the classes which pay rates, and therefore I am about to propose an alteration in the section which will have the effect of allowing the Corporation to have recourse to any head of taxation, which they have the power to increase for the supplementary supply which may be called for to make good the deficit. If it should ever be the misfortune of the Corporation to have to impose an additional tax, my amendment will enable them to decide whether it shall be levied in the shape of town duties or in any other way. I think this ought to meet most of the objections which honourable members have urged against this section, and I am unable to assent to the omission of the section altogether, because if that were done we could have no provision which would enable the Corporation to meet an emergency of this description.

The Honourable Mr. RAVENSCROFT considered that the Honourable Mr. Tucker's amendment would meet all contingencies, and therefore he would vote against the Honourable Mr. Munguldass' amendments.

The Honourable Mr. FORBES—I shall certainly vote in favour of the amendment which has been proposed. I am certain that the Justices who appealed to Government to alter the present Municipal Act did not intend that a new tax should be imposed upon the city. This is really a new tax, to which the inhabitants have never hitherto been exposed. It certainly appears to me that if the Budget is likely to be exceeded, the proper remedy is to curtail expenses; whereas, having this supplementary rate which may very easily be imposed, it is probable that attention will not be paid to reductions which might be made.

The Honourable the ACTING ADVOCATE-GENERAL—I shall oppose the Honourable Mr. Munguldass' proposition. I think that the Honourable Mr. Forbes entirely misapprehends the effect of this section. It is not a new rate upon the people at all—it is simply a legal means to provide for a deficiency of income. If too much money has been spent, it must be made up somehow, and it is not new taxation if the Council simply gives the power to the Corporation for one particular year to meet over-expenditure. That the principle is not a new one I shall prove to the Council. In an Act which I have no doubt the Honourable Mr. Forbes is very familiar with—namely, the Act called The General Police and Improvement Act for Scotland, to make effectual provision for regulating the police of the towns and populous places in Scotland, and for lighting, cleansing, draining and so forth—I find that Section 108 says that if the rate or assessment for any year shall not be



sufficient for the purposes for which it was imposed and levied, the Commissioners shall and are hereby authorised and required to make provision for the payment of such deficiency by an assessment of rate for the purpose in the following year or years until the same shall be fully paid. Here, therefore, you have the principle laid down with great breadth, and I have no doubt that the framers of the Municipal Bill now before the Council had this Scotch Act, among others, under their consideration, and adopted the suggestions which appeared to them to be suitable to Bombay.

The Honourable Mr. TUCKER—What is the year of the Act which the honourable gentleman quotes from ?

The Honourable the ACTING ADVOCATE-GENERAL—1862. When we see a section of this kind passed in an Act which is of much more magnitude than ours, and which has been carefully considered by the home Legislature, I think it ought to have considerable force in the matter before us. I think the intention of such a section is manifestly to meet the just claims of creditors who may have dealt with the Corporation, and I think that its presence in the present Bill is only just.

The Honourable Mr. BYTHELL—The Honourable the Acting Advocate-General has omitted to tell us that no Scotch town has a Commissioner who may do as he pleases placed over it by Government whether it wishes it or not.

His Excellency the PRESIDENT—The Commissioner here cannot spend money.

The Honourable Mr. BYTHELL—I think he can, and in this way—he may tell some contractors that he wants a certain work done, but that as he has not the money to pay he will be happy to allow them to carry out the work if they agree to do so upon credit. I have been told by several Justices of the Peace that this was often done by the late Municipal Commissioner. I think that any contractor, looking at Section 42 and seeing there that “the entire executive power and responsibility for the purposes of this Act shall be vested in one Commissioner,” might adopt this course without any fear of losing his money. At any rate, if it has been done in the past, I do not see any reason for saying that it cannot be done in the future.

The Honourable Mr. TUCKER—Excepting that the late Commissioner was not put under the same restrictions as the Commissioner under this Act will be.

The Honourable Mr. BYTHELL—But I have cited a case in which the Commissioner may spend without the sanction of the Corporation. Of course the Commissioner would be personally responsible to the Corporation for any actions of that kind, but that would be very poor recompense to them for any loss that his conduct would entail upon them.

The Honourable Mr. TUCKER—If he makes any contract of the description mentioned by the honourable gentleman without consulting the Town Council, he will be acting illegally.

His Excellency the PRESIDENT—He may do what he likes apparently in contracts under Rs. 5,000.

The Honourable Mr. TUCKER—But even within that amount he is bound to report contracts, and I think that there are several provisions in this Bill which will clearly prevent malpractices of this kind.

The Honourable Mr. MUNGULDASS—We have already had to pay thirty lakhs for unauthorised expenditure, and I think that, if this section is allowed to remain, there will be again an incentive to extravagance. I would mention to the Advocate-General that Bombay is not Scotland.

The Honourable Mr. BYTHELL—I did not know that the unauthorised debts amounted to such a large sum as 30 lakhs, but we are all very well aware that in consequence of the way the late Commissioner ran the city into debt it had recently to borrow Rs. 15,00,000. Therefore, I should like to ask the Advocate-General, whether under this Act the Corporation could turn round and say they did not want any work that they had not authorized and could refuse to pay the money.

The Honourable Mr. TUCKER—If a work should be executed which was not in the Municipal Budget, the Corporation could refuse to take it or to pay for it.

His Excellency the PRESIDENT—But I would again point out there is no limit to the Commissioner's power of making contracts, provided he keeps each contract under Rs. 5,000.

The Honourable Mr. TUCKER—I do not dissent from your Excellency's views that some improvement ought to be made in the section referring to contracts, and we can consider this point when dealing with that portion of the Bill which contains the regulations



regarding contracts, but at present we are on the question of the supplementary rate. This rate is introduced to enable the Corporation to provide funds as they are needed in consequence of a failure of income to meet the actual expenditure, and in considering this section it is not necessary for us to settle the general question which has now been irregularly raised as to the power of the Commissioner under the Bill to involve the Corporation in unauthorized expenditure and to run it into debt. I quite agree with your Excellency and the Honourable Mr. Bythell that some further restraint in the matter of contracts should be placed on the Commissioner, and this we may discuss hereafter; but the discussion is out of place while we are on the supplementary rate.

His Excellency the PRESIDENT thought that in Section 96 "legitimate" expenditure should alone be mentioned.

The Honourable Mr. TUCKER—I am quite willing to agree to such an alteration, because the section was never meant to meet illegitimate expenditure.

The Honourable Mr. MUNGULDASS—If an alteration such as your Excellency indicates be agreed to, I would withdraw my amendment in favour of it.

The Honourable Mr. TUCKER then introduced the amendment on the section, of which he had given notice.

After some further discussion this amendment, with an alteration introduced to meet the view of His Excellency the President, was agreed to, and the section was amended and stands as follows:—"Whenever it shall appear, from the statement of actual cash receipts and expenditure in any year, laid before the Corporation at their quarterly meeting in the month of April next following, as provided in Section 33 of this Act, that the receipts on account of the municipal fund have not been sufficient to meet the expenditure sanctioned in the Budget, the Corporation shall forthwith provide funds for supplying the deficit either by diminishing the expenditure proposed for the current year and re-adjusting the items of the Budget for that year, or by raising additional income to cover the amount of the deficit; and for the purposes aforesaid, it shall be lawful to the Corporation, subject to any sanction of Government which may be requisite under this Act, to increase any of the rates, taxes, or duties which the Corporation is empowered to increase under the provisions of this Act so as to raise the said additional income, anything provided in Section 37 of this Act to the contrary notwithstanding. The Town Council shall forthwith apply the funds provided in the manner aforesaid to discharge the liabilities incurred in consequence of the excess of expenditure over receipts, and so soon as the accounts of the year are finally closed, shall publish in the *Government Gazette*, and in at least one of the daily English newspapers and in one daily Guzerati newspaper and in one Marathi newspaper published in Bombay, a report describing in detail the proceedings taken by them under this section and the manner in which the moneys collected have been applied."

The Honourable Mr. TUCKER—In consequence of the alterations on this section we must now refer to Section 4 and the other sections where the supplementary rate is alluded to, and alter the words "supplementary rate" to "supplementary tax." This will be the effect of the second amendment which I have given notice of.

It was agreed that the alterations should be made.

The Honourable the ACTING ADVOCATE-GENERAL—With reference to the "Bludgeon Clause" I would refer the Honourable Mr. Munguldass to the English Sanitary Act of 1866. The British Parliament, with the light of many Acts before it, and apparently with the knowledge that local boards were very often disinclined to carry out powers they were entrusted with, reserved a power in sanitary matters to one of Her Majesty's Secretaries of State similar to the power we have reserved to Government in this Bill, so that this clause which is so much objected to is not altogether without precedent.

The Honourable Mr. TUCKER—I may mention that this clause was drawn up by the Honourable Mr. White on the model of the compulsory clause in the English Act of 1866. I do not say that Mr. White approved of this section, but as Advocate-General he drew it up upon the precedent I have mentioned. There is a material difference however in the two clauses, as in the English Act the Secretary of State exercises this power through the Court of Queen's Bench.

The Honourable Mr. TUCKER moved—"That the words 'Police, lighting, water, and special supplementary rate' in Section 97 be omitted, and the following words be inserted in



their stead—“The police, lighting, and water rate, and any supplementary rate which may be imposed under the provisions of the preceding section.”

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

The Honourable Mr. MUNGULDASS—Regarding Section 98, I wish the power of remission to lie with the Town Council as well as the Municipal Commissioner.

The Honourable Mr. TUCKER—I think we had better not alter the section. The Commissioner cannot remit unless the Town Council approve, and the Town Council cannot remit until the Commissioner brings the case before them. I think that is the extent to which the Town Council should interfere.

The section was not altered.

The Honourable Mr. ROGERS—I move that the following words be added at the end of Section 98 as it stands:—“Or when it shall appear to be for the interest of the Municipal revenue to do so.” This alteration will save the Commissioner from collecting revenue at a loss instead of at a gain.

The Honourable the ACTING ADVOCATE-GENERAL—I think it would be better to adopt the words of the English Public Health Act.

The Honourable Mr. BYTHELL—If the Council follow the English Act, it will have to exclude the Commissioner and to leave the matter to the Town Council alone.

The Honourable Mr. ROGERS had no objection to adopt the words of the English Act, and the section was altered to read as follows from the word “approval”; “Of the Town Council to reduce or remit the payment of any rates for the year or any instalment thereof on account of the poverty of any person liable to the payment thereof, or when it shall appear to be for the interest of the Municipal revenue to do so.”

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

The Honourable Mr. MUNGULDASS proposed that Section 101 be omitted, and in lieu thereof the following section be substituted:—“When any house, building, or land is sub-let in apartments, flats or portions of flats, the owner thereof shall furnish the Municipal Commissioner with a list of his tenants showing the amount of rent paid by each tenant at least 15 days before the 1st January and 1st July in each year, and the Municipal Commissioner shall thereupon proceed to recover the occupiers’ rates from such tenants in proportion to the amount of rent paid by each tenant; but if the owner shall neglect to furnish the Municipal Commissioner with such list as aforesaid, the Municipal Commissioner shall proceed to recover the said rates from the owner instead of from the tenants of such house, building, or land sub-let as aforesaid, provided no rates shall be chargeable to any persons on account of any unoccupied house or portion of a house for the time during which it may remain unoccupied.” In supporting his amendment the honourable member said—The proposition contained in line one of Section 101, which enjoins the levy of occupiers’ rates from owners of houses and buildings that are unoccupied, is utterly indefensible. These rates are imposed, as indicated by the designation, in respect of certain services rendered by the Municipality to occupiers in protecting their person and property and providing them with the convenience of lighted streets. Consequently it cannot be contended that it is fair and reasonable to levy these rates on houses and buildings which are vacant and unoccupied, and which do not require such services. I therefore trust the Council will give effect to the recommendation made by General Marriott’s Committee to exempt all unoccupied houses and buildings from payment of occupiers’ rates. It is an imposition to make a charge for rendering services to occupiers when there are no occupants whatever, and when there is no necessity at all for such services. I beg to draw the attention of the Council to the fact that Bengal Act VI. of 1863, Section 62, exempts unoccupied houses. The section is as follows:—“Every occupier shall be liable to the lighting rate and to the water rate for the time of his occupation; and when any person shall have been an occupier for a part only of any quarter, the Justices shall charge him with only so much of the rate for that quarter as may be proportionate to the number of days during which he shall have continued to be an occupier. No such rate shall be chargeable to any person on account of any unoccupied house for the time during which it may remain unoccupied: Provided always that, when any person ceases to be the occupier of any premises liable to the rate, he shall give the Justices notice thereof, or if he fail to give such notice, he shall be liable to the rate assessed on the said premises for the whole quarter, although they may have been occupied for a part only of such quarter.” With regard to the rest of the section which compels the



owner to pay occupiers' rate when any house or building is let in apartments or flats or portions of flats, or when any land is let in portions, I cannot see any ground for sanctioning the proposed injustice of levying these rates from the owner and exempting the occupier. I therefore ask the Council to omit Section 101 and to substitute Section 7 of Act IV. of 1867, as proposed by me. This will not only remedy the injustice just referred to, but will give many persons a voice in the conduct and management of Municipal affairs who are at present excluded from the Corporation and will be deprived of the franchise conferred by Section 6. Thus the names of all European gentlemen who live in clubs or jointly with others, and all merchants, barristers, attorneys, &c., who have their offices in large buildings, will appear in the books of the Municipality. They will therefore be disqualified for voting as electors and serving as members of the Corporation.

His Excellency the PRESIDENT—Certainly there is on the face of these sections a contradiction in terms, because although there may be no occupier, yet occupiers' rates are charged. I think this appears strange.

The Honourable Mr. BYTHELL—The Council will get over the difficulty by substituting the words police and lighting rate for occupiers' rates.

The Honourable Mr. MUNGULDASS—There was no such section as this in the previous Acts, and I do not see why it should be introduced now.

The Honourable Mr. TUCKER—General Marriott's Committee considered that no rates ordinarily paid by occupiers should be charged if a house was not occupied. I think that as we have in a measure agreed to the principle that there should be a division of rates, half upon the owner and half upon the occupier, that full occupiers' rates should not be charged to an owner for an unoccupied house.

The Honourable Mr. MUNGULDASS—The Honourable Mr. Bythell speaks about police and lighting rates, but does vacant land require lighting ?

The Honourable Mr. BYTHELL—By this Bill, if a house is unoccupied for a whole year, the owner pays no house rate, and if this section be altered, Mr. Bythell thinks owners should always pay police rates for houses whether occupied or not. he will pay no police or lighting rate. I do not think that this is right, and I certainly am of opinion that at the very least the owner should pay police rate, because the property has always to be protected. If there were a riot in the city, probably the house-owner would be the first to see how necessary police protection was for the safety of his property. Besides this, we have seen many large owners of house property of late keeping their property unoccupied for as long a time as three years, in order to obtain high rents, and this is a line of action that should not be encouraged. Such property ought to pay the police rate, because unless the property were protected, the owners would suffer materially. It has been said that many owners keep ramosies to guard their vacant houses, but if the general body of police were withdrawn, these ramosies would not be sufficient for this purpose. All house-owners are benefited by the existing police arrangements, and should contribute whether their houses are occupied or not.

The Honourable the ACTING ADVOCATE-GENERAL—Property is protected by lighting also, and therefore I think that both lighting and police lighting rate should also be paid for rates should be paid by house-owners, although their houses unoccupied houses. may be untenanted.

His Excellency the PRESIDENT—I think that the owner of house property ought to contribute for its protection under all circumstances, and I therefore think that no exemptions from police rate should be allowed in the case of vacancy.

The Honourable Mr. TUCKER—I agree with your Excellency that the house-owner ought always to pay house-rate, but I do not think he should pay all the occupiers' rates for an unoccupied house.

The Honourable Mr. MUNGULDASS—I would submit that the course now proposed by several members of this Council would, if carried out, be nothing else than an income-tax upon house-owners. With the greatest respect I would point out that the house rate is a tax upon income, and if a man is unfortunate enough to get no tenant, I cannot see why an additional tax should be levied upon him.

The Honourable Mr. TUCKER—Does the honourable member mean to say that the house rate which he pays is a tax on his whole income ?

The Honourable Mr. MUNGULDASS—Yes ; on income derived from the whole of my landed property.



The Honourable Mr. TUCKER—But that is not all the honourable gentleman's income—he may have money in Government securities and invested in other ways, which returns him an income.

The Honourable Mr. MUNGULDASS—I would point out that one man may invest his money in Government securities or in other ways in the city of Bombay, and he enjoys every protection, but he does not contribute to the rates; and another man invests his money in house property and has to bear all the burdens of the Municipal expenditure in consequence.

The Honourable Mr. BYTHELL—But the man who puts his money into house property finds that it will pay him to do so, or he would not act thus.

The Honourable Mr. TUCKER—The correct mode of regulating this matter would be as His Excellency has suggested, that the owner should always pay something for the protection afforded to real property by the general Municipal arrangement, and as under this Bill if a house be entirely vacant for more than two months, the owner gets an entire exemption, it is right that he should pay the police rate, if not the lighting rate also. When I last spoke I overlooked the fact that the owner could get an exemption from the house rate if his house was vacant for more than two months. The arguments of the Honourable Mr. Munguldass would have some force if the owner always paid full house rate when his house was vacant, but it fails in consequence of the exemption from house rate. If the exemption for house rate were done away with, the liability to occupiers' rates when there was no tenant might be equitably foregone, but not otherwise.

His Excellency the PRESIDENT—I think that the principle that house-owners should always pay police rates is the legitimate result of the discussions which the Honourable Mr. Munguldass has provoked.

The Honourable Mr. MUNGULDASS—Since the commencement of the Municipality of Bombay, it has been the rule that empty houses should be excluded from the house-rate.

After some further discussion the Honourable Mr. Munguldass's amendment was put to the vote and lost:—

*Ayes*—4.

The Honourable MUNGULDASS NUTHOORHOY.  
The Honourable Sir JAMSETJEE JEJEEBOY.  
The Honourable J. A. FORBES.  
The Honourable GUNPUTRAO TATIA SAHIB  
PUTWURDHUN.

*Noes*—8.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.  
The Honourable H. P. ST. G. TUCKER.  
The Honourable A. ROGERS.  
The Honourable the ACTING ADVOCATE-GENERAL.  
The Honourable Colonel M. K. KENNEDY.  
The Honourable E. W. RAVENSCROFT.  
The Honourable J. K. BYTHELL.

The Honourable Mr. BYTHELL proposed that after the word "unoccupied" in line 2 of the section, the following words should be added—"The owner thereof shall be liable for the police rate."

His Excellency the PRESIDENT—As I understand this motion, it does not apply to flats or portions of a house.

The Honourable Mr. BYTHELL—I think that the owner ought to pay the police rate in all cases.

The Honourable Mr. TUCKER—I am afraid that by altering this section at this late stage we may commit some grave mistake and introduce confusion into the provisions of the Bill. I at first agreed to relieving the owner from a portion of the occupiers' rates in the case of a vacant house, because I had forgotten his exemption from house rate. As that exemption is to continue, I prefer to leave the Bill as it stands on the point, so I shall oppose any amendment.

The Honourable Mr. BYTHELL's amendment was finally put to the vote in the following shape:—

"When any house, building, or land is unoccupied, the owner thereof shall be liable for the police rate; and when any house, building, or land is sub-let in flats or sets of apartments or for lodgings or godowns as mentioned in Section 76 of this Act, the owner thereof shall furnish the Municipal Commissioner with a list of his tenants, showing the amount of rent paid by each tenant at least fifteen days before the 1st January and 1st



July in each year, and the Municipal Commissioner shall thereupon proceed to recover the occupiers' rates from such tenants in proportion to the amount of rent paid by each tenant; but if the owner shall neglect to furnish the Municipal Commissioner with such list as aforesaid, the Municipal Commissioner shall proceed to recover the said rates from the owner instead of from the tenants of such house, building, or land sub-let as aforesaid."

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

*Ayes*—5.

The Honourable MUNGULDASS NUTHOOBHOY.  
The Honourable SIR JAMSETJEE JEJEEBHOY.  
The Honourable J. A. FORBES.  
The Honourable J. K. BYTHELL.  
The Honourable GUNPUTRAO TATYA SAHIB  
PUTWURDHUN.

*Noes*—5.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.  
The Honourable H. P. ST. G. TUCKER.  
The Honourable the ACTING ADVOCATE-GENERAL.  
The Honourable Colonel M. K. KENNEDY.  
The Honourable E. W. RAVENSCHROFT.

His Excellency the PRESIDENT having voted in favour of the amendment the motion was carried. The Honourable Mr. Rogers declined to vote.

In line 5 of Section 102, "or" was deleted, and "or portion thereof" inserted after land.

In line 17 of Section 183, "also" was inserted after "provided."

The Honourable Mr. TUCKER on the motion of the words "sunrise and sunset" in line 6 of Section 111 were omitted, and the words "5 A.M. and 7 P.M." substituted.

The Honourable Mr. BYTHELL moved that the following words in lines 10 to 14 of Section 114 be omitted :—

Mr. Bythell objects to the Corporation being allowed power to alter the articles or rates specified in the Schedule of town duties.

"The list of articles and rates specified in the said schedule may be altered from time to time by the Corporation with the sanction of Government." He said—I had always been under the impression that this Council, His Excellency the Governor of Bombay, and the

Government of India, each and all retained on principle a voice in deciding as to what extent local taxation should go in any one direction. I thought that while power was sometimes vested in a local Government to vary certain taxes, there was always a limit fixed beyond which that Government could not go. That was the principle on which Act IV. of 1869, the existing Town Duties Act, was framed. Power was given to the Corporation to vary the articles and the rates, but neither Government nor the Corporation had the power of putting a tax on any article not specified in the schedule. I should be very sorry to be thought in any way disrespectful, but I must say I do think that the words I wish to see expunged from Section 114 amount to a proposal that this Council and the Government of India should to a certain extent abdicate their functions. The section as it now stands empowers the Government of Bombay to tax to any extent any or every article of commerce (there is not one exception) passing through Bombay. We have seen that a majority of the executive Government were very recently in favour of inflicting a transit duty on the staple article of trade in Bombay, and what guarantee have we that they would not ere long again, in response to the property owner's outcry, impose a similar duty on many other kinds of goods and produce? If piece-goods, cotton yarn, oil-seeds, gums, myrabollams, hides, and other articles in which Bombay has a trade were all subjected to a small town due, it would, I presume, be still argued that the tax in each instance was imperceptible, although the amount levied on the trade as a whole would be very large. Honorable members may reply that if such dues were levied they would not be a transit tax, because on exportation a refund would be given. But the terms under which drawback is to be allowed would preclude many articles from receiving it. No refund of a less amount than ten rupees is to be granted. Now those conversant with the trade know that this condition would prevent most of the piece goods and yarn dealers from obtaining the refund. Dealers in Bombay buy large quantities of goods at one time from importers; but the goods are resold to up-country dealers, and despatched to the Mofussil in small quantities. I have mentioned this to show that Section 114 does really give the Government of Bombay the power to levy transit dues without coming to this Council or going to the Government of India for consent. Now, Sir, I do respectfully submit that before any new tax is imposed, every member of this Council should have the opportunity of speaking and voting for or against it. Honorable members representing the property owners' interest voted cheerfully for Government and the Corporation being allowed to retain the power of increasing taxes on trade indefinitely at their own good pleasure; but, Sir, you will not have forgotten how very anxious, eager and determined those same honourable members were to have the limits of the house, police and lighting rates carefully defined. The Council has admitted the principle that the limits of the taxes on pro-



erty shall be jealously stated in the Act; but as regards taxes on trade, unlimited powers of taxation are vested in Government. There is to be no limit whatsoever. The matter is to be solely at the discretion of Government. Is there any consistency there? The property owners were up in arms merely at the idea of the maximum rates of the special taxes on property not being defined; what then would have been said, what a fearful outcry would have been raised had a section something to this effect been inserted:—"Taxes on property and the amount of those taxes may be altered from time to time by the Corporation with the sanction of Government." But if it would have been unjust thus to put property at the mercy of the Corporation and of Government, on what principle is it just to submit the whole of the trade of Bombay to be taxed at their will and pleasure? I consider this power to be the most objectionable portion of the Act. It opens the door to extravagance when strict economy is imperatively needed. I hope this Council will ponder well the words of Sir Seymour Fitzgerald on this point. He said—"Another great evil is that of all the forms of taxation the system of octroi duties is the most expansive, and when once the power is given to a municipality to levy certain taxes of this kind, although they begin with moderate imposts, they almost invariably go on until they have imposed the highest possible amount of taxation. I think that nothing but a very great emergency would ever justify the Legislature in having recourse to this species of taxation in order to supply the wants of the Municipality." This is a most important consideration. So long as the Corporation know that they have such a resource to fall back upon, so long as they know that unlimited taxation, in a form which will not directly touch their pockets, is allowed by the Act, and believe that there is a Government not unwilling to see such taxes imposed, there will be no inducement to practise economy. Property owners will be continually coming to Government just as they have for six years past been continually coming to this Council, and saying that money must be had from somewhere, and that there is only one source of revenue open—that another town due must be imposed. If the town duties are to be fixed by Government and not by this Council, what a waste of time it was for us to spend a whole day in deciding what articles and what rates should be inserted in Schedule B. It was a day completely thrown away if Government are to have the power of altering the whole thing at any time by a stroke of the pen. After this Council has carefully considered and decided which articles shall be taxed, and which shall not, it seems to me to be utterly inconsistent to give Government the power of reversing the whole thing at any time. Certainly the property owners are to be congratulated on the success that is at last attending their efforts. In 1866 Government and the Council refused to sanction the levy of octroi duties; three years later, in 1869, they were induced, though under protest, to consent to octroi duties being levied on a few articles, but would not listen to the proposal to establish transit dues. Again three years later, in 1872, and we see much greater progress however; not only are transit dues willingly granted, but this Council, before so jealous of its power to specify the limits of local taxation, positively asks Government to take the power of levying duty on every article passing through Bombay. Landlords are making progress with a vengeance. If they should be equally successful in the future, we shall be seeing the Council, when another period of three years has elapsed, abolishing taxes on property and putting the whole municipal expense on the trade of the place. I cannot, however, believe that the Government of India will be willing to forego their right of sanctioning the limit beyond which local taxation shall not go, and of being consulted before any new article is subjected to town or transit dues. I hope this Council will on reconsideration also decide to retain a similar power as regards the local taxation of this Presidency. Honourable members must see that this is one of the privileges which should be jealously guarded by the Council. While voting to give Government and the Corporation the power to vary taxes, this Council should on principle prepare a schedule as a limit to that power. We have a schedule certainly, but as the Bill now stands, I cannot understand why we took the trouble to prepare that schedule. I only ask the Council to be consistent. Do not, I repeat, give Government unlimited power to tax trade, and at the same time carefully restrict their power of taxing property. On what ground, I ask, is this unfair distinction made? I hope some honourable member will try to explain the anomaly.

The Honourable Mr. ROGERS—The Honourable Mr. Bythell's amendment is intimately

connected with one of which I have given notice upon the succeeding section. The honourable member has gone entirely upon the supposition that under the power which Government will have under this section to sanction an alteration of rates and articles there will be constant changes in the town duties; but I think he is quite mistaken in that respect. As has been said more than once, one of the chief

Mr. Rogers thinks the Corporation a suitable body to revise town duties from its knowledge of the requirements of the community.



reasons for the creation of this Corporation was that we should have a body of men who would really represent the different classes of the community and who would be qualified to submit to Government recommendations for the alteration of the list of articles and rates according to their knowledge of the circumstances of the community. Government have no desire for any change unless it can be demonstrated to be required in the interest of the town. In a matter of this description I believe that Government would be perfectly impartial, and only look to the interests of all concerned. For my own part, and I think on this point I may say on the part of Government, there will be an earnest endeavour to hold the scale between all classes of the community with perfect equality. If it be shown that one portion of the community is unduly burdened by taxation, it may be anticipated that the Corporation will come forward and tell us so, and also suggest how the burdens may be redistributed, and we shall act in accordance with what may appear to us to be the correctness or incorrectness of the opinions submitted to us. As I consider that the Honourable Mr. Bythell's motion will restrict the action of the Corporation in a matter in which it is desirable to leave an assembly constituted on the representative principle some latitude of action, I shall oppose its adoption.

The Honourable the ACTING ADVOCATE-GENERAL—I have not heard any good reason why the latter part of this section should not stand. I think it is very desirable that the Corporation should have power in a matter of this kind to consider in what respect they may relieve certain classes of the people in their contributions towards supporting the Municipality. I cannot congratulate the Honourable Mr. Bythell on the consistency of his conduct with regard to this Bill. In numberless cases his demand has been that the Corporation should have more power, and we have been asked by him frequently whether any one had ever seen a law which was designed to transfer the management of a great city to the Corporation, that did not vest all the powers relative to the management of that city in such Corporation. If the power of altering the rates on immovable property is vested in this Corporation, I do not see why it should not have a right, within certain limits, to alter the articles subject to Town Duties and the rates at which the duties are to be levied.

The Honourable Mr. BYTHELL.—There are no limits.

The Honourable the ACTING ADVOCATE-GENERAL—I think that as no alteration can be made without the sanction of Government, there are limits. I agree with the Honourable Mr. Rogers that there is no risk that the trade of the town will be hampered with transit duties if the section remains as it stands. I believe that the Government in this respect will exercise a sound discretion and hold an even balance between conflicting interests, and I am astonished to find that the honourable gentleman thinks that men who are to be entrusted with large powers over real property, are not fit to be entrusted with some discretion in dealing with personal property in the shape of merchandise and articles of trade. On a former occasion I gave my reasons for thinking that even the sanction of Government ought not to be required to these alterations, and in this respect I was supported by certain honourable members who thought that as the Corporation were about to govern the city, they should have full powers of deciding upon all articles to be taxed. I do not at all quarrel with the decision which the Council have arrived at either in Select or General Committee, because I am satisfied after the discussions and the reasons I have heard, that the conclusion of honourable members has been a right one. If there has been one thing more than another which induced me to accept this conclusion and feel satisfied with this Bill, it was the addition of this very clause at the end of this section, which leaves it in the power of Government to be the means of adjusting the distribution of taxes when necessary. The Corporation will make its representations to Government, the people affected will make theirs, and thus Government and the Corporation will be able to fulfil their respective functions. I have not the slightest hesitation in saying that this power ought to be given to the Corporation, and to suppose that they will exercise that power in a way which will be injurious to the inhabitants is an assumption that ought not to be made. Neither is there anything in respect to the conduct of Government which can justify the apprehensions of the honourable member that this clause will be made the means of working injustice to the traders of Bombay. I shall oppose the amendment.

The Honourable Colonel M. K. KENNEDY—My idea of the wording of this clause was that it was intended to include articles for town consumption, and I did not imagine that it applied to articles either of export or import. I thought that the refund clause would be a sufficient protection, but from the way in which the subject has been treated by the Honourable Mr. Bythell, I do not think this would be a sufficient protection. I shall therefore support the amendment.



The Honourable Mr. RAVENSCROFT—It appears to me that the section is rather inconsistent. It starts by saying "duties not exceeding the rates specified by Schedule B," and then it is said they may be altered.

The Council agreed to substitute "at" for "not exceeding."

The Honourable Mr. RAVENSCROFT—I think that the position taken by the Honourable Mr. Bythell, that we are always to be bound down by certain fixed rates and articles, is not tenable. We must allow a certain amount of discretion to the Corporation.

The Honourable Mr. BYTHELL—Give the Corporation the same power over real property, and then the Council will be consistent throughout in this particular matter.

The Honourable the ACTING ADVOCATE-GENERAL—It is impossible to fix the rates upon articles which are not named.

His Excellency the PRESIDENT—Nothing has been more remarkable in the course of these debates than the distrust of each other evinced by the different sections of the community as represented here. I think it is fortunate that there is a Government to arbitrate between them.

The Honourable Mr. TUCKER—It might have been expected, after the announcement

Mr. Tucker opposes Mr. Bythell's amendment, because it would hinder the future free action of the Corporation.

which your Excellency made yesterday with regard to the withdrawal of the duty on cotton in deference to the views of the Viceroy, that the honourable member who has moved this amendment would have been content to leave the commodity in which he is so much interested to the protection of those influences which have hitherto sufficed to shield it from the attacks of all who have desired to put it under contribution for the benefit of the Municipality. But, not satisfied with the present advantage which he has gained, he now wishes to prevent the possibility of any tax being ever imposed upon cotton without some further change in the law. Supposing hereafter that this Corporation, based on the principle of representation, should come to the conclusion that a small duty on cotton was more for the interest of the city than some of the other imposts which will be levied under this Bill, and should be able to convince both the local and the central Government of the soundness of their views, yet there should be no power to give effect to them, and the immunity enjoyed by cotton and other articles not now included in the schedule of town duties should be stereotyped till the Legislature shall again take up the matter. To enable the honourable member to gratify the desire of his heart with respect to cotton, he advocates a rigid restriction of the powers of the Corporation, notwithstanding that one of his principal causes of dissatisfaction with this Bill is the insufficiency of the power entrusted to the Corporation and Town Council for the management of the affairs of the city. He would give them full latitude to interfere in all matters except those which would affect the interests of the class whom he more particularly represents. This is an illustration of that lamentable partisan spirit by which the opponents of this measure have been actuated from first to last, and which has rendered it impossible for us to accept them as guides in matters in which their special experience and local knowledge could have been of the greatest service to us. I regret very much this exhibition of oneness, as notwithstanding the efforts made to counteract it, I cannot hope that it will not have some prejudicial effect on the Bill and will give it an ultimate shape and form which it would not have assumed if there had been a stronger desire to subordinate class interests to the general good. The Honourable Mr. Bythell appears to suppose that the Bombay Government, in coalition with the Corporation, might be disposed to replace the duty on cotton which we have now abandoned in compliance with the wishes of the Supreme Government, but he has forgotten that the Bombay Government in its executive capacity is subordinate both to the Government of India and the Secretary of State, and that if it desired to act in the manner which the honourable gentleman thinks probable, it would have to satisfy both those authorities of the propriety of its proceedings. Its present action with reference to this duty would be a sufficient guarantee to most persons that it would not sanction the imposition of such a duty in future without the consent of the Supreme Government. It is inexpedient, I consider, to fix once for all the commodities upon which duties shall be levied, and I think that a discretionary power both as to articles and rates may be safely entrusted to the Corporation, subject to the general control of Government. The Chamber of Commerce and the persons interested in the different articles selected from time to time for taxation would always be able to make their views heard, and the fear which has been expressed that trade would be hampered by oppressive and objectionable taxation, rests on no solid foundation in my opinion. The Government would be as anxious then as now to consider the



general good only, and it appears to me that we ought not to withdraw this power from the Corporation, provided it is not likely to be exercised mischievously or to the detriment of the community.

The Honourable Mr. MUNGULDASS—Sir, with your permission I would say a few words in reply to the observations of the Honourable Mr. Tucker. For my part, I totally deny that in this Council I have shown any party feeling or endeavoured to promote the interests of a particular section of the community. I admit that I have more particularly spoken on behalf of the native community, but this was not because they are my countrymen, but because they are poor and powerless, and have not the means of protecting their interests as powerfully as Europeans, whether here or in England. I have endeavoured to discharge my duty in the interests of all, and therefore, so far as I am concerned, the Honourable Mr. Tucker's observations do not apply to me.

The Honourable Mr. FORBES—I quite agree in what the Honourable Mr. Bythell has said in proposing this amendment. From the very first I would gladly have seen some means of abolishing town duties altogether, because I think they are to a certain extent restrictions upon trade, and many of them are not town duties in the true sense of the term. The duties on grain and sugar partake of the character of transit duties; but as it appears impossible, in the present burdened state of the municipal finances, to raise sufficient funds without having recourse to some of these duties, I assent to the articles which are now in the schedule, although I certainly should be opposed to any increase in the number of articles which are to be subjected to these duties. It is a well understood thing—at least, it seems to be an acknowledged rule of financiers in England, that if trade must be taxed, it is desirable, at all events, to limit the number of articles as much as possible. The other day I was reading a very interesting book published by the Cobden Club upon this subject, and the writer argued that it was not only the amount of tax which the merchant paid that was a serious injury to trade, but that it also suffered from the mode of collecting the tax and the processes to be gone through and the restrictions to be imposed in order to enable Government to collect those taxes. It is admitted that no matter how small a tax may be, still the mere fact of its being a tax constitutes a serious drawback upon trade. The Honourable the Acting Advocate-General made some remarks about the fairness of allowing the Corporation to tax personal property as well as real property, but I think that his remarks would have been more pertinent if the power to tax personal property had been restricted to the property of persons residing in the city. Coffee is a commodity in which a large trade is carried on in Bombay, and supposing a merchant sent this article to Bombay from Aden for transshipment to England or America, and that the Corporation added coffee to the list of town dutiable articles, I do not think it could be argued that this merchant was a person belonging to Bombay whose property should be taxed. The owner of merchandise may reside in New York or England, but the town of Bombay would be benefited by his trade, and I think it is the duty of Government to restrict the duty as much as possible to articles consumed in the town, and not allow the imposition of restrictions upon trade which could by any means be avoided.

The Honourable Mr. BYTHELL—Sir, I think that the statement of the Honourable Mr. Tucker about mercantile members having discussed this question in a partisan spirit is quite uncalled for. All that the mercantile members have done was to urge the Council to adhere to the principles by which its members have been actuated for a number of years past. This is not the first time transit duties have been discussed in this Council. Every one knows that they have often been discussed before, and a large number of honourable members, including two of the late Governors of Bombay—Sir Bartle Frere and Sir Seymour FitzGerald—Lord Napier of Magdala, and others who cannot be said to be connected with trade, and who at any rate are above the possibility of being told that they were actuated by motives of partisanship, have condemned transit duties. Besides, even though the Council do levy transit duties, I never argued that if this tax were inflicted on cotton the merchants of Bombay would have to pay it. I simply argued in favour of Bombay being exempted from taxes of this nature, on the ground that if the trade were burdened by them, the town itself would be greatly injured. All the merchants already pay a very fair share towards municipal revenue. I think that the reply which the Honourable Mr. Tucker has made to my remarks does of itself savour of the spirit of partisanship. Though the property owners



and the mercantile members differ as to how trade and property should be taxed, they agree upon one point, and that is, the incongruity of establishing a municipal Corporation nominally to manage the affairs of the city, and yet at the same time providing for the sole power and responsibility being vested in a Government official. I was sorry indeed to hear the Honourable the Acting Advocate-General harp upon the old string again, that while we are afraid of trusting the Corporation in one direction, we complain that they have not power enough in the executive management. I have said all along that the power of the Corporation should be limited by this Act, and that Government should have power to step in in the event of mismanagement; and therefore I think the honourable member's statements are to a certain extent unjustifiable. There is no inconsistency on our part in advocating that the Corporation be trusted with power to carry out the provisions of the Act subject to certain restrictions laid down in the Act and to Government interference in case of mismanagement, and yet being very much opposed to the Corporation, with the sanction of Government being allowed unlimited powers of taxation over the whole of the trade of the place. At the second reading of this Bill, the Honourable the Acting Advocate-General spoke very strongly, challenging me to name a precedent for certain powers being given to Corporations, but I should like to hear from him whether he ever heard of any Corporation being entrusted with full power to tax trade to an unlimited extent, while at the same time I defy him to produce an instance of an English Corporation not possessing full power for all municipal purposes. With regard to what the Honourable Mr. Rogers has said about this Government exercising the power given in this section with impartiality, and being careful not to overburden trade, I have only to repeat that even at this present time we see a majority of the members of Government in favour of a transit duty on the staple trade of Bombay—a tax which has been vetoed by the Government of India. I should be sorry to say anything that might appear disrespectful, but when mercantile members see such a feeling pervading the members of the executive Government, it is their duty to endeavour to limit the powers of that Government with regard to the taxation of trade. I am sorry that in the course of the debate upon this amendment no honourable member has taken up my remarks relative to the utter inconsistency of the powers of Government, and of the Corporation being so rigorously restricted as regards property interests, and yet being so completely unlimited when it is a question of imposing taxes on a trade, which amounts in value to over forty million sterling annually. The thing is utterly inconsistent. In the same way, no honourable member seems inclined to attempt to explain the inconsistency of our having wasted a whole day upon the question whether ghee or metals or timber or other articles should be taxed when the power is here given to Government of upsetting the whole thing on the day after this Bill is passed.

His Excellency the PRESIDENT observed that the Chamber of Commerce memorial pointed out that the conditions under which it was proposed to give returns of duty would to a great extent prevent refunds and make all the duties upon the articles in the schedule mere transit duties.

The Honourable Mr. BYTHELL—I alluded to this point at some length on a previous occasion. Section 120 provides that no refund can be claimable for a less amount than Rs. 10, and as many goods of English manufacture are sent to the Mofussil in very small quantities, a transit duty would actually be levied upon them.

His Excellency the PRESIDENT—Does the honourable gentleman mean that packages are sent to the Mofussil so small that he could not get even Rs. 10 refund on them?

The Honourable Mr. BYTHELL—Exactly. One man may carry away a bale of one thing and a bale of another, which are taxed with an amount that cannot be refunded.

The Honourable Mr. TUCKER—The duty cannot be very severe if a merchant will export three or four bales without claiming a refund.

The Honourable Mr. BYTHELL—A number of gums come here from the Persian Gulf, where they are sorted and shipped. If they are taxed, the small refund recoverable on their going to England would not be worth the trouble of application for. It is the same with a great deal of cotton which has to be repacked when it comes to Bombay. Linseed is the same. A great quantity comes from Jubbulpore, and the greater part of the packages are opened here and the seed cleaned. I say that if town duties were levied upon these articles, it would practically be a transit duty upon them.

His Excellency the PRESIDENT—It occurs to me that there is a great difference between giving the Corporation power to charge the articles, and allowing them to fix the rates. In the former case you give the Corporation power to make a transit duty, while



in the latter the alterations which they may effect will not alter the character of the taxes. I think that this is a distinction of considerable importance, for as the section authorizing refunds now stands, it practically, with respect to some articles, converts a town duty into a transit duty.

The Honourable Mr. TUCKER—If your Excellency or any other member is prepared to suggest an alteration of the refund section, which will facilitate the obtaining of refunds, I shall have no objection. I imagine that it is to a great extent the smallness of the duties which prevents this privilege being taken advantage of as frequently as it might be. When the words "except cotton" are expunged from this section, refunds will be obtainable on exportation of every article on which duties are or shall hereafter be levied, so the Corporation will have no power to impose a transit duty if they should wish to do. The improvement of the refund section may be considered when we come to that section.

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

*Ayes*—7.

*Noes*—4.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.  
The Honourable MUNGULDASS NUTHOOBHOY.  
The Honourable Colonel M. K. KENNEDY.  
The Honourable Sir JAMSETJEE JEJEEBHOY.  
The Honourable J. A. FORBES.  
The Honourable J. K. BYTHELL.  
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The Honourable H. P. ST. G. TUCKER.  
The Honourable A. ROGERS.  
The Honourable the ACTING ADVOCATE-GENERAL.  
The Honourable E. W. RAVENSCROFT.

The amendment was therefore carried.

The Honourable Mr. ROGERS intimated that the following amendment on Section 115, of which he had given notice, would fall through in consequence of the Honourable Mr. Bythell's amendment being carried:—That the following words in lines 13 to 21 of Section 115 be omitted—"Provided that such rates so from time to time to be fixed shall not exceed the rates authorized to be levied under the provisions of this Act, or be imposed in respect of any other articles than those liable to town duties under this Act, and the town duties when so fixed shall be the town duties leviable for the then next ensuing year."

His Excellency the PRESIDENT said that the section would now require no alteration.

The Honourable Sir JAMSETJEE proposed, on behalf of the Honourable Mr. Narayan Vasudevjee, the following motion:—"That in Schedule B, referred to in Section 114, the duty on wines and spirits be raised from 2 to 4 annas."

The Honourable Mr. TUCKER—We had better, at the same time, consider whether we are prepared to increase the rate on ghee. The two questions should be settled at the same time.

The Honourable Mr. MUNGULDASS—I shall oppose any further increase of duty on ghee, because ghee is essential to the healthy existence of those natives who abstain from animal food. I may tell this Council that dissatisfaction has been caused in Bombay by the increase of duty on ghee which has already been made at the second reading of this Bill.

The Honourable Mr. RAVENSCROFT—I shall support the Honourable Mr. Narayan's motion, and I hope that an additional 2 annas will be laid on ghee.

The Honourable Mr. BYTHELL—I think that that will be sufficient. I am assured by many native gentlemen who know the circumstances of the case, that ghee is not an article of ordinary consumption among the poorer classes, so that a tax upon it will be a tax only upon the well-to-do portion of the Hindoo community.

The Honourable Mr. MUNGULDASS—Of course the honourable member is at liberty to express his opinion on this point, but as for his opinion that ghee is not necessary for the poorer classes, and that it is a luxury, I do not agree. The vegetarian Hindoos cannot sustain a healthy existence without ghee. I am in favour of the Honourable Mr. Narayan's motion for increasing the tax on wine and spirits, which are indeed a curse to the poorer classes of the natives who consume a great quantity of spirits. I know from my personal knowledge that grog shops have been increasing in Bombay, and the vice of drinking amongst the lower classes is rapidly spreading.



The Honourable Mr. TUCKER—If we raise the duty on wines and spirits, we might fairly add another two annas to the rate on ghee. Cheap clarets and other light wines are quite as much a necessity for some Europeans as ghee is to some Hindoos.

The Honourable Mr. NARAYAN'S amendment was put to the vote and carried.

*Ayes—7.*

The Honourable H. P. ST. G. TUCKER.  
The Honourable A. ROGERS.  
The Honourable MUNGULDASS NATHOOBHOY.  
The Honourable Colonel M. K. KENNEDY.  
The Honourable Sir JAMSETJEE JEJEEBHOY.  
The Honourable E. W. RAVENSCROFT.  
The Honourable J. K. BYTHELL.

*Noes—3.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.  
The Honourable J. A. FORBES.  
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

Mr. Bythell moves an additional duty of two annas on ghee.

The Honourable Mr. BYTHELL—I move that the duty on ghee be raised from 8 to 10 annas per maund.

The Honourable Mr. MUNGULDASS—No notice has been given of this motion, and it cannot be put.

The Honourable Mr. TUCKER—It does not affect the principle of the Bill.

The Honourable Mr. MUNGULDASS—I never knew of a tax being increased at the third reading of a Bill in this Council without previous notice of a motion to that effect being given.

The Honourable Mr. TUCKER—Perhaps the honourable gentleman will be good enough to refer to the rule of this Council regarding amendments.

The Honourable Mr. MUNGULDASS—I cite the practice.

Mr. NUGENT (Acting Under-Secretary), at the request of His Excellency the President, read the rule on the subject of amendments, which only required that notice should be given of amendments affecting the principle of a Bill.

His Excellency the PRESIDENT ruled that the amendment might be put.

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

*Ayes—8.*

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.  
The Honourable H. P. ST. G. TUCKER.  
The Honourable A. ROGERS.  
The Honourable Colonel M. K. KENNEDY.  
The Honourable Sir JAMSETJEE JEJEEBHOY, BART, C.S.I.  
The Honourable E. W. RAVENSCROFT.  
The Honourable J. K. BYTHELL.  
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

*Noes—3.*

The Honourable the ACTING ADVOCATE-GENERAL.  
The Honourable MUNGULDASS NATHOOBHOY.  
The Honourable J. A. FORBES.

The amendment was therefore carried.

The Honourable Mr. BYTHELL—I move that the words "except on cotton" in lines 1 and 2 of Section 120 be omitted.

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

The Honourable Mr. TUCKER moved that the words "of this Act" be inserted after "81" in line 9 of Section 128.

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

The Honourable Mr. TUCKER moved that the words "of this Act" be inserted in line 7 of Section 129 after the words "Section 127."

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

In line 20 of Section 148, "powers" was substituted for "owners." This was the correction of a typographical blunder.

The Honourable Mr. TUCKER moved that the words "plan and statement" be substituted for the word "notice" in line 11 of Section 166.

This was agreed to. The word "made" was substituted for "laid down" in line 20 Section 166 as amended stands part of the Bill.



The Honourable Mr. TUCKER moved that the words "and plan and statement" in line 4 of Section 167 be omitted, and the following words inserted—"or without furnishing the Commissioner, if required, with a plan and statement as aforesaid": also that the word "requirements" be substituted for the word "directions" in line 7 of the same section.

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

The Honourable Mr. TUCKER moved that the words "of this Act" be inserted in Section 168 after the words "Section 165": also that in line 8 "statement" should be substituted for "notice," and that in line 10, the words "statement and plan" be substituted for "notice."

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

The Honourable Mr. TUCKER moved that the words "shall be necessary to" in lines 5 and 6 of Section 180 be omitted, and the word "should" substituted for them.

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

The Honourable Mr. ROGERS moved that the word "public" be inserted between the words "any" and "street" in line 10 of Section 181.

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

The Honourable Mr. TUCKER moved that the words "the opinion of the said Health Officer" be substituted for "his opinion" in line 7 of Section 184.

The alteration was agreed to.

In Section 219, line 3, "three" was substituted for "there"—a misprint.

In line 4, Section 221, "at" was inserted between "officer" and "any."

In line 5, Section 222, "so" was inserted after "overcrowded."

The Honourable Mr. ROGERS moved that the words "the provisions of Sections 225, 226, and 227 of" be inserted after the word "against" in line 5 of Section 228.

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

The Honourable Mr. MUNGULDASS NATHOOBHOY, in moving that the words, "and the proof that any such article was not unfit for food shall rest with the owner thereof, or the person in whose possession the same is found," at the end of Section 244 be omitted, said—I object to the last clause of Section 244, which imposes the *onus probandi* on the accused. The onus of

Mr. Munguldass moves that the onus of proving articles to be unfit for food should rest with the captors of the articles.

proving that any article of food or drink exposed for sale is unfit for the use of human beings ought, in common fairness and justice, to rest with the accuser, and unless he proves that the accused was guilty of exposing for sale such an unwholesome article, there can be no ground whatever for convicting and punishing the accused. I therefore ask the Council to omit the portion of the clause which transfers the burden of proof from the prosecutor to the accused. The character and position of the Municipal Commissioner and Health Officer are such that it will not be difficult for these officers, armed as they are with great powers, to adduce the necessary proofs before they can call upon the magistrate to convict and punish the accused with imprisonment extending to six months or fine up to one thousand rupees. The Calcutta and Madras Municipal Acts do not contain such a provision, which is contrary to one of the principal rules on which all judicial proceedings are conducted in criminal cases.

The Honourable Mr. RAVENSCROFT and the Honourable Mr. BYTHELL approved of the Honourable Mr. Munguldass's amendment.

The Honourable Mr. MUNGULDASS—I would specially point out that in this matter it is not the Commissioner or the Health Officer alone who is entrusted with this power, but also the Commissioner's subordinates have the same power, so that any sepy may seize articles of food, no matter whether he may be right or wrong in his proceedings. Before fish or flesh could be taken before a magistrate it would be spoilt, and it would then be exceedingly difficult for the owner to prove that at the time of its seizure the article was fit for food.

The Honourable Mr. TUCKER—The honourable gentleman surely does not wish that the Commissioner should be obliged personally to make all the inspections. This would make the law a nullity.

The Honourable Mr. MUNGULDASS—No; but I say, let the parties who seize the article of food prove that it was unfit for food when they seized it.



His Excellency the PRESIDENT remarked that the Honourable Mr. Munguldass's argument was of some importance, because if food were seized in the evening it would be bad in the morning.

The Honourable the ACTING ADVOCATE-GENERAL—It would practically come to this, that the magistrate will be compelled to let off everybody, for by the time seized food can be brought into Court, he must know that the time which had elapsed since its seizure would make it bad.

His Excellency the PRESIDENT—But would it be actually necessary to bring the article of food declared to be unwholesome into Court? The section says, "if it appear to the magistrate upon sufficient evidence that the same are unfit for food or drink, he shall," &c. By this it appears that the magistrate could make a conviction upon the evidence of the captors.

The Honourable the ACTING ADVOCATE-GENERAL—I find in the English Public Healths Act that the sanitary inspector may at all times, if he be convinced that any flesh, fish or vegetable, or other article is unfit for human food, seize the same without warrant, and if it appear to the sheriff or any two magistrates or justices that the article seized was unfit for food, they could condemn the same to be destroyed or disposed of so as to prevent the same from being again exposed for sale or use. The person to whom the condemned article belonged is made liable to a penalty not exceeding £10, and also to pay the expenses caused by the seizure, detention, or disposal of it.

The Honourable Mr. TUCKER said that after careful consideration of the section, he was disposed to think that the declaration about the burden of proof might be omitted. There appeared no sufficient reason for an alteration of the ordinary rule of evidence in a matter of this kind.

The alteration was then agreed to.

The Honourable Mr. MUNGULDASS proposed that after Section 244 the following section be inserted—"Any person dissatisfied with the decision of the Municipal Commissioner in regard to any matter or thing which the Commissioner is authorized to do under the provisions of this Act relating to General Conservancy, Building, General Sanitary Regulations, Private and Public Markets, Registration of Births and Deaths, and General Provisions for carrying out the Act, shall have a right of appeal to the Town Council, and if such person within four days gives to the Municipal Commissioner notice of such appeal, the Commissioner shall refrain from enforcing his decision pending the result of such appeal; and this decision of the Town Council shall be binding on and carried into effect by the Municipal Commissioner, and it shall be lawful for the Town Council to direct the Municipal Commissioner to refrain from enforcing any of the abovementioned sections if it shall be of opinion that such enforcement would be impolitic, inexpedient or oppressive." In supporting his motion the honourable gentleman said—With a view to avoid one of the weighty objections that have been urged against the Bill by the Bombay Association and the Rate-payers' Committee in regard to the arbitrary power conferred on the Municipal Commissioner under the provisions relating to general conservancy, building, sanitary regulations, markets, registration of births and deaths, and general provisions for carrying out the Act, I ask the Council to introduce the new section which I propose to add after Section 244, giving to the people the right to appeal to the Town Council against the acts of the Municipal Commissioner in such matters. Unless this safeguard is provided, the acts of the Municipal Commissioner may be productive of great annoyance, oppression and damage, and cause wide-spread discontent in Bombay. In considering the Bill in detail, the Council has, I readily acknowledge, made several modifications by which the sanction of the Town Council is required before the Municipal Commissioner can perform the duties entrusted to him; yet there are many sections which confer very great powers on the Municipal Commissioner such as even Government or the High Court does not possess. For example, Section 172 gives full power and authority to the Municipal Commissioner to alter or pull down any huts or sheds used as dwellings or stables as may, in his opinion, be attended with risk of disease to the inhabitants of the neighbourhood if the owner or occupier refuse or neglect to remove, alter or improve the same, and persons disobeying the Commissioner's order in this matter are made liable to a heavy penalty. There will be no great hardship if the opinion of the Municipal Commissioner in such a case be right and correct, but if there really be no objection to the shed or hut, it would be a great wrong to demolish it or to compel the owner or occupier to repair it.



Again, Section 228 gives power and authority not only to the Municipal Commissioner, but also to all his subordinates and agents with his sanction to enter any place at any hour of the day or night without notice or permission, if he suspects, with or without just grounds, that any offence is being committed against Sections 225, 226 and 227 of the Act without being liable to any action or damages which may be caused by such entry. It is neither just nor politic to confer not only on the Municipal Commissioner or his agents, but also on the lowest of his servants, powers which are not possessed even by officers of the police, who have no authority to enter or search any premises where a crime is alleged to have been committed except under the authority of a warrant issued by a magistrate on the sworn information of one or more persons; such arbitrary powers are liable to be abused to the detriment of the interests of the people. As an illustration of the oppression practised on the people for alleged infraction of municipal regulations, I crave permission to read an extract from the work recently published by Major-General Sir G. LeGrand Jacob, an officer of high standing and character, who has been distinguished for his valuable services in this country. "Another story will also show the inapplicability of our system to men of the interior, if not to natives generally. I had in my employ a painter named Jooma, to draw for me figures and costumes of the people of Kutch, a respectable, inoffensive man, and a stranger to the world beyond it. I tempted him, however, to accompany me in December 1856 to Bombay, there to finish some work he had on hand. We landed on the 19th, and Jooma obtained a temporary lodging in the town. Three or four days after this he brought me a paper, saying a peon had given it him with directions to attend the magistrate's court, asking me what the paper was, and what he should do. It proved to be a summons to appear and answer for the infraction of some municipal law on the 9th of the month. I told him that he must of course attend, and say that he was at that time some five hundred miles away, and that he had only just arrived with me in Bombay—of all which I gave him a formal certificate. On the day named he attended the Court, where he was hustled into a box with several others guarded by peons who would not let him speak, till, with great difficulty, he managed to get my certificate handed up to the magistrate. This gentleman informed him that he could pay no attention to communications so received. After some further—to poor Jooma equally unintelligible processes—each prisoner was ordered to be fined ten rupees, and to be kept in custody till paid." Again, Section 226 compels not only stable-keepers, but also the occupiers of every place where milch cattle are kept, to obtain a license from the Municipal Commissioner, and authorizes this officer to grant, withhold or revoke such licence, and subjects all persons who use such places without licence to a penalty of rupees five hundred. If the Municipal Commissioner withhold the licence in any case, and if no appeal be allowed against his decision, the aggrieved party will have no redress, and will have to submit to the oppression.

The Honourable the ACTING ADVOCATE-GENERAL—The introduction of such a clause

The Acting Advocate-General opposes the amendment, because it would impair the efficiency of the Commissioner while it would impose duties upon the Town Council which they would be unable to perform.

as this would, I believe, make the Bill utterly impracticable. It would seriously affect the Commissioner's efficiency with reference to his conservancy and general executive powers. When one looks at the matters to which the power of appeal is sought to be made applicable, I think this proposition will appear unreasonable. The Honourable Mr.

Munguldass has mentioned only a few of the powers of the Commissioner, but we ought to look at others which may be appealed against. For instance, Section 208 provides that any man who may place or deposit or cause to be placed or deposited any box, bale, or package of merchandise or any other thing in or over or upon any public street, shall be liable to a penalty not exceeding Rs. 100, and to a further penalty not exceeding Rs. 10 for every day after conviction during which the offence is continued. Grant a power of appeal, and the owner of the packages or bales may defy law and order for a time. Take, again, Section 183. The subject there treated of is a very delicate one to handle, but nevertheless, by an appeal the Commissioner may be prevented from doing what is necessary for a number of workmen; and so again, with Section 180, which treats of the erection of privies. Supposing a right of appeal were granted, and that a householder availed himself of it to object to a privy being erected in a certain place, can it be expected that the Town Council are to go to the place in solemn procession and see whether such a privy is necessary? I do not intend to allude to all the conservancy clauses, but I think this honourable Council will see that appeals would paralyse the action of the Commissioner in matters the decision of which can be best left to the judgment of one

If the Commissioner does any wrong in fulfilling his duties, the wrong will soon be set right in some way before the public, and the matter will be remedied either by the Town Council



or the larger body of the Corporation. I find that the sections of the Scotch Act certainly contemplate the local Boards giving to their Commissioners and Inspectors powers similar to this which we propose to give to the Commissioner. These inspectors carry out the orders of the Board as executive officers, and the only real and practical distinction between them and the Commissioner is that the latter is not exclusively the officer of the Corporation simply because he happens to be nominated by Government—a distinction which to my mind does not touch the question whether or not it is expedient to vest executive duties in one person. I think this principle applies particularly to India, the natives of which country, like uneducated persons in all parts of the world, are peculiarly prone to disobey orders so long as there is any chance of getting rid of a duty by an appeal. Many of them have no great dislike to dirty houses and do not at all consider the health of themselves or of their neighbours, their reasoning being that if they are satisfied themselves to sit down quietly amid what is offensive or injurious to health, their neighbours either ought to do the same or leave them alone. Ignorance is always more or less obstinate—and if sanitary improvements are to be carried out, a certain amount of power must be vested in the Commissioner and the Health Officer. My remarks are not intended to apply to the more enlightened classes of the native community, who are educated and associate with Europeans; but these persons are few compared with the remainder of the population. One has only to travel out of the beaten paths of traffic in the native town to come across dirt and sights and smells of the most offensive kind, so that one is glad to get back to the larger thoroughfares. But it is just this portion of the community who are indifferent to sanitary considerations who would be the readiest to avail themselves of a right of appeal if they were ordered to take measures with relation to their own properties, which would be for the general good. Let this Council imagine five or six appeals coming before the Town Council every week, and also let it imagine, if it can, how many places this Town Council could visit and adjudicate upon in a day. The members of that body will have their time very fully occupied with other duties, and how could they possibly get through the appeals that would be likely to come up with reference to the innumerable questions with which the Commissioner must deal? I believe that many persons would appeal, if it were for nothing else than to try their strength with the Commissioner. The result of this state of things might be a good thing for lawyers certainly, but I am not here to advocate their interests, and I speak on behalf of the community, who in the end would suffer much if this kind of litigation were allowed to spring up. In conclusion, I would repeat that I object to this right of appeal, because the chief executive officer of the Municipality ought to have ample power, and not be subjected to interference by a board who would not be so likely to look to the general good. I cannot understand how two or three or more members of the Town Council should be better judges than the Commissioner on the matters in respect of which appeals will lie, and I cannot find in any Acts relating to sanitary arrangements, that a power of appeal is given similar to that which the Honourable Mr. Munguldass proposes. I would, for the reasons I have stated, ask this Council to reject the honourable gentleman's new section.

Honourable Mr. TUCKER—I do not like to allow this motion to be voted upon without expressing my opinion upon it briefly, lest my silence on so important a point should be construed into acquiescence. I shall oppose the honourable member's motion on the same grounds upon which he brings it forward, viz., the good of the people of Bombay. I think would be a bad day for the city if a power of this description were taken from the Commissioner and vested in a body constituted as the Town Council will be. A Board of this kind forms an excellent instrument for dealing with financial matters, but it is wholly unfitted to exercise judicial functions or to direct executive action. Of what use would it be to give a power of appeal to a body who could not judge so well, and is not likely to judge so impartially as the Commissioner, to whom this Bill proposes to entrust executive powers? These are matters which it is universally admitted are better left to the discretion of a single competent and trustworthy man than to a number of men, however able and well-intentioned they may individually be, and these are the matters which we have left to the Municipal Commissioner. It is for the benefit of the town that there should be no divided responsibility with respect to these things; and with a public Press such as exists in Bombay, it is not likely that any harsh or oppressive measure could be carried out without its becoming immediately known. This will be a far more effectual protection to the citizens than any right of appeal, which would only foster a description of litigation which would be most detrimental to the public interest. I look upon my honourable friend's proposal as a most mischievous one, and it is diametrically opposed to one of the cardinal principles on which this Bill has been framed.



The Honourable Mr. ROGERS—It appears to me that even if this amendment were carried, there never would be an appeal settled by the Town Council. There is no power in this Bill by which you can enforce the attendance of that body at any particular part of the town, and therefore they would just hand the matter over to any two members who might choose to trouble themselves about it.

The Honourable Mr. BYTHELL—I merely wish to refer to a remark made by the Honourable the Acting Advocate-General. He referred to the English Acts, and pointed out what he deemed to be a distinction between the Commissioners at home and the Bombay Commissioner, and that was, that in the first case the local Board appointed that officer, while in the latter case that duty was performed by Government. I think, however, that there is a much greater distinction than this, and this is, that in Bombay the Municipal Commissioner is made the sole judge of whether certain things shall be done. At home, the executive officer, with all his powers, has not the power of making awards in any matter, but can merely report to the Board which appointed him.

The Honourable Mr. MUNGULDASS—The powers given to the Commissioner by this Bill are more arbitrary than those given under the existing Act. I allude particularly to the power of pulling down houses, closing markets, and refusing licenses for certain trades. I would point out to your Excellency that whether this Bill will meet with the approbation of the public to some extent or not will depend upon the amount of restriction which may be put upon the arbitrary powers proposed to be vested in the Commissioner. The poor people of Bombay have no means of making their grievances known through the Press, in case of injustice being done to them, and thus they have very little chance of getting redress. And I think the Council should therefore agree to my amendment, which will be appreciated by the native community.

His Excellency the PRESIDENT pointed out that in deference to the views of members the Commissioner's powers had been greatly restricted, and he regretted that they were still dissatisfied. He thought that to agree to the honourable gentleman's proposition would make the Bill impracticable. He trusted that the Commissioner would be a more discreet and intelligent man than some members of Council appeared to think he would be, and he could not favour the amendment.

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

*Ayes—3.*

The Honourable MUNGULDASS NUTHOOBHOY.  
The Honourable J. A. FORBES.  
The Honourable J. K. BYTHELL.

*Noes—8.*

His Excellency the Honourable  
GUSTUS ALMERIC SPENCER.  
The Honourable H. P. ST. G.  
The Honourable A. ROGERS.  
The Honourable the ACTING ADVOCATE-  
GENERAL.  
The Honourable Colonel M. K. KENNEDY.  
The Honourable Sir JAMES SETJEE JEJEEBHOY,  
BART.  
The Honourable E. W. RAVENSCOTT.  
The Honourable GUNPUTRAO TA SAHIB  
PUTWURDHUN.

The amendment was therefore lost.

His Excellency the President then adjourned the Council.

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

JOHN NUGENT,  
JOHN NUGENT,

Acting Under-Secretary to Government.

Puna, 16th October 1872.